

Case File Number PLN19246-A01 (PLN19246)

September 1, 2021

Location:	1110-1114 Peralta Street (See map on reverse)
Assessor's Parcel Number:	004 008901100
Proposal:	Appeal of the Zoning Manager's decision to deny an application to convert three units (single-family home and two-unit building) into condominiums.
Applicant:	Bruce Loughridge / (510) 435-8786
Owner:	P2 Oakland CA LLC
Appellant:	Bruce Loughridge
Case File Number:	PLN19246-A01
Original Case File Number:	PLN19246
Planning Permits Required:	Tentative Parcel Map for Condominium Conversion per Title 16 of the Oakland Municipal Code
General Plan:	Mixed Housing Type
Zoning:	RM-2 Mixed Housing Type Residential – 2 Zone
Environmental Determination:	CEQA Guidelines Section 15270: Projects which are disapproved
Historic Status:	Potential Designated Historic Property (PDHP); Oakland Point Area of Primary Importance; Oakland Cultural Heritage Survey Rating: Eb-1*
City Council District:	3
Status:	The original Zoning Decision Letter was mailed on March 1, 2021, and the Project was appealed by the Appellant on March 11, 2021.
Staff Recommendation:	Deny the Appeal and uphold the Zoning Manager's Decision.
Finality of Decision:	The decision of the Planning Commission is final immediately pursuant to Oakland Municipal Code Section 16.04.100A.
For Further Information:	Contact case Planner Heather Klein at (510) 238-3659 or hklein@oaklandca.gov

SUMMARY

The Project Applicant resubmitted a Tentative Parcel Map (TPM) Planning application on September 30, 2019 to convert the three existing units (a single-family home and two-unit building) for a total of three units (*Attachment A*) consistent with a previously approved TPM at this location that had expired in 2017.

At the time the Project was submitted, the City's Condominium Conversion regulations, Oakland Municipal Code (OMC) Chapter 16.36, allowed the conversion of four or fewer units without Conversion Rights in all areas of the City except in the Condominium Conversion Impact Area. However, the Condominium Conversion regulations required that for any unit containing a tenant, that the tenant be provided with a Notice of Intent to Convert to Condominiums, a description of the conversion process, notice of tenant rights, and a copy of the subdivider's "preliminary tenant assistance program". In addition, per the Condominium Conversion regulations, this must occur 60-days prior to filing the TPM to provide the tenant the time to understand the landlord's application and pursue their rights.

During review of the Project, staff became aware that: 1) the tenant rights process had not occurred correctly and 2) a draft proposal was being considered by the City Council to update the Condominium Conversion regulations. On January 23, 2020, staff informed the Applicant of the ongoing deficiencies in the application, of the proposed new Condominium Conversion regulations, the hearing dates for City Council consideration, and that adoption could result in the City being unable to process the application.

On February 18, 2020, the City Council adopted the 2020 Condominium Conversion Ordinance (2020

Condo Conversion Ordinance) which went into effect on February 25, 2020. Only projects with a vested right were allowed to continue with the process if they were still under review by the Bureau of Planning.

Staff provided the Applicant with the option to either secure Condominium Conversion Rights or withdraw the Project, as the Condominium Conversion regulations had changed and the Project did not have a vested right to continue. No response was provided from the Applicant until December 14, 2020, nearly ten (10) months later, when he requested that the application proceed under the previous regulations.

Although staff considered information provided by the Applicant, staff determined that the City could not proceed with processing the application without applying the new requirements within the 2020 Condo Conversion Ordinance. On March 1, 2021, the Zoning Manager issued a denial of the Project (**Attachment B**).

The 10-day appeal period ended on March 11, 2021 at 4:00 PM, and a timely Appeal of the Zoning Manager's denial decision was filed on that same day by Bruce Loughridge (Applicant and Appellant) (**Attachment C**). The basis of the Appeal is that the Zoning Manager abused his discretion and made a decision not based on substantial evidence, and the application should be processed and approved under the previous pre-2020 Condominium Conversion regulations.

The Appellant's arguments in the Appeal are summarized in the *Basis of the Appeal* section of the report below, along with City staff's response to each argument.

Per the Subdivision Regulations in the OMC Section 16.04.100A, the appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Advisory Agency or wherein its decision is not supported by evidence in the record. As detailed in this report, the Appellant has not demonstrated an error or abuse in discretion by the Zoning Manager. Therefore, staff recommends the Planning Commission deny the Appeal, thereby, upholding the Zoning Manager's decision to deny the application based on the Findings.

BACKGROUND

Since at least the early 1980's, the City of Oakland has had regulations regarding the conversion of buildings into condominiums. The regulations, in place prior to adoption of the 2020 Condo Conversion Ordinance, allowed buildings of no more than four units outside the Condominium Conversion Impact Area to be converted without Conversion Rights and require Conversion Rights for all conversion projects in the Condominium Conversion Impact Area (as well as conversions of buildings with five or more units outside the Impact Area) with specific requirements for where the Conversion Rights must be generated. In addition, the pre-2020 Condominium Conversion regulations required specific tenant notification of the conversion outlined below:

- Section 16.36.020 - Notice of intention to convert: At least sixty (60) days prior to filing a tentative map or tentative parcel map for a conversion, the subdivider shall provide all tenants of the building to be converted, individually and in writing, with a specific notice.
- Section 16.36.040 - Tenant notifications
- Section 16.36.050 - Tenant rights and the preliminary tenant assistance program.

On November 27, 2006, the applicant submitted a TPM application to the Bureau of Planning to convert the three existing units located on the site to condominiums (Case File TPM09354). This application was approved on September 4, 2007, with a Condition of Approval that a final map would be submitted within two-years of the approval (**Attachment D**). From City records, it appears that extensions for TPM09354 were approved until 2017. Since additional extensions were either not filed or not granted and a final Parcel Map was not submitted prior to December 31, 2017, the TPM permit expired.

From 2006-2015, approximately 20 building permits were filed which expired and were never finalized.

On September 30, 2019, the Applicant/Appellant re-submitted a TPM application (TPM11038) to the Bureau of Planning to convert the three existing units to condominiums. The applicant did not apply for, nor was the map explicitly noted to be, a Vesting TPM¹. Staff did not send an incomplete letter within the 30 days required by the Permit Streamlining Act.

On December 3, 2019 and again on January 14, 2020, the City Council presented a draft proposal for revised Condominium Conversion regulations to the Community and Economic Development Committee.

On January 21, 2020, a public hearing (first reading) of the 2020 Condominium Conversion Ordinance was held before the full Oakland City Council. The Oakland City Council voted to move the proposal to second reading on February 4, 2020 by a vote of 7 ayes, 0 noes and 1 recusal.

On January 23, 2020, staff sent an email to the Applicant noting the application was deficient and requested additional information (**Attachment E**). Specifically, the following items were identified/noted as deficient.

- The Notice of Intent to Convert to Condominiums letter is inadequate and must be revised, signed by each tenant and resubmitted. (A sample letter was attached.)
- Once all the tenants have signed the revised letter, the 60-day period would begin on the date of the last tenant signature.
- Complete page 10, Residential Tenant Protections, item 12 of the Basic Application (<https://www.oaklandca.gov/documents/basic-application-form>), and return it to Planning as soon as possible.
- Please submit a Preliminary Title Report or deed that is not more than 60 days old.
- From the City Survey Dept.: Which buildings on the parcel are to be converted to condominium units? Please specify in writing on the map.
 - Is the “guest house” proposed to be converted into a condominium?

Around the time of the above email, Planning staff became aware of the 2020 Condo Conversion Ordinance which had been drafted by Councilmember Kalb’s office. On January 28, 2020, staff sent an email to the six applicants (including the appellant) whose condominium projects were in process notifying them of the pending Ordinance, the timing for date for second reading and informing them that passage could result in staff’s inability to process their application (**Attachment F**).

On February 4, 2020, the City Council recommended amendments to the Ordinance, and with 5 ayes, 1 abstention, 1 absent, and 1 recusal, voted to move it, again, to second reading.

On February 18, 2020, the Ordinance was presented to the City Council for adoption. Public comments were heard, and concerns were expressed by applicants regarding the processing of their projects and future projects, including the Applicant. However, the City Council did not amend the Ordinance to account for these concerns or exempt current projects from the Ordinance. Instead, Ordinance 13585 C.M.S. was adopted (**Attachment G**) as drafted. The adopted 2020 Condo Conversion Ordinance did not include language exempting “deemed complete” projects. Section 8 of the Ordinance (Applicability to Existing Projects) only noted that “This Ordinance shall apply to all existing projects that have not obtained a vested right, as defined by California law, as of the effective date of this Ordinance.” Furthermore, per Section 7, the 2020 Condo Conversion Ordinance was to become effective immediately on final adoption if it receives

¹ A Vesting Tentative Maps are similar to regular Tentative Maps except that the approval confers a vested right to proceed with development in substantial compliance with the ordinances, policies and standards in effect at the time the vesting map is deemed complete. A Vesting Tentative Map shall have printed conspicuously on its face the words “vesting tentative map” at the time it is filed and is thereafter processed in accordance with the provisions of the Subdivision Map Act related to Vesting Maps.

six (6) or more affirmative votes on final adoption. Otherwise, it shall become effective upon the seventh day after final adoption.” Since the Ordinance did not receive six votes, it became effective on February 25, 2020.

On February 21, 2020, staff notified the Applicant, that the Project could no longer be processed, due to adoption of the 2020 Condo Conversion Ordinance, without the inclusion of Condominium Conversion Rights being first identified and verified, and then applied to this Project. Staff provided the applicant with two options. One option was to find Condominium Conversion Rights to use for the Project. The second option was to withdraw the application. Staff did not hear from the Applicant until ten months later, until December 14, 2020, when he requested that the application proceed under the previous regulations.

Staff did consider the Applicant’s arguments but could not process the application under the previous Condo Conversion rules as a Vesting TPM was not submitted, tenant notification was not completed correctly, and the 2020 Condo Conversion Ordinance went into effect without exempting deemed complete projects or exempting this particular Project.

On February 5, 2021, the application was noticed to the public for a 10-day public comment period. Notice was mailed to the Applicant and emailed.

On March 1, 2021, the Zoning Manager issued a denial of the Project. Appellant now appeals said denial of the Project.

PROPERTY DESCRIPTION

The Project site is located at 1110-1114 Peralta Street. The site is a 6,347 square-foot lot. The site contains three existing units, a one-story single-family home and two-story, two-unit building for a total of three units.

PROJECT DESCRIPTION

The proposal is to convert the three units into condominiums (*Attachment A*).

The Basic Application submitted with the TPM shows Section 12: Residential Tenant Protections as incomplete. In addition, Section 14: Submittal Requirements item 5 notes the supplemental requirements for TPMs. The TPM Supplemental Submittal Requirements notes in items 5 and 7 that 60-day tenant notification as required by OMC Section 16.36.020 and if units are vacant, a notarized letter stating when the units were vacant (must be at least 60 days) (*Attachment H*). The application did not include a notarized letter saying that two of the units were vacant, or even that one was owner occupied. Furthermore, the Tenant Rights document submitted (*Attachment I*) did not include the information required under OMC Section 16.36. No Notice of the Intent to Convert was provided, and the language required under OMC Sections 16.36.040 and 16.36.050 was only summarized.

BASIS FOR STAFF’S DENIAL

Approval or denials of TPMs are based on Findings found in OMC Sections 16.04.010, 16.08.030 and 16.04.040 of the Oakland Subdivision Code (OMC Title 16). Staff found that the Project met all the required Findings except the following (*Attachment B*):

- Ensure that the development of subdivisions is consistent with the goals and policies of the Oakland General Plan.

- That the proposed map is consistent with applicable general and specific plans.
- That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans.

Specifically, staff found that the Project was not consistent with the goals of the Housing Element which require the preservation of affordable housing through the use regulatory controls to limit the loss of rental housing units due to their conversion to condominiums. These regulatory controls required adequate tenant notification which was not completed correctly per the requirements of the pre-2020 Condominium Conversion regulations. In addition, the Project did not meet the Affordable Housing Strategies Goal of the West Oakland Specific Plan (WOSP), or policies related to providing tenant notifications and continued use of the Condominium Conversion Ordinance to preserve existing rental housing stock and provide tenants their rights.

Furthermore, both the pre-2020 Condominium Conversion regulations (previous OMC 16.36.070I) and the 2020 Condo Conversion Ordinance (OMC 16.36.070H) are very clear. “It (the Advisory Agency) shall also deny approval if it finds that the subdivider's preliminary tenant assistance program, as set forth in Section 16.36.050, or any submission required by Section 16.36.020, 16.36.040 or 16.36.060 is unacceptable or otherwise inconsistent with the purpose of this title as it concerns the city's housing goals and policies.”

As such, on March 1, 2021, the Zoning Manager issued a denial of the Project.

ENVIRONMENTAL DETERMINATION

Staff evaluated the Project and determined, as noted above in the *Basis for Staff's Denial*, that the Project could not be approved. Pursuant to the California Environmental Quality Act (CEQA) Section 15270, projects which are disapproved will not result in a significant physical impact on the environment and are not subject to CEQA.

BASIS OF THE APPEAL

The 10-day appeal period ended on March 11, 2021 at 4:00 PM, and a timely Appeal was filed of the Zoning Manager's denial decision on that same day by the Applicant/Appellant (*Attachment C*). The basis of the Appeal is that the Zoning Manager abused his discretion and made a decision not based on substantial evidence, and the application should be processed and approved pursuant to the pre-2020 Condominium Conversion regulations.

The following is a summary of the specific issues raised in the Appeal many of which reiterated throughout the document². The exact Appeal argument language can be found in *Attachment C*. The Appeal alleges that:

1. The denial issued is not justified as it was based on “Language” not contained within the tenant notification that was used. The Condominium Conversion notification letter was a legal form obtained from the City of Oakland Planning Department's website and signed by the tenant.
2. Section 12 of the Basic Application asks about units affected by the application with check boxes. The answer was NO per instructions, so the remainder of the section was not completed. The

² The Appeal arguments follow the Findings in the Zoning Manager's denial letter. The arguments are not presented here in the order in which they appear in the Appeal. Staff re-ordered the arguments in order to more adequately address the timing of the events leading up to and after the adoption of the 2020 Condominium Conversion regulations.

property in question only has one tenant, Joan Wendt, who received her notification and signed it in 2016, and again on 4/1/2019, 182 days prior to submittal. The tenant notification was done correctly and did not require a new application with a new tenant notification. Tenant notification for the 1110 and 1114 Peralta Street units is not required since the Applicant has used the units as his personal residence for his large family for five years. Section 16.36.030 does not apply as there was no perspective tenants.

3. The application was reviewed on 9/30/19 for intake. The application was rejected because the tenant notification was not notarized. The tenant notification was notarized on 9/30/19 and re-submitted. The tenant notification was accepted at the beginning of the application process and at no time did the planner indicate the letter was not adequate.
4. All applications should be worked on in the order that they are submitted. Three TPMs were submitted around the same time. One was submitted on 9/23/19 and approved on 1/30/20, and one was submitted on 10/1/19 and approved on 11/26/19. This one was submitted on 9/30/19 and denied on 3/1/2021. Is it ethical for the Planning Department picking and choosing the order of review?
5. The application was not reviewed within the 30 days required by the Permit Streamlining Act but 115 days after submission. The title report request was well past the 30 days, irrelevant as the Surveyor does a title check, and should have been deemed complete as well. No communication was received until January 23, 2020 when the Project was deemed incomplete. At that time, the planner acknowledged the delays. If the City misses the Permit Streamlining deadline, the Project is deemed complete. Staffing shortages are no excuse to missing these deadlines.
6. A Fire Inspection review was paid for and the paperwork was marked for pick-up and approved.
7. The planner requested a reply to the comments from the City's Department of Transportation. However, there was no need to do so as there was no modification to the existing buildings.
8. The building is not maintaining affordable housing; this property was never affordable housing based on the rents charged; and rents in the area are not what affordable housing lists as. Staff did not make the required findings necessary to deny the application.
9. This denial is causing harm to Joan Wendt, the tenant, who has waited since 2016 to purchase her unit rather than pay rent. Is this not the ultimate goal, to enable tenants to participate in home ownership? After 10 years, the tenant wanted to ensure that she could purchase her unit, so she invested hoping to satisfy the tenant ownership requirements. The transaction is signed but not recorded and could be changed. At no point did the City ask how long the tenant had resided at her residence.
10. The hearings to change to the Condominium Conversion regulations started December 3, 2019. Another hearing was on February 14, 2020. At no time during the initial process was the Applicant notified of the hearings, and if the applicant had not inquired about his application he would not have known about the pending changes. Due to the lack of notification, the Applicant was not able to provide initial public comment.
11. The planning department did not make any attempt to "Work with Me" or act in good faith as requested by the City Council meeting on 2/18/20. The City Council noted that no applicant was to be harmed due to the new regulations. Furthermore, the case planner only offered two options, really, an ultimatum: to withdraw (with a refund) and find Condominium Conversion rights or for staff to proceed with a denial (with no refund).
12. The requirements for a Vesting Map were never been brought up. The Planning Department is

remiss in providing information to any applicant about the option for filing a Vesting Tentative Map which would provide protections to the public, either verbally or as a checkbox on the application.

13. Case Planner sent misleading emails about the appeal requirements in an attempt to find out information in the appeal.
14. The Project could have been accepted prior to the 2/27/20 enactment of the 2020 Condo Conversion amendment if staff had made an effort to review the documents. There was sufficient time to address these issues before the regulations were enacted. This application should be processed under previous pre-2020 Condo Conversion regulations based on the fact that the application was submitted on 9/30/19 well before any hearings about new regulations had begun.

Discussion of the Appeal

The following is a discussion of the summarized allegations raised in the Appeal along with staff's response. Each allegation is shown in **bold** text, and the staff response follows each point in regular type. Again, the actual Appeal language can be found in **Attachment C**. Unless specifically noted, the Condominium Conversion regulations noted are the pre-2020 Ordinance Sections.

- 1. The denial issued is not justified as it was based on "Language" not contained within the tenant notification that was used. The Condominium Conversion notification letter was a legal form obtained from the City of Oakland Planning Department's website and signed by the tenant.**

Staff Response

The above allegation generally contends that the Applicant submitted an adequate Notice of Intent to Convert, tenant notification, tenant rights documentation and the preliminary tenant assistance program.

Upon review of the tenant notification and the Appeal attachments, it appears that the Applicant/Appellant used the Bureau of Planning's "A Guide to Condominium Conversions in the City of Oakland" as their Notice of Intent to Convert, tenant notification, tenant rights documentation and the preliminary tenant assistance program. This document was produced as a guide and was not meant to be a substitute for reviewing or implementing the actual legal requirements in the required Subdivision Sections.

As only one example of the deficiency in the tenant notification, the document just notes:

This is a notice of intent to convert your rental unit to a condominium effective within 60-days.

However, OMC Section 16.36.020 states: At least sixty (60) days prior to filing a tentative map or tentative parcel map for a conversion, the subdivider shall provide all tenants of the building to be converted, individually and in writing, with the following notice:

*To the occupant(s) of
_____ : (Address)*

The owner(s) of this building, at (address), plan(s) to file an application for a (tentative map or tentative parcel map) with the city to convert this building to a (condominium, community apartment or stock cooperative project). You shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the

Government Code, and you have the right to appear and the right to be heard at any such hearing.

_____ (signature of owner or owner's agent)

_____ (date)

There are other examples of deficiencies because the language was just summarized. In sum, the Applicant/Appellant did not adhere to the legal requirements for tenant notice, tenant rights documentation and the preliminary tenant assistance program. It is unreasonable to rely on a document titled "A Guide to Condominium Conversions in the City of Oakland" in lieu of the actual language required to notify tenants of their legal privileges.

As noted above, the Condominium Conversion regulations require denial of any application where the submittal items in OMC Sections 16.36.020, 16.36.040 or 16.36.060 is deemed unacceptable. This tenant rights document was not accepted, as noted in the January 23, 2020 email and throughout the report. Therefore, the Zoning Manager did not abuse his discretion and did make a decision based on substantial evidence.

- 2. Section 12 of the Basic Application asks about units affected by the application with check boxes. The answer was NO per instructions, so the remainder of the section was not completed. The property in question only has one tenant, Joan Wendt, who received her notification and signed it in 2016, and again on 4/1/2019, 182 days prior to submittal. The tenant notification was done correctly and did not require a new application with a new tenant notification. Tenant notification for 1110 and 1114 units is not required since the Applicant has used the units as his personal residence for his large family for five years. Section 16.36.030 does not apply as there was no perspective tenants.**

Staff Response

The above allegation generally contends: 1) that the applicant submitted a complete and accurate Basic Application which described the tenant and ownership situation; 2) that the tenant signed notifications in 2016 and again in 2019, well before the 60-days prior to the application; and 3) Section 16.36.030 does not apply. As such, the applicant contends that the tenant notification was done correctly.

This first allegation is incorrect. The required Basic Application Section regarding Residential Tenants was completely blank. It clearly pertains to residential units and not just Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units. As such, staff had no idea how many units were occupied either by an owner or a tenant or were vacant. Specifically, the pertinent application requirements state as follows:

Section 12 of the Basic Application: Section A asks "Will the project affect existing residential units on the site, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units? This section was not completed despite the fact the three residential units would be affected.

Section B asks "Are there existing residential tenants in the affected residential units, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units; or did residential tenants occupy the affected residential units within the past 12 months?" This section was not completed despite the fact that at least one unit was occupied by a tenant.

Section C asks "Will existing residential tenants in the affected residential units, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted

units, be temporarily or permanently evicted or relocated due to the project, or were residential tenants previously occupying the affected units within the past 12 months temporarily or permanently evicted or relocated due to the project?" This section was not completed.

Per the TPM Supplemental Submittal Requirements, tenant notifications are required, and for vacant units, a notarized letter stating when the units were vacant (must be at least 60 days). This was not submitted. The Applicant/Appellant notes in his Appeal that he has occupied two units as his personal residence for five years. However, two units cannot be owner-occupied at once, and so, it is still unclear if the unit not owner occupied is vacant or occupied by someone else such as a family member. Family members may still be considered tenants subject to tenant protections under the City Ordinances such as tenant notification for condominium conversions.

As discussed above, the Notice of Intent to Convert, tenant notification, tenant rights documentation and the preliminary tenant assistance program were either deficient or ignored by the Appellant.

The Applicant/Appellant is correct that the Notice in Section 16.36.030 is not required if there were no perspective tenants applying rental of a unit 60-days prior to submittal of the TPM.

- 3. The application was reviewed on 9/30/19 for intake. The application was rejected because the tenant notification was not notarized. The tenant notification was notarized on 9/30/19 and re-submitted. The tenant notification was accepted at the beginning of the application process and at no time did the planner indicate the letter was not adequate.**

Staff Response

The above allegation generally contends that the Project was reviewed during the intake process and considered complete. As such, it was already determined that the tenant notification was acceptable.

Projects are given a cursory review during the intake process to determine general completeness of required submittal items. During that process, the planner reviews the plans to determine the correct application type and the submittal requirements in Section 14 of the Basic Application. As those appointments are only 30-45 minutes long, and include the intake review, entering the Project information into the permit system, generating the payment invoice, and routing to other departments, it is unreasonable to assume that a planner could review all the details of the Project including the specific tenant notification requirements per OMC Sections 16.36.020, 16.36.040 or 16.36.050 during that process.

Depending on the complexity of the application, it could take hours to days to perform a complete and thorough project review, which is what occurs *after* the intake process. Upon further review, it was clear that the Basic Application was not completed, that the tenant notification was done incorrectly per the Condominium Conversion regulations, and other items were missing.

- 4. All applications should be worked on in the order that they are submitted. Three TPMs were submitted around the same time. One was submitted on 9/23/19 and approved on 1/30/19 and one was submitted on 10/1/19 and approved on 11/26/19. This one was submitted on 9/30/19 and denied on 3/1/2021. Is it ethical for the Planning Department picking and choosing the order of review?**

Staff Response

The above allegation generally contends that the Project was not processed in the order that it was submitted and that this should occur as a general rule during the Planning process.

The Applicant/Appellant is correct that he submitted three TPM cases around the same timeframe and that two of those cases were completed in the fall of 2019 and early 2020, while the one subject to this Appeal was not reviewed, and further determined incomplete, until January of 2020.

Prior to Shelter in Place, applications were assigned in the order received assuming payment in full. However, applications were/are not worked on in the order received, and the processing time is dependent on numerous factors. Some of these include whether the application has gone through a pre-application process, its relative ease or complicated nature, whether other departments also need to review, and how responsive an applicant is to revisions or requests for documents, etc.

There is also staff's overall workload. Staff typically have 20-30 cases each, and these are generally reviewed as simultaneously as possible despite being in differing stages of the process. Given that the City has over 300 cases in process at any one time, it is unreasonable to be able to always maintain a strict chronological review of these cases or re-assign ones that are not moving forward as quickly solely based on order received.

Finally, staff is under no obligation in the Planning Code or other document to process cases in strict chronological order. The City is currently still processing some complex cases filed even before 2019, and the Planning Commission recently heard an appeal from a case submitted in 2010. If staff processed or finished each case only in order received, we might not have even started this case submitted in 2019.

5. **The application was not reviewed within the 30 days required by the Permit Streamlining Act but 115 days after submission. The title report request was well past the 30 days, irrelevant as the Surveyor does a title check, and should have been deemed complete as well. No communication was received until January 23, 2020 when the project was deemed incomplete. At that time, the planner acknowledged the delays. If the City misses the Permit Streamlining deadline, the project is deemed complete. Staffing shortages are no excuse to missing these deadlines.**

Staff Response

The above allegation generally contends that staff missed the 30-day Permit Streamlining Act deadline, and therefore, the application was "deemed complete" and should be processed under the pre-2020 Condominium Conversion Regulations.

The Applicant/Appellant is correct that the Permit Streamlining Act requires a planner to review a project and provide comments within a 30-day window. If this doesn't happen then the project is "deemed complete". However, deemed complete status does not mean that the application is actually complete or correct, or could be processed per the City's rules, regulations, and Ordinances. For example, if a project requires a TPM but the applicant does not submit the actual map for review and staff misses the Permit Streamlining Act deadline, staff doesn't have what we need to review and make the Findings, nor would the applicant be able to submit a final map in substantial conformance with the TPM. In this example, staff would also have to deny the project despite the "deemed complete" status.

Since the Title Report is used to determine actual ownership of the property, the Basic Application requires that the title report be less than 60 days old. The Title Report was dated August 6, 2018,

which was a full year prior to the application being submitted. An updated Title Report would have been required by the City Surveyor and necessary to complete their review.

Furthermore, “deemed complete” status does not mean “deemed approved.” In order for an application to be “deemed approved”, an applicant would need to invoke this, and per Government Code § 65956(b) provide the public notice which is required of TPM processing. The Applicant did not invoke the Permit Streamlining Act or notice the Project himself prior to the City’s denial letter.

Again, as noted above, the Condominium Conversion regulations require denial of any application where the submittal items in OMC Sections 16.36.020, 16.36.040 or 16.36.060 is unacceptable. It is unreasonable, and would be an abuse of discretion, if the Zoning Manager accepted an incomplete and inadequate tenant notification package and usurped a tenant’s rights because the Permit Streamlining Act deadline was missed. Therefore, in practicality despite the “deemed complete” status, in order to continue processing the application, the applicant either needed to provide the information, which they could not within the OMC requirements and before the 2020 Ordinance went into effect, or staff would have to deny the application.

- 6. A Fire Inspection review was paid for and the paperwork was marked for pick-up and approved.**
- 7. The planner requested a reply to the comments from the City’s Department of Transportation. However, there was no need to do so as there was no modification to the existing buildings.**

(Issues 6 and 7)

Staff Response

The above allegation generally contends that: 1) as a Fire Inspection was paid for and approved, and 2) the Engineering Services comments needed no response, the TPM was approved.

As part of the intake process for the TPM, plans were routed to the Engineering Services, City Surveying and the Fire Department. Fees are charged for these reviews. Each department reviews the TPM for compliance with their specific Codes. The Fire Department only reviewed the Project as it related to the OMC Section 15 (Fire Code). Engineering Services only reviewed the Project as it relates to public improvement requirements in OMC Section 12 (Streets, Sidewalks and Public Places). Engineering Services’ comments included specific requirements that were applicable to this Project and would have needed to be addressed, including the need to obtain an Encroachment Permit for street trees and a concrete wall in the public right-of-way along with an indenture agreement (**Attachment J**). This request from the planner was valid and needed a response or at least acknowledgement. Furthermore, the City Surveyor also reviewed and determined the application incomplete (**Attachment K**).

Finally, neither the “approvals” or “conditional approval” from the Fire Department or Engineering Services constitute an overall project approval. Specifically, per the OMC and the Subdivision Map Act, approval of TPMs require consistency with the Subdivision Map Act and certain Findings. Only the City Surveyor can determine consistency with the Subdivision Map Act, and only the Bureau of Planning can make the Findings for approval of the TPM per OMC Section 16.36.010.

- 8. The building is not maintaining affordable housing; this property was never affordable housing based on the rents charged; and rents in the area are not what affordable housing**

lists as. Staff did not make the required findings necessary to deny the application.

Staff Response

The above allegation generally contends that: 1) this building is not considered an affordable housing unit, and 2) that staff did not make the Finding to deny the application.

The main goal of both the pre-2020 and 2020 Condominium Conversion Ordinance is to preserve rental units as indicated by requirement for Conversion Rights, the acknowledgment in pre-2020 Ordinance that conversion rights were found to avoid the negative impacts that conversions have had on the City's rental housing supply and the acknowledgment in the 2020 Ordinance that "conversion of rental housing to for-sale condominium units reduces the supply of rental housing available to Oakland residents, which drives rents still higher." It is irrelevant how much the Applicant has invested, charged as rent to the tenant, how long the property was owned for or how the family used it. The units, by fact that they are rental and likely subject to rent control, are considered "naturally affordable" even if the units weren't rented at a specific Area Medium Income level.

The TPM Findings require staff to ensure that:

- the development of subdivisions is consistent with the goals and policies of the Oakland General Plan,
- the proposed map is consistent with applicable general and specific plans, and
- the design or improvement of the proposed subdivision is consistent with applicable general and specific plans.

Staff made the Findings for denial based on the Project not meeting the goals and policies of the Housing Element and the WOSP which were adopted by City Council. These goals and policies require the use regulatory controls to limit the loss of rental housing units due to their conversion to condominiums. These regulatory controls required adequate tenant notification which was not completed correctly per the requirements of the pre-2020 Condominium Conversion regulations.

Again, the Subdivision Regulations state that if any submission required by OMC Sections 16.36.020, 16.36.040, 16.36.050 or 16.36.060 is unacceptable or otherwise inconsistent with the purpose of this title as it concerns the city's housing goals and policies, than the application shall be denied.

Staff and the Zoning Manager did not abuse their discretion based on substantial evidence when the applicable Findings for denial were made.

9. **This denial is causing harm to Joan Wendt, the tenant who has waited since 2016 to purchase her unit rather than pay rent. Is this not the ultimate goal, to enable tenants to participate in home ownership? After 10 years, the tenant wanted to ensure that she could purchase her unit, so she invested hoping to satisfy the tenant ownership requirements. The transaction is signed but not recorded and could be changed. At no point did the City ask how long the tenant had resided at her residence.**

Staff Response

The above allegation generally contends that: 1) by not accepting the tenant rights documentation, and by extension denying the application, that the tenant is being harmed; and 2) by making the tenant an owner, this satisfied the requirements, but if not could be altered to meet them.

First, neither the pre-2020 nor the 2020 Condominium Conversion regulations allow staff to waive the tenant right documentation even if the tenant is amenable to the conversion or if the intent is for the tenant to purchase the unit.

Second, the 2020 Condo Conversion Ordinance does allow for a process by which the tenant can buy their unit³. It is assumed in an attempt to comply with the 2020 Condo Conversion Ordinance, on February 6, 2021, the Applicant/Appellant submitted an email with a Grant Deed attachment offering the tenant a 1/3 interest in the property. However, as noted in the City's denial letter, this also was not done correctly. The tenant was not offered their unit or any unit, and documentation was not submitted in conformance with O.M.C. Section 16.36.070J. Specifically,

“A subdivider is eligible for a one-for-one reduction from the conversion rights requirements of this Section for each unit: That is occupied and purchased by a current tenant who has continuously occupied a rental unit in the building for at least three (3) years preceding the date of the notice of intention to convert.”

Staff sent an email back on February 6 (*Attachment M*) noting that the tenant was not offered her unit specifically but a share of the property, and the Applicant did not indicate /document how long the tenant has been there. At no point was staff asked how to comply with the tenant ownership provisions, what documentation/evidence was needed to comply or present any information other than a general statement, without evidence, of how long the tenant had lived in her unit.

Furthermore, as also indicated in staff's email, “Even if the tenant's partial ownership complies with the Ordinance, which is up for debate pending additional information, staff has not received Conversion Rights for the other two units”. The Applicant/Appellant, as the 2/3 owner, cannot generate Conversion Rights per 2020 Condo Conversion Ordinance Section 16.36.070I(4) as he has previously converted a property to condominiums⁴.

Finally, the Applicant had since 2007 with the previous approval (Case File TPM09354), to complete the conversion process. Instead, by the Applicant/Appellant's own volition, he allowed the Project to lapse requiring re-submittal and conformance with the new regulations. Despite the issues noted above, the Applicant/Appellant can convert the Project to condominiums with appropriate documentation of tenant residence and ownership of her unit as well as the submittal of Conversion Rights. As such, it is unfair to place the burden of “harm” to the tenant solely on Planning staff.

10. The hearings to change to the Condominium Conversion regulations started December 3, 2019. Another hearing was on February 14, 2020. At no time during the initial process was the applicant notified of the hearings, and if the Applicant had not inquired about his application he would not have known about the pending changes. Due to the lack of notification, the Applicant was not able to provide initial public comment.

Staff Response

The above allegation generally contends that the Applicant/Appellant was not aware of the initial hearings regarding changes to the Condominium Conversions regulations and could not participate in the process or provide public comment.

³ The pre-2020 Ordinance did not allow an exception for the Conversion Right's requirement for tenants purchasing their unit.

⁴ See allegation #4 regarding the other two TPMs for condominium conversion the Applicant/Appellant submitted which were approved.

It is our understanding that the Applicant/Appellant's allegation is true. Bureau of Planning staff were not aware of the draft 2020 Condo Conversion Ordinance until mid-January of 2020. As soon as we became aware, we researched how many condominium conversion projects were currently in process, and whether they were complete, or had submitted Vesting Tentative Maps. On January 28, 2020, staff sent an email to the six condominium conversion applicants, notifying them of the pending Ordinance, the date and time of second reading of the Ordinance and informing them that passage could result in staff's inability to process their application (*Attachment F*). This was done as a courtesy to applicants. To be clear, staff is not required anywhere in the Planning Code or other City Codes to inform applicants of pending Ordinances which may or may not affect their projects.

The Oakland City Council enacts new legislation nearly every other week during its legislative term. It is up to citizens to be cognizant of possible changes associated with their businesses. While the Applicant/Appellant did not have time to provide initial public comment, he was able to participate in the process and provide public comment at the City Council hearings on February 4, 2020, and again, on February 18, 2020.

Finally, even if the Applicant/Appellant had not been able to comment, the Zoning Manager's decision was correct and based on the 2020 Condo Conversion Ordinance requirements and inability for the Project to meet the Findings based on inadequate tenant notification as required by the Condominium Conversion regulations and the City's goals and policies.

11. The planning department did not make any attempt to “Work with Me” or act in good faith as requested by the City Council meeting on 2/18/20. The City Council noted that no applicant was to be harmed due to the new regulations. Furthermore, the case planner only offered two options, really, an ultimatum: to withdraw (with a refund) and find Condominium Conversion rights or for staff to proceed with a denial (with no refund).

The above allegation generally contends that the City Council mandated that the Bureau of Planning work with applicants affected by the new regulations and that this did not occur. Instead staff issued only two options, neither of which involved processing the TPM under the old regulations.

The City Council considered public comments, including those of the Applicant/Appellant at the February 18, 2020 meeting, and the Applicant/Appellant provided a transcript of the comments in his Appeal documents. Specifically, prior to the motion the Council comments were as follows:

- *Councilmember McElhaney stated “I wonder if the administrator can take a look at if there were any anomalies in the process of, (inaudible). I hear what you’re saying, Mr. Attorney, there are thing that get misplaced, some of the speaker have cited illness of Planner so that happens but if there’s a way — the spirit and intent of the legislations changes that Mr. Kalb has proposed was so people would not be harmed who have invested and who were placing reliance upon the law at the time, so I think that there may be an opportunity and I’m saying this through the President to the Administrator that perhaps we can review the few people here who are saying there was something anomalous in the timeline and then I guess the question with respect to does staff advise or is it written-in our paperwork about the vesting map?”*
- *Council Member McElhaney stated “So, that’s what I’m saying. I think for Madam President, I think to address the concerns that are cited here, I don’t know if there would need to be any legislative amendments after adoption tonight, but I would request that the administrator take a look at these cases and to — I mean, I believe you would probably have discretion to do whatever’s necessary, but if not, that you could bring back whatever — I was going to say —I just think if somebody brought in something and*

there was an extended period of time, 7,8 months and it's outside the pale, you would have the discretion to say, had this planner not be ill, something to the effect so the members of the public are not harmed by the action that's intended to help"

- *Madam President So, that's a motion by President ProTem Kalb, is there a second? By Mr. Gallo, That is with the understanding that the Administration will work with the folks who have raised these questions, will work to incorporate it into the administrative regulations and if you can't you will let us know about any needed amendment to deal with the folks who started the process long ago, and that's sufficiently clear to everybody. Is somebody going to go trade contact info with these folks to be able to follow up with them?*

There was nothing anomalous about the timeline or processing of the application. If the tenant notification package had been completed correctly, the application could have been processed. The City Council was not aware of the inadequacy of that package when making these statements. The City Council was only told that the Project was "taken out of order." In regard to timing, the City Council was also not made aware that the Applicant/Appellant had ten years plus possibly more to complete the TPM process and did not.

The comments from the Councilmembers were directed to the City Administrator, not Bureau of Planning staff who were not present and did not participate in drafting the Ordinance. Furthermore, based on the adopted Ordinance passed by City Council which set the requirements for a proposed condominium conversion project to proceed through the Planning process, neither the Administration or staff were provided with any discretionary avenue in which to "work" with the Applicant. The language of the 2020 Condo Conversion Ordinance is clear and not interpretable through administrative guidelines, and there is no discretion provided in Section 8 (Applicability to Existing Projects) of the Ordinance or in the Notice requirements. In past instances of significant changes to the Planning Code and/or Subdivision regulations, language has often been incorporated into the Ordinance that allowed projects that had been submitted under the prior regulations to continue to allow staff to process them under those rules. However, the City Council did not add such language to this Ordinance, and no legislative amendments have been drafted to date for consideration by the Council.

After adoption of the new Ordinance, staff was required to process the Project under the language in the 2020 Condo Conversion regulations. At that point, the Applicant/Appellant's only options were to withdraw (receive a refund) and re-submit with Conversion Rights or have staff proceed with a denial (losing any refund) and appeal that decision. This was not an ultimatum; it was staff implementing the City Council-adopted 2020 Condo Conversion Ordinance. Staff's only option after the Applicant/Appellant rejected the first option was to deny the Project.

12. The requirements for a Vesting Map were never been brought up. The Planning Department is remiss in providing information to any applicant about the option for filing a Vesting Tentative Map which would provide protections to the public, either verbally or as a checkbox on the application.

Staff Response

The above allegation generally contends that the Bureau of Planning is required to inform applicants of the option for filing a Vesting Map and what that document legally confers.

Section 8 (Applicability to Existing Projects) of the Ordinance, only allowed an exemption to projects currently in process if they have obtained a vested right. A Vesting TPM application is the vehicle by which a project obtains "vested" right other than actual construction.

If a Vesting Tentative Map had been originally submitted, the Project might have been able to be processed under the previous regulations. However, staff disagrees with the assumption that we are remiss in informing applicants of this option. First, staff's role is to review and process development projects. Staff does not ask what permits an applicant would like to apply for, but instead explain what permit is required. Submittal of a Vesting TPM is not a requirement, it is a choice. Further, there is a misconception that Planning staff are part of the "project team". We are not an applicant's project manager, designer or attorney. An applicant submitting for a development project should be well versed and informed regarding the process. Any discussion about the submittal of a Vesting TPM or a regular TPM is one that should have occurred within the Applicant's development team, their land use attorney and with that team's civil engineer or land surveyor. In sum, an applicant is ultimately responsible for what they submit for a Planning entitlement, and staff process what is provided. In addition, it is not staff's responsibility to coach applicants on how to "avoid" compliance with regulations.

Finally, as noted throughout the Appeal documents, the Applicant/Appellant is abdicating his responsibility to be informed of the process and regulations for development. Instead, he is placing this burden on City staff. This is ill-conceived and impractical given the number of applications City Staff reviews and the several regulations regarding any certain development project, especially ones subject to other Code requirements outside the Planning Code. That said, if the Applicant/Appellant had asked if they could submit a Vesting TPM or how to submit one, staff would have been able to generally answer that question. If the Applicant/Appellant had asked what a Vesting TPM confers, staff would have directed them back to their land use attorney as we only have a cursory knowledge of these rights.

13. Case Planner sent misleading emails about the appeal requirements in an attempt to find out information in the appeal.

The above allegation generally contends that Bureau of Planning staff would not accept appeal documents in order to use information in the appeal in the decision letter or subsequent documents.

Staff is unsure what misleading emails Applicant/Appellant alleges were sent to him. Staff did indicate to the Applicant/Appellant that we were going to put the Project out for public notice and denial, and that such a decision could be appealed. Public notice and comment began on February 5, 2021 and ended on February 15, 2021. The Applicant/Appellant submitted an Appeal application and arguments at the end of public comment on February 15, 2021, and then again, on February 25, 2021. Staff informed him that a decision letter had not been issued. As such, there was nothing to yet appeal. Staff issued the denial decision letter on March 1, 2021 and then sent out an email asking if Applicant/Appellant wanted staff to accept the previous documents or if new documents would be submitted. The Applicant/Appellant submitted new documents on March 11, 2021.

14. The Project could have been accepted prior to the 2/27/20 enactment of the 2020 Condo Conversion amendment if had staff made an effort to review the documents. There was sufficient time to address these issues before the regulations were enacted. This application should be processed under previous pre-2020 Condo Conversion regulations based on the fact that the application was submitted on 9/30/19 well before any hearings about new regulations had begun.

Staff Response

The above allegation generally contends that: 1) the application could have been accepted prior to the adoption of the 2020 Condominium Conversion regulations as there was sufficient time to address these issues; and 2) the application should be processed under the previous regulations, and the City Council indicated that any submission in process should be covered by the previous

regulations.

First, the Applicant/Appellant is correct; the application could have been processed prior to adoption of the 2020 Condo Conversion Ordinance. Specifically, the Applicant could have completed the building permit necessary to comply with the conversion requirements, submitted for a final map prior to the 2006 approval expiring, applied to extend the application, or submitted in 2017 after the application expired or earlier than when the application was actually submitted.

It is also true that if a Vesting Tentative Map or adequate Notice of Intent to Convert, tenant notification, tenant rights documentation and the preliminary tenant assistance program had been submitted, that it is likely that the staff could have been able to process the application before the regulations went into effect. However, it is also possible that the application might not have been considered complete and still been subject to the new regulations.

Based on what was submitted, the status of the submission, the regulations in place at the time of submittal, the adoption timing of the 2020 Condo Conversion Ordinance, and the language in the Ordinance regarding applicability to existing projects, the Project could not have been approved. As noted above, the Basic Application was incomplete, the Notice of Intent to Convert, tenant notification, tenant rights documentation and the preliminary tenant assistance program were done incorrectly and required redoing. The Title Report was old and the City Surveyor considered the application incomplete. While, staff did miss the 30-day “deemed complete” deadline on October 30, 2019, the City cannot ignore and fail to enforce the tenant notification process, just because the “deemed approved” deadline passed or the tenant wants to waive their rights or purchase their unit.

The City Council heard public testimony and did not specifically change the implementing language which would have required a second reading of the Ordinance. The Council’s motion did not allow an exemption for projects in process or “deemed complete”. It also did not provide the typical 30-60 day timeframe to allow projects in process to become approved or complete. Instead, the Ordinance was effective immediately. As such, staff was required to process the Project under the new regulations. Without Conversion Rights, the Project had to be denied. It would have been an abuse of discretion to process the Project under the old regulations, given the newly adopted Ordinance, which was very clear in its intent, rules and implementing language.

CONCLUSION

The Applicant/Appellant has not demonstrated an error or abuse in discretion by the Zoning Manager, thus City staff believes that the Denial Decision is valid, accurate, and reasonable, and supported by substantial evidence in the entire record. There is no reasonable basis for overturning staff’s determination, as reflected in the Findings. The Applicant/Appellant had ample opportunity to complete the previous 2006 application, submit adequate documents, and present comments to City Council resulting in amended implementation language.

Staff has a duty to ensure the Applicant/Appellant complies with the Subdivision Regulation in OMC Chapter 16 and the Condominium Conversion Ordinances as they were adopted. Without Condominium Conversion Rights per the 2020 Ordinance, there was no other outcome for staff but to deny the Project. The Applicant/Appellant can still convert under the new regulations with the submittal of Conversion Rights. As such, staff recommends that the Planning Commission uphold the Zoning Manager’s decisions and deny the Appeal.

RECOMMENDATIONS:

1. Affirm staff’s environmental determination, and

2. Uphold the Zoning Manager's decision denying the Project and based on the Findings and requiring that any resubmittal be subject to the 2020 Condominium Conversion regulations.

Prepared by:



HEATHER KLEIN
Planner IV

Reviewed by:



ROBERT MERKAMP
Zoning Manager

Approved for forwarding to the
City Planning Commission:



EDWARD MANASSE
Deputy Director
Bureau of Planning

ATTACHMENTS:

- A. Project Tentative Parcel Map Plans, dated August 24, 2019 and Basic Application
- B. Zoning Manager's Decision dated March 1, 2021 with CEQA Findings
- C. Appeal filed by Bruce Loughridge, dated March 11, 2021
- D. 2006 TPM (Case File TPM09354) approval letter, dated September 4, 2007
- E. City staff email to Applicant noting deficiencies in the application, dated January 23, 2020
- F. City staff email to Condominium Conversion Applicants notifying them of the pending Ordinance, the timing for date for second reading of the Ordinance and informing them that passage could result in staff's inability to process their application, dated January 28, 2020
- G. 2020 Condominium Conversion Ordinance, 13585 C.M.S.
- H. TPM Supplemental Submittal Requirements
- I. Tenant Rights document and Tenant Rights Section of Basic Application
- J. Conditions of Approval from Engineering Services
- K. Incomplete Project Email from the City Surveyor
- L. February 6, 2021 email to Applicant regarding tenant purchase

LEGAL NOTICE:

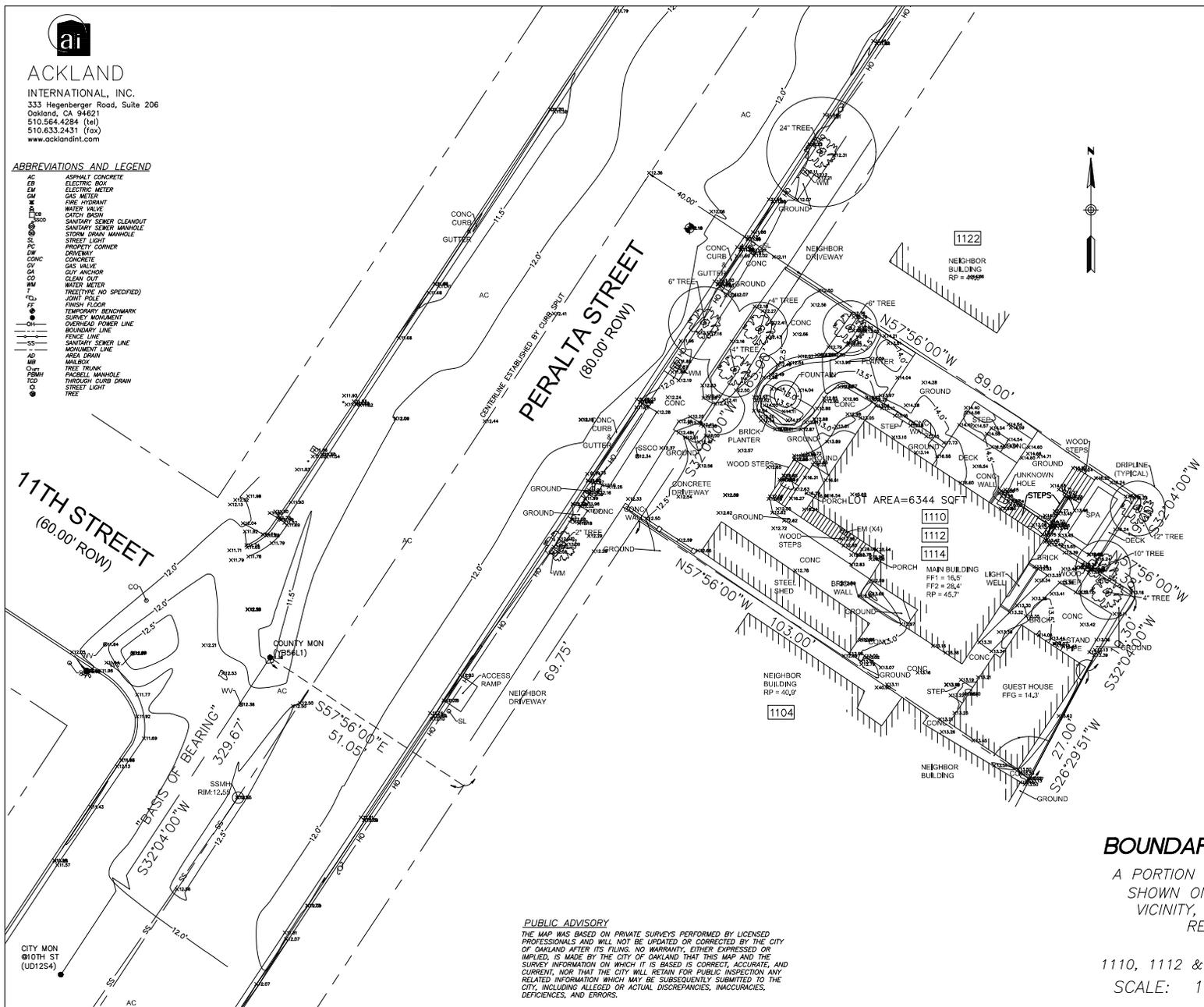
ANY PARTY SEEKING TO CHALLENGE THIS DECISION IN COURT MUST DO SO WITHIN NINETY (90) DAYS OF THE ANNOUNCEMENT OF A FINAL DECISION, PURSUANT TO THE CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1094.6, UNLESS A SHORTER PERIOD APPLIES.



ACKLAND
INTERNATIONAL, INC.
333 Hegenberger Road, Suite 206
Oakland, CA 94621
510.564.4284 (tel)
510.633.2431 (fax)
www.acklandint.com

ABBREVIATIONS AND LEGEND

AC	ASPHALT CONCRETE
EB	ELECTRIC BOX
EM	ELECTRIC METER
GM	GAS METER
FI	FIRE HYDRANT
WV	WATER VALVE
CS	CATCH BASIN
SSCO	SANITARY SEWER CLEANOUT
SM	SANITARY SEWER MANHOLE
SD	STORM DRAIN MANHOLE
SL	STREET LIGHT
PC	PROPERTY CORNER
DR	DRIVEWAY
CONC	CONCRETE
GM	GAS VALVE
GM	GAS METER
CO	CLEAN OUT
WM	WATER METER
T	TREETREE (NO SPECIFIED)
JO	JOINT POLY
FF	FINISH FLOOR
TM	TEMPORARY BENCHMARK
BL	BOUNDARY LINE
OP	OVERHEAD POWER LINE
BL	BOUNDARY LINE
SL	SANITARY SEWER LINE
AC	MONUMENT LINE
MB	MALIBOX
CT	TREE TRUNK
PMH	PACCELL MANHOLE
TD	THROUGH CURB DRAIN
SL	STREET LIGHT
T	TREE



BASIS OF BEARINGS
MONUMENT LINE ALONG PERALTA STREET TAKEN AS S32°04'00"W PER RECORDED MAP, (CORNER RECORD), BOOK 97, PAGE 17, WHICH IS FILED IN THE COUNTY OF ALAMEDA RECORDER'S OFFICE.

SITE BENCHMARK
SURVEY CONTROL
SET MAG NAIL
ELEVATION=12.18'
(OAKLAND DATUM)

PROJECT BENCHMARK
OAKLAND BENCHMARK NAIL FOUND NEAR THE INTERSECTION OF CHESTER ST AND 5TH ST
(OAKLAND DATUM)

EASEMENTS
A CURRENT TITLE REPORT FOR THE SUBJECT PROPERTY HAS NOT BEEN EXAMINED BY ACKLAND INTERNATIONAL, INC. DOES NOT DISCLOSE ANY EXISTING EASEMENTS OF RECORD, HOWEVER, EASEMENTS OF RECORD MAY EXIST THAT ARE NOT SHOWN ON THIS MAP.

UTILITY NOTE
THE SURFACE UTILITIES SHOWN ON THIS DRAWING HAVE BEEN LOCATED BY FIELD SURVEY. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN COMPILED FROM RECORDS OF THE VARIOUS AGENCIES. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR THEIR INDICATED LOCATION, SIZE, OR TYPE. RECORDED UTILITY INFORMATION SHOULD BE CONFIRMED BY EXPOSING THE UTILITY.

- NOTE:**
- 1) UTILITY INFORMATION IS COMPILED FROM SURFACE FEATURES AND RECORD DATA. ACCURACY AND COMPLETENESS IS NOT GUARANTEED.
 - 2) THERE ARE NO VERTICAL OR HORIZONTAL CURVES WITHIN 300' OF SUBJECT PROPERTIES.
 - 3) CITY AND COUNTY MONUMENTS WERE FOUND.
 - 4) ELEVATIONS BASED ON CITY OF OAKLAND DATUM.
 - 5) THERE IS NO CROSSWALK OR BUS STOP WITHIN 100' OF SUBJECT PROPERTY.

SURVEYOR'S STATEMENT
THE MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE CALIFORNIA LAND SURVEYOR'S ACT AT THE REQUEST OF P2 OAKLAND CA LLC ON JULY 9, 2019.
I HEREBY STATE THAT ALL EXISTING GRADES AND CONTOURS ARE BASED ON CITY OF OAKLAND DATUM.
I HEREBY FURTHER STATE THAT TO THE BEST OF MY KNOWLEDGE ALL PROVISIONS OF APPLICABLE STATE LAWS AND LOCAL ORDINANCES HAVE BEEN FULLY SATISFIED.
I HEREBY FURTHER STATE THAT THE PARCEL DESIGNATED ON THIS MAP ARE THE SAME AS THE SHOWN ON THAT CERTAIN GRANT DEED, RECORDED MARCH 18 2016 AS DOCUMENT NO. 2016-068282 IN THE OFFICE OF ALAMEDA COUNTY RECORDER, AND IDENTIFIED ON THE CURRENT EQUALIZED ASSESSMENT ROLL OF THE ALAMEDA COUNTY ASSESSOR AS PARCEL NO. 004-0089-011.
I HEREBY FURTHER STATE IN ACCORDANCE WITH THE CALIFORNIA LAND SURVEYOR'S ACT THE PERFORMANCE OF THIS SURVEY DOES NOT REQUIRE A CORNER SURVEY OR RECORD OF SURVEY TO BE FILED.



EKDANYO SORUMLI, RCE 22573
LICENSE EXPIRES DECEMBER 31, 2019

BOUNDARY AND TOPOGRAPHIC SURVEY

A PORTION OF BLOCK NO. 556, AS SAID BLOCK IS SHOWN ON BOARDMAN'S MAP OF OAKLAND AND VICINITY, ON FILE IN THE OFFICE OF COUNTY RECORDER OF ALAMEDA COUNTY.
APN 004-0089-011

1110, 1112 & 1114 PERALTA STREET, OAKLAND CA, 94607
SCALE: 1"=10' AUGUST 24, 2019

PUBLIC ADVISORY
THE MAP WAS BASED ON PRIVATE SURVEYS PERFORMED BY LICENSED PROFESSIONALS AND WILL NOT BE UPDATED OR CORRECTED BY THE CITY OF OAKLAND AFTER ITS FILING. NO WARRANTY, EITHER EXPRESSED OR IMPLIED, IS MADE BY THE CITY OF OAKLAND THAT THIS MAP AND THE SURVEY INFORMATION ON WHICH IT IS BASED IS CORRECT, ACCURATE, AND CURRENT, NOR THAT THE CITY WILL RETAIN FOR PUBLIC INSPECTION ANY RELATED INFORMATION WHICH MAY BE SUBSEQUENTLY SUBMITTED TO THE CITY, INCLUDING ALLEGED OR ACTUAL DISCREPANCIES, INACCURACIES, DEFICIENCIES, AND ERRORS.

Attachment A

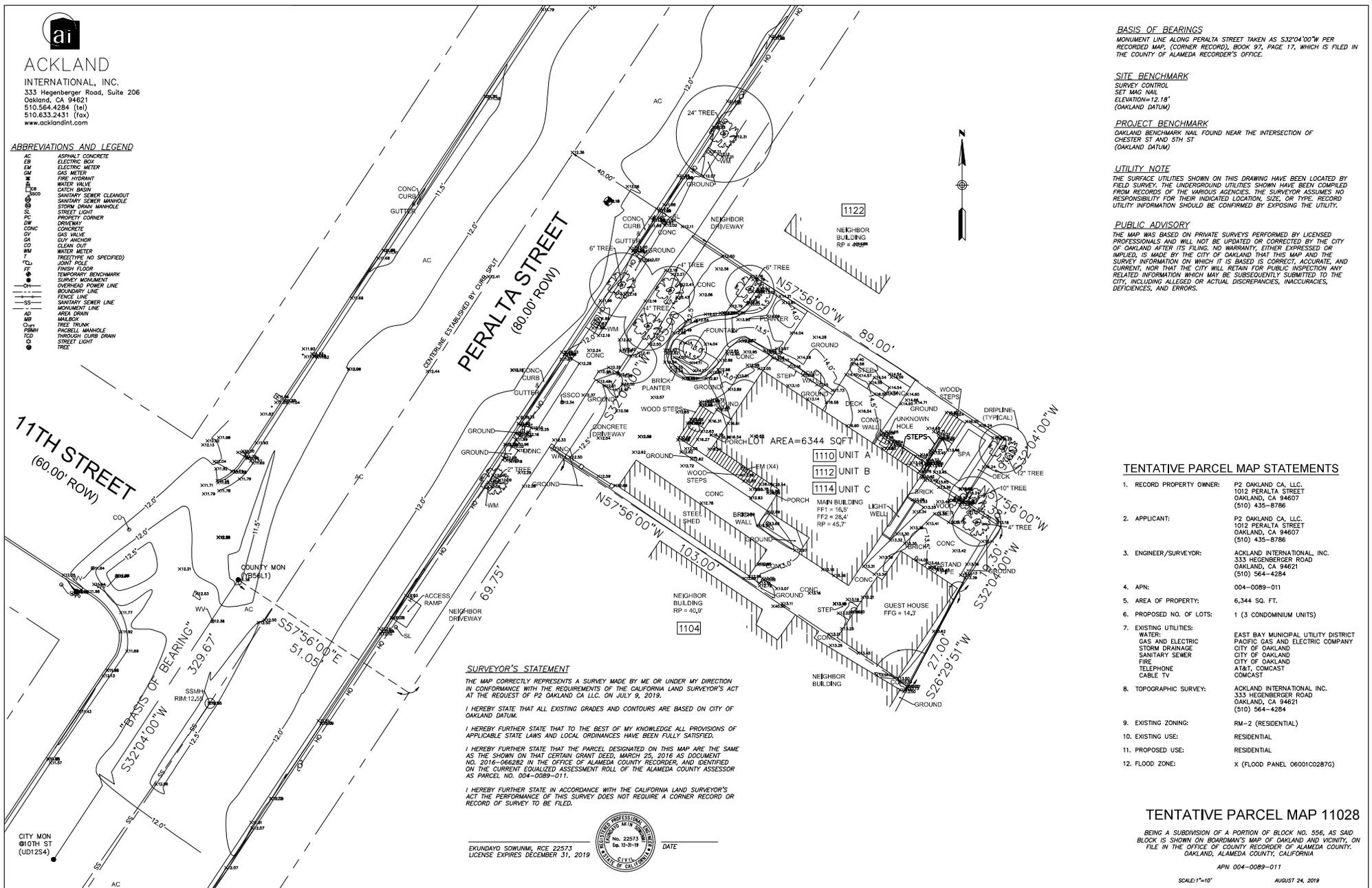


ACKLAND

INTERNATIONAL, INC.
 333 Hegenberger Road, Suite 206
 Oakland, CA 94621
 510.564.4284 (tel)
 510.633.2431 (fax)
 www.acklandint.com

ABBREVIATIONS AND LEGEND

- AC ASPHALT CONCRETE
- EB ELECTRIC BOX
- EM ELECTRIC METER
- GM GAS METER
- FI FIRE HYDRANT
- WV WATER VALVE
- SCB SANITARY SEWER CLEANOUT
- CB CATCH BASIN
- SM SANITARY SEWER MANHOLE
- SD STORM DRAIN MANHOLE
- SL STREET LIGHT
- PC PROPERTY CORNER
- DR DRIVEWAY
- CONC CONCRETE
- CV GAS VALVE
- GA GAS ANCHOR
- CO CLEAN OUT
- WM WATER METER
- TR TREE (TYPE NOT SPECIFIED)
- JOINT JOINT
- FF FINISH FLOOR
- FB FINISH BENCHMARK
- SM SURVEY MONUMENT
- OP OVERHEAD POWER LINE
- BL BOUNDARY LINE
- FL FENCE LINE
- SS SANITARY SEWER LINE
- ML MONUMENT LINE
- MS MESA DRAIN
- MB MAILBOX
- TR TREE TRUNK
- PM PACKELL MANHOLE
- TD THROUGH CURB DRAIN
- SL STREET LIGHT
- TR TREE



BASIS OF BEARINGS
 MONUMENT LINE ALONG PERALTA STREET TAKEN AS S32°04'00"W PER RECORDED MAP, (CORNER RECORD), BOOK 97, PAGE 17, WHICH IS FILED IN THE COUNTY OF ALAMEDA RECORDER'S OFFICE.

SITE BENCHMARK
 SURVEY CONTROL
 SET MAG NAIL
 ELEVATION=12.18'
 (OAKLAND DATUM)

PROJECT BENCHMARK
 OAKLAND BENCHMARK NAIL FOUND NEAR THE INTERSECTION OF CHESTER ST AND 5TH ST
 (OAKLAND DATUM)

UTILITY NOTE
 THE SURFACE UTILITIES SHOWN ON THIS DRAWING HAVE BEEN LOCATED BY FIELD SURVEY. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN COMPILED FROM RECORDS OF THE VARIOUS AGENCIES. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR THEIR INDICATED LOCATION, SIZE, OR TYPE. RECORD UTILITY INFORMATION SHOULD BE CONFIRMED BY EXPOSING THE UTILITY.

PUBLIC ADVISORY
 THE MAP WAS BASED ON PRIVATE SURVEYS PERFORMED BY LICENSED PROFESSIONALS AND WILL NOT BE UPDATED OR CORRECTED BY THE CITY OF OAKLAND AFTER ITS FILING. NO WARRANTY, EITHER EXPRESSED OR IMPLIED, IS MADE BY THE CITY OF OAKLAND THAT THIS MAP AND THE SURVEY INFORMATION ON WHICH IT IS BASED IS CORRECT, ACCURATE, AND CURRENT, NOR THAT THE CITY WILL RETAIN FOR PUBLIC INSPECTION ANY RELATED INFORMATION WHICH MAY BE SUBSEQUENTLY SUBMITTED TO THE CITY, INCLUDING ALLEGED OR ACTUAL DISCREPANCIES, INACCURACIES, DEFICIENCIES, AND ERRORS.

TENTATIVE PARCEL MAP STATEMENTS

1. RECORD PROPERTY OWNER: P2 OAKLAND CA, LLC, 1012 PERALTA STREET OAKLAND, CA 94607 (510) 435-8786
2. APPLICANT: P2 OAKLAND CA, LLC, 1012 PERALTA STREET OAKLAND, CA 94607 (510) 435-8786
3. ENGINEER/SURVEYOR: ACKLAND INTERNATIONAL, INC. 333 HEGENBERGER ROAD OAKLAND, CA 94621 (510) 564-4284
4. APN: 004-0089-011
5. AREA OF PROPERTY: 6,344 SQ. FT.
6. PROPOSED NO. OF LOTS: 1 (3 CONDOMINIUM UNITS)
7. EXISTING UTILITIES:
 WATER: EAST BAY MUNICIPAL UTILITY DISTRICT
 GAS AND ELECTRIC: PACIFIC GAS AND ELECTRIC COMPANY
 STORM DRAINAGE: CITY OF OAKLAND
 SANITARY SEWER: CITY OF OAKLAND
 FIRE: CITY OF OAKLAND
 TELEPHONE: AT&T, COMCAST
 CABLE TV: COMCAST
8. TOPOGRAPHIC SURVEY: ACKLAND INTERNATIONAL, INC. 333 HEGENBERGER ROAD OAKLAND, CA 94621 (510) 564-4284
9. EXISTING ZONING: RM-2 (RESIDENTIAL)
10. EXISTING USE: RESIDENTIAL
11. PROPOSED USE: RESIDENTIAL
12. FLOOD ZONE: X (FLOOD PANEL 06001C02876)

SURVEYOR'S STATEMENT
 THE MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE CALIFORNIA LAND SURVEYOR'S ACT AT THE REQUEST OF P2 OAKLAND CA LLC, ON JULY 9, 2019.
 I HEREBY STATE THAT ALL EXISTING GRADES AND CONTOURS ARE BASED ON CITY OF OAKLAND DATUM.
 I HEREBY FURTHER STATE THAT TO THE BEST OF MY KNOWLEDGE ALL PROVISIONS OF APPLICABLE STATE LAWS AND LOCAL ORDINANCES HAVE BEEN FULLY SATISFIED.
 I HEREBY FURTHER STATE THAT THE PARCEL DESIGNATED ON THIS MAP ARE THE SAME AS SHOWN ON THAT CERTAIN GRANT DEED, MARCH 25, 2016 AS DOCUMENT NO. 2016-0089B IN THE OFFICE OF ALAMEDA COUNTY RECORDER, AND IDENTIFIED ON THE CURRENT EQUALIZED ASSESSMENT ROLL OF THE ALAMEDA COUNTY ASSESSOR AS PARCEL NO. 004-0089-011.
 I HEREBY FURTHER STATE IN ACCORDANCE WITH THE CALIFORNIA LAND SURVEYOR'S ACT THE PERFORMANCE OF THIS SURVEY DOES NOT REQUIRE A CORNER RECORD OR RECORD OF SURVEY TO BE FILED.



EKUNDAYO SOWUNMI, CCE 22573
 LICENSE EXPIRES DECEMBER 31, 2019

DATE

TENTATIVE PARCEL MAP 11028

BEING A SUBDIVISION OF A PORTION OF BLOCK NO. 556, AS SAID BLOCK IS SHOWN ON BOARDMAN'S MAP OF OAKLAND AND VICINITY, ON FILE IN THE OFFICE OF COUNTY RECORDER OF ALAMEDA COUNTY, OAKLAND, ALAMEDA COUNTY, CALIFORNIA

APN 004-0089-011
 SCALE: 1"=10'
 AUGUST 24, 2019



CITY OF OAKLAND

CITY OF OAKLAND

BASIC APPLICATION FOR DEVELOPMENT REVIEW

250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031

Zoning Information: 510-238-3911

www.oaklandnet.com/planning

CERTAIN APPLICATIONS ARE ACCEPTED BY APPOINTMENT ONLY!

Please call (510) 238-3940 to schedule an appointment if your project involves any of the following:

- Conditional Use Permit
- Variance
- Regular Design Review
- Parcel Map Waiver
- Tentative Parcel/Tract Map
- New dwelling unit(s)
- 1,000 sq. ft. or more of new floor area/footprint
- Additions ≥ 100% of existing floor area/footprint
- Creek Protection Permit (Category 3 or 4)

Applicants must cancel at least 24 hours in advance of appointment or pay a cancellation fee.

All other projects may be submitted to the zoning counter without an appointment.

Submit applications for Small Project Design Review to station #13 at the zoning counter by signing the sign-up sheet.

1. TYPE OF APPLICATION

(Check all that apply)

Development Permits

- Conditional Use Permit (CUP) (Major or Minor)
- Variance (Major or Minor)
- Regular Design Review (DR)
- Small Project Design Review (DS) (Type 1, 2, 3)
- Special Project Design Review (SP) (West Oakland)
- Design Review Exemption (DRX)
- Tree Preservation or Removal Permit (T)
- Determination (DET)
- Planned Unit Development/Mini-Lot Development

Subdivision Applications

- Parcel Map Waiver (PMW) (Lot Line Adjustment/Merger)
- Tentative Parcel Map (TPM) (subdivision for 1-4 lots)
- Tentative Tract Map (TTM) (subdivision 5 or more lots)

Other Applications

- Request for Environmental Review
- General Plan Amendment Rezoning
- Creek Protection Permit (separate application required)
- State Bill 35 Streamlining
- Other: _____

**FOR AFFORDABLE HOUSING PROJECTS WITH FUNDING DEADLINES, PLEASE INDICATE DATE: _____ **

2. GENERAL INFORMATION

APPLICANT'S NAME/COMPANY: Brace Laughridge / PR Oakland CA LLC

PROPERTY ADDRESS: 1110/1112/1114 Penalta Street Oakland CA 94608

ASSESSOR'S PARCEL NUMBER(S): 604-0089-011-00

EXISTING USE OF PROPERTY: Duplex + Single family = 3 units

DESCRIPTION OF PROPOSAL (including type of use, hours of operation, number of employees, etc., on additional sheets if needed.):

Converting into condos

TO BE COMPLETED BY STAFF

GENERAL PLAN LAND USE CLASS: _____ ZONING: _____

SPECIFIC PLAN: Broadway Valdez District Central Estuary Coliseum Area Lake Merritt Station West Oakland

FEES¹: EXPECTED PROCESSING TIME²:

APPLICATION FEE: \$ _____

POSTER DEPOSIT²: \$ _____

TREE PERMIT FEE: \$ _____

CREEK PERMIT FEE: \$ _____

TOTAL FEES DUE: \$ _____

¹Fees are subject to change without prior notice. The fees charged will be those that are in effect at the time of application submittal. All fees are due at submittal of application.

²For permit applications requiring public notice, a refundable security deposit is required for the on-site poster containing the public notice. Posters MUST be returned within 180 days and in good condition to claim a refund of the deposit.

³Expected processing time is only an estimate and is subject to change without notice due to staff workload, public hearing availability, and the completeness or complexity of the application.

3. PROPERTY OWNER AND APPLICANT INFORMATION

Original signatures or clear & legible copies are required.

Owner: P2 Oakland LLC
Owner Mailing Address: 1112 Penalta Street
City/State: Oakland CA Zip: 94607
Phone No.: (510) 435-8786 Fax No.: _____ E-mail: _____

To be completed only if Applicant is not the Property Owner:

I authorize the applicant indicated below to submit the application on my behalf.

Signature of Property Owner

Applicant (Authorized Agent), if different from Owner: _____
Applicant Mailing Address: _____
City/State: _____ Zip: _____
Phone No.: _____ Fax No.: _____ E-mail: _____

I understand that approval of this application does not constitute approval for any administrative review, Conditional Use Permit, Variance, or exception from any other City regulations which are not specifically the subject of this application. I understand further that I remain responsible for satisfying requirements of any private restrictions or covenants appurtenant to the property. I understand that the Applicant and/or Owner phone number listed above will be included on any public notice for the project.

I certify that I am the Applicant and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand that the City is not responsible for inaccuracies in information presented, and that inaccuracies may result in the revocation of planning permits as determined by the Planning Director. I further certify that I am the Owner or purchaser (or option holder) of the property involved in this application, or the lessee or agent fully authorized by the owner to make this submission, as indicated by the owner's signature above.

I certify that statements made to me about the time it takes to review and process this application are general. I am aware that the City has attempted to request everything necessary for an accurate and complete review of my proposal; however, that after my application has been submitted and reviewed by City staff, it may be necessary for the City to request additional information and/or materials. I understand that any failure to submit the additional information and/or materials in a timely manner may render the application inactive and that periods of inactivity do not count towards statutory time limits applicable to the processing of this application.

I understand that the proposed project and/or property may be subject to other laws, codes, regulations, guidelines, restrictions, agreements, or other requirements of other public agencies within or outside of the City of Oakland, and that the project and/or property may also be subject to requirements enforced by private parties, including but not limited to private easements/agreements and Covenants, Conditions and Restrictions (CC&RS) of a homeowners association. I am aware that the City recommends that I become fully aware of any other potential requirements before I submit this application and that I comply with all other requirements prior to commencing the proposed project.

I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT I HAVE READ THE ABOVE AND THAT ALL THE INFORMATION PROVIDED IN THIS APPLICATION IS TRUE AND CORRECT.

Signature of Owner or Authorized Agent

9/22/19
Date

4. PROJECT & LOT INFORMATION

CALCULATIONS		Existing Pre- Project	Demolition	New Proposed	Total Post- Project	% Change (Existing / Total)
Type/Size of Dwelling Units (Please fill in the number of each type)						
Rooming Units						
Efficiency Units	1				1	0%
1-Bedroom Units				1		
2-Bedroom Units				2		0%
3-Bedroom Units	2				2	0%
≥ 4-Bedroom Units						
Total Number of Dwelling Units		3		3		0%
Ave. Any of the Project Units Affordable? If Yes, Please Fill Out the Section Below (include number of each type)						
Market-Rate/Unrestricted Dwelling Units (DU)		N/A				
Moderate-Income Restricted DU (80%-120% AMI)		N/A				
Low-Income Restricted DU (50%-80% AMI)		N/A				
Very Low-Income Restricted DU (30%-50% AMI)		N/A				
Extremely Low-Income Restricted DU (<30% AMI)		N/A				
Total Affordable Units		N/A				
Total Affordable Units located Onsite:		N/A				
Other Types of Units/Rooms (if applicable) (not counted towards density) - include number of each type						
Secondary Units						
Live/Work Units						
Work/Live Units						
Mobile Homes						
Hotel Rooms						
Floor Area						
Office Floor Area (square feet)						
Retail Floor Area (square feet)						
Industrial Floor Area (square feet)						
Other Non-Residential Floor Area (sq. ft.)						
Total Non-Residential Floor Area (sq. ft.)						
Residential Floor Area (sq. ft.)	3077.33		3077.33		3077.33	0%
Total Res. & Non-Res. Floor Area (sq. ft.)						
Other Project Information						
Total Building Footprint Area (square feet)	1693.55		1693.55		1693.55	0%
Building Height (feet)	2		2		2	0%
Building Stories (number)	6347		6347		6347	0%
Total Lot Area (square feet)	1		1		1	0%
Number of Lots	3		3		3	0%
Parking Spaces (number)						
Bicycle Parking Spaces (number)						
New Landscape Square Footage (WEL O see pg. 13)	n/a				n/a	n/a
Setback Slope (for hillside properties only)					n/a	n/a
Structure Slope (for hillside properties only)					n/a	n/a

"Building Height" means the vertical distance measured from any point on top of the facility to a line directly below which means finished grade on the outside perimeter of the facility, or intersects with a perpendicular plane connecting opposite points of finished grade at the outside perimeter of the facility.

"Floor Area" for all projects with one or two dwelling units on a lot means the total square footage of all levels of all buildings on the lot, measured horizontally from the outside surface of exterior walls and supporting columns, but excluding: (a) unenclosed living areas such as balconies, decks, and porches; (b) carports that are unenclosed on two or more sides; (c) 440 square feet within an attached or detached garage or carport that is enclosed on three sides or more; (d) non-habitable accessory structures of less than 120 square feet; (e) unfinished understories, attics and basements; and (f) at least 50% of the perimeter and does not exceed twelve (12) feet above grade at any point. For new floor area only include new floor area located outside of the existing building envelope.

"Floor Area" for all projects except those with one or two dwelling units on a lot means the total of the gross horizontal areas of all floors, including usable basement and cellars, below the roof and within the outer surfaces of the main walls of principal or accessory buildings, or the center line of party walls separating such buildings, but excluding: (a) areas used for off-street parking spaces, loading berths, driveways, and maneuvering aisles; (b) areas which qualify as usable open space in Chapter 17.126; and (c) arcades, porches, and similar open areas which are located at or near street level of Nonresidential Facilities, are accessible to the general public, and are not designed or used as sales, display, storage, or production areas. For new floor area, only include new floor area located outside of the existing building envelope.

"Footprint" means the total land area covered by all structures on a lot, measured from outside of all exterior walls and supporting columns, including residences, garages, covered carports, and accessory structures, except that the following shall not be considered in determining footprint:

1. The portions of any uncovered and unenclosed decks, porches, landings, or patios, not including railings, which are less than thirty (30) inches above finished grade; 2. The portions of any uncovered and unenclosed balconies and stairways, including railings, which are less than six (6) feet above finished grade; 3. Eaves and roof overhangs; and 4. Trellises and similar structures which do not have solid roofs and which would not otherwise be included in this definition.

"Market-Rate/Unrestricted Dwelling Units" are residential units for which the rent/price is set by the real estate market and not limited to certain household incomes.

"Restricted Dwelling Units" are residential units for which the rent/price is legally restricted to households earning a certain income expressed as a percentage of the Area Median Income or AMI. For more information, visit the Housing and Community Development Department's website at <http://www.oaklandca.gov/services/housing/index-a-z/household-polices-places-and-data/rent-segs-income-limits-for-affordable-housing>

"Setback Slope" means the slope between edge of pavement and the front setback line, at the midpoint and perpendicular to the front property line.

"Structure Slope" means the steepest slope across building footprint measured from one side of the building to another.

5. IMPERVIOUS SURFACE INFORMATION

PROJECT CHARACTERISTICS: (check one)

- (1) The project will create or replace 10,000 square feet or more of new or existing impervious surface area* (not including projects involving one single-family dwelling).
- (2) The project will create or replace 5,000 square feet or more but less than 10,000 square feet of new or existing impervious surface area* AND involves the following:
- Auto servicing, auto repair, or gas station;
 - Restaurant (full service, limited service, or fast-food); or
 - Uncovered parking (stand-alone parking lot or parking serving an activity, including uncovered parking garages).
- If you checked (1) or (2) the project is considered a "Regulated Project" and must comply with NPDES C.3 stormwater requirements. You must submit a completed Stormwater Supplemental Form and a Preliminary Post-Construction Stormwater Management Plan with your application (see page 14).
- (3) The project will create or replace 2,500 square feet or more but less than 5,000 square feet of new or existing impervious surface (including projects involving one single-family dwelling), unless the project meets the definition of (1) or (2) above.
- If you checked (3) site design measures to retain stormwater on-site are required. Refer to the City's "Overview of Provision C.3" for more information. <https://www.oaklandca.gov/documents/overview-of-provision-c-3-requirements-for-stormwater-management>
- (4) None of the above.

Impervious Surface - Any surface that cannot be effectively (easily) penetrated by water. Permeable paving (such as permeable concrete and interlocking pavers) installed with permeable soil or permeable storage material, and green roofs with a minimum of three inches of planting media, are not considered impervious surfaces. Do not include existing impervious surface to be replaced as part of routine maintenance/repair activities when calculating the amount of new/replaced impervious surface.

6. TREE PRESERVATION ORDINANCE

Pursuant to the Tree Preservation Ordinance (§12.36 O.M.C.) a Tree Preservation/Removal Permit is required for any proposed construction activity (including buildings, driveways, paths, decks, construction vehicle routes, sidewalk improvements, & perimeter grading) within 10 feet of a Protected Tree, even if such trees are not being removed or if they are located on a neighbor's property.

The following are Protected Trees:

- a. Any Coast Live Oak tree that is larger than 4 inches dbh*
- b. Any tree (except Eucalyptus) that is larger than 9 inches dbh* (Eucalyptus trees and up to 5 Monterey Pines per acre are not considered Protected Trees under this section. Monterey Pines must be inspected and verified by the Public Works Agency – Tree Division prior to their removal. Contact the Tree Division at (510) 615-5934 for more information or to schedule an inspection).
- c. Any tree of any size located in the public right-of-way (including street trees).

I ATTEST THAT: (check one)

- (1) There are no existing Protected Trees anywhere on the subject property or within 10 feet of the proposed construction activities** (including neighbor's properties or the adjacent public right-of-way).
- (2) There are Protected Trees on the subject property or within 10 feet of the proposed construction activities**, and their location is indicated on the site plan and landscape plan and (check one):
- (a) No Protected Trees are to be removed and
No construction activity** will occur within 10 feet of any Protected Tree.
 - (b) No Protected Trees are to be removed and
Construction activity** will occur within 10 feet of any Protected Tree.
 - (c) Protected Trees will be removed.

If you checked (2b) or (2c), a Tree Preservation/Removal Permit is required. Please complete the section below.

DESCRIPTION OF TREES (Identification numbers and letters must be consistent with the Tree Survey, see submittal requirements in Section 8)

#	Species	dbh*	#	Trees not proposed for removal but located within 10 feet of Construction Activity**	
				Species	dbh*
1			A		
2			B		
3			C		
4			D		
5			E		
6			F		
7			G		

Reason for removal/impacting of trees: _____

* dbh - "diameter at breast height" is determined by measuring the trunk at 4'-6" from the ground. Multi-trunked trees are measured by combining the diameters of all trunks at 4'-6" from the ground.

** Construction Activity: Any proposed building, driveway, path, deck, construction vehicle route, sidewalk improvement, grading, or demolition.

7. CREEK PROTECTION ORDINANCE

Pursuant to the Creek Protection, Storm Water Management and Discharge Control Ordinance (§13.16 O.M.C.) a Creek Protection Permit is required for any proposed construction activity occurring on a Creekside property. The extent to which your development will be regulated by the Creek Protection Ordinance depends upon the location and type of proposed work.

WHAT IS A CREEK?

"A Creek is a watercourse that is a naturally occurring swale or depression, or engineered channel that carries fresh or estuarine water either seasonally or year around."

A creek must include the following two components:

1. The channel is part of a contiguous waterway. It is hydrologically connected to a waterway above or below the site or is connected to lakes, the estuary, or Bay. Creek headwaters, found at the top of watersheds, are connected in the downhill direction. Additionally, creeks in Oakland are often connected through underground culverts. Only the open sections of creeks are subject to the permit, and
2. There is a creek bed, bank and topography such as a u-shape, v-shape channel, ditch or waterway (identified through field investigation, topographical maps, and aerial photos). To help with identification in the field a creek may also have the following features (the absence of these features does NOT mean there is no creek):
 - A riparian corridor, which is a line of denser vegetation flowing downhill. This is sometimes missing due to landscaping or vegetation removal practices, landslide or fire.
 - The channel has a bed with material that differs from the surrounding material (i.e. more rocky, or gravelly, little or no vegetation).
 - There are man-made structures common to waterways, - for example bank retaining walls, trash racks, culverts, inlets, rip rap, etc.

FATTEST THAT: (check one)

- (1) **I do not know if there is a Creek on or near the proposed project site.** I have submitted a request for a Creek Determination by the City of Oakland (separate form and fee required).
- (2) **No Creek exists on or near the project site:** (check one)
- (a) Based on my review of the characteristics of the project site, as well as all relevant maps and plans, and the Creek Determination criteria provided in the "What is a Creek?" section above; or
- (b) Based on the attached report prepared by a relevant licensed professional.
- However, if the City determines that a Creek exists on or near the project site, a Creek Protection Permit is required.*
- (3) **A Creek DOES exist on or near the project site and:** (check one)
- (a) The proposed project only entails interior construction and/or alterations (including remodeling), and therefore requires a **Category 1 Creek Permit** (this is a no fee permit and only requires distribution of educational materials); or
- (b) The proposed project entails exterior work that does not include earthwork and is located more than 100 feet from the centerline of the Creek, and therefore requires a **Category 2 Creek Permit** (this permit requires a site plan and distribution of educational materials); or
- (c) The proposed project entails (a) exterior work that is located between 20 feet from the top of the Creek bank and 100 feet from the centerline of the Creek, and/or (b) exterior work that includes earthwork involving more than three (3) cubic yards of material located beyond 20 feet from the top of the Creek bank, and therefore requires a **Category 3 Creek Permit** (this permit requires a site plan and creek protection plan and may require environmental review); or
- (d) The project entails exterior work conducted from the centerline of the Creek to within 20 feet from the top of the Creek bank, and therefore requires a **Category 4 Creek Permit** (this permit requires a site plan and creek protection plan and may require environmental review and a hydrology report).

The Creek Permit requirements for your project are subject to verification by the City of Oakland and may differ from what you have indicated above. Additionally, you are responsible for contacting and obtaining all required permits from the relevant state and federal permitting agencies for Category 3 and Category 4 Creek Permits.

8. HAZARDOUS WASTE AND SUBSTANCES STATEMENT

STATE GOVERNMENT CODE SECTION 65962.5 (P): Before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project and any alternatives are located on a site that is included on any of the lists compiled pursuant to this section and shall specify any list.

Please refer to the following State-maintained websites:

<https://calepa.ca.gov/StateCleanup/Correselist/Http://geotracker.waterboards.ca.gov/>

or contact the CALEPA at (916) 323-2514 to determine if your project is on any list of properties containing hazardous waste, toxic substances or underground fuel tanks. **NOTE: YOU MUST REVIEW ALL LISTS**

- I have reviewed All the lists and my site does not appear on them (sign below). **City Verification Required**
 My site does appear on the list(s) (please complete the flowing statement and sign below).

HAZARDOUS WASTE AND SUBSTANCES STATEMENT

Name of applicant: _____

Applicant's address: _____

Phone number: _____

Address of site on list: _____

Local agency (city/country): _____

Specify any list pursuant to Section 65962.5 of the Government Code: _____

Regulatory identification number: _____

Date of list: _____

Status of regulatory action: _____

Signature of Owner or Authorized Agent _____ Date _____

9. RECYCLING SPACE REQUIREMENTS

Applicants are required to provide sufficient space for the storage and collection of recyclable materials to comply with Ordinance No. 11807 – Recycling Space Allocation Requirements. This space should be in addition to that provided for garbage service.

Affected projects:

1. New multifamily buildings in excess of five (5) units
2. New commercial and industrial projects that require a building permit
3. New public facilities
4. Additions and alterations for a single or multiple permits that add 30% or more to the gross floor area

Requirements:

For residential projects, two (2) cubic feet of storage per unit, with a minimum requirement of not less than ten (10) cubic feet. Additionally, Oakland Municipal Code Section 8.28.140 requires the provision of 32 gallons or 4.3 cubic feet of storage per unit for garbage. For affected commercial, industrial and public facility project, two (2) cubic feet of storage and collection space per each one thousand (1,000) square feet of the total gross building footage, with a minimum requirement not less than ten (10) cubic feet. For these projects, the space for storage and collection of garbage varies based on the type and operation of the facility. Space for storage of recyclables should be separated into the following categories: paper and cardboard (mixed together); plastic bottles, glass bottles and metal cans (mixed together); and organics/plant material.

10. GREEN BUILDING ORDINANCE

If GreenPoint Rater is required, this sheet must be filled in and signed by the GreenPoint Rater along with the checklist and is due at the Intake appointment or over the counter approval, the submittal will not be accepted if this is not complete at intake and the applicant will need to come back for another appointment.

If there is an addition and/or remodel that total over 1,000 square feet, the project is over 1,000 square feet, or there is a new unit, a GreenPoint Rater is required. Please read the guidelines from the code as listed below.

Pursuant to the Ordinance 'Sustainable Green Building Requirements for Private Development', (Chapter 18.02 of the Oakland Municipal Code), a Green Building Permit is required for any proposed construction activity within certain categories. The extent to which your development will be regulated by the Green Building Ordinance depends upon the location, type of proposed work, and size of proposed work.

A. PROPERTY ADDRESS: 1110 / 1112 / 1114 Parcelta Street Oakland CA 94612

B. PROJECT TYPE OR DEVELOPMENT (check one):
 New Construction
 Existing Building
 Historic
 New Construction-Mixed Use
 Tenant Improvement
 Remodel
 Landscape Project

C. TOTAL NEW AND ALTERED FLOOR AREA (square feet): 0.00

I, THE APPLICANT/OWNER, ATTEST THAT: (check one)

- (1) I have reviewed the Green Building Ordinance and the project DOES NOT fall within the list of applicable project types.
- (2) I have reviewed the Green Building Ordinance and the project MUST comply with the ordinance, AND I'm submitting the required additional green building materials with this application.
- (3) I have reviewed the Green Building Ordinance and the project must comply with the ordinance, AND I'm submitting the required additional green building materials with this application, but a GreenPoint Rater or LEED AP is not required as the project uses the Small Commercial Checklist or the Bay Friendly Basic Checklist.

D. Name of GreenPoint Rater (required for Greenpoint Rated Projects)*: N/A

Name of LEED Accredited Professional (AP)(required for LEED projects) * _____

MAILING ADDRESS: _____

PHONE: _____ E-MAIL: _____

OF POINTS THE PROJECT IS ANTICIPATED TO RECEIVE: _____

E. GREEN BUILDING SIGNATURES NOT SHOWN ON PLANS BUT PART OF CHECKLIST (include additional sheets if needed): N/A

I, hereby certify under the penalty of perjury that I have reviewed the project and appropriate checklist and attest that to the best of my knowledge the proposed project would likely comply with the City of Oakland's Green Building Ordinance and attain green building certification. I, hereby further certify under the penalty of perjury, that I: 1) have no vested financial interest in the project other than my green building services, 2) have reviewed the project and appropriate green building checklist, and 3) attest that to the best of my knowledge the proposed project would likely comply with City of Oakland's Green Building Ordinance and attain green building certification.

X
Signature of the GreenPoint Rater or LEED Accredited Professional _____ Date _____

This permit is issued pursuant to all provisions of City of Oakland Ordinance No. 13040 C.M.S., "Sustainable Green Building Requirements for Private Development." This permit is granted upon the express condition that the permittee shall be responsible for all claims and liabilities arising out of work performed under this permit or arising out of permisses a failure to perform the obligations with respect to this permit. The permittee shall, and by acceptance of this permit agrees to defend, indemnify, save and hold harmless the City, its officers and employees, from and against any and all suits, claims or actions brought by any reason for or on account of any bodily injuries, disease or illness or damage to persons and/or property sustained or arising in the construction of the work performed under this permit or in consequence of permisses failure to perform the obligations with respect to this permit. Violations of the provisions of the Green Building Ordinance are subject to fines and penalties specified under Section 20-3.030 of the Ordinance.

TO BE COMPLETED BY CITY STAFF:
CASE NUMBER(S): _____ CASE PLANNER'S NAME: _____
Note to Case Planner: Please route a copy of this form to the green building coordinator in the Planning and Zoning Division.

11. PUBLIC ART FOR PRIVATE DEVELOPMENT REQUIREMENTS

Effective February 9, 2015, Ordinance No. 13275 requires a public art allocation for private developments. (OMC Chapter 15.78). The following reflects the Ordinance updated through Ordinance No. 13491, which was adopted by the City Council on June 15, 2018.

Applicant Information

Name: _____
Phone: _____
Email: _____

Project Information

Address: _____
Number of dwelling units: _____
Floor area of nonresidential: _____
Floor area of residential: _____

Applicability

The public art for private development requirement applies to:

- 1) Private non-residential developments of 2,000 square feet or more of new floor area that are subject to Regular Design Review approval; and
- 2) Private residential developments of 20 or more new dwelling units that are subject to Regular Design Review approval.

The public art requirements do not apply to affordable housing if the developer demonstrates that they would cause the project to be economically infeasible.

Contribution Requirements

- 1) For non-residential developments, at least 1.0% of "building development costs."
- 2) For residential developments, at least 0.5% of "building development costs."

The "building development cost" is the construction cost declared on the building permit application and accepted by the Building Official.

CHECK ONE OF THE FOLLOWING COMPLIANCE METHODS:

- On-site art Art in the public right of way within .25 miles from the site In-lieu contribution Combination of in-lieu payment and on-site cultural space and/or art gallery Contribution to City-owned art facility within 0.5 miles from site

Compliance Methods

Compliance with art requirement shall be demonstrated when filing the Building Permit application through one of the following:

- 1) An approved public art plan and contractual agreement to install the artwork at the site or in the public right of way within .25 miles from the site. Note that development in the public right of way requires additional permits and approval from the City's Public Art Advisory Committee. The installation of the artwork must be complete prior to issuance of certificate of occupancy; or
- 2) Full payment of an in-lieu contribution; or
- 3) Provide up to 75% of the contribution as follows, with the remaining to be fulfilled through an in-lieu payment*:
 - a. Space within the development project that is generally open to the public during regular business hours for use as a rotating art gallery can satisfy up to 25% of total contribution; and/or
 - b. A minimum of 500 square feet of arts and cultural programming space within the development that is made available to the public can satisfy up to 50% of the total contribution; or
- 4) Capital improvements to a City-owned arts facility(s) within 0.5 miles of the development.

*All proposals must be approved by the City in advance. Please contact Kristen Zarembo, the Public Art Coordinator, at kzarembo@oaklandca.gov or (510)238-2155 for more information regarding approval of a public art plan or compliance requirements.

I, hereby certify under the penalty of perjury that I have reviewed the project and appropriate checklist and attest that to the best of my knowledge the proposed project would likely comply with the City of Oakland's Public Art Requirements Ordinance.

X _____
Signature of Applicant

Date

12. RESIDENTIAL TENANT PROTECTIONS

The City of Oakland has laws to protect residential tenants, including the Rent Adjustment Ordinance (OMC Chap. 8.22, Article I), Just Cause Eviction Ordinance (OMC Chap. 8.22, Article II & III), Tenant Protection Ordinance (OMC Chap. 8.22, Article V) and Code Compliance Relocation Ordinance (OMC Chap. 15.60). These laws may apply to development projects under certain circumstances.

<p>A. Will the project affect existing residential units on the site, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units?</p> <p>➤ If "Yes," go to Question B.</p> <p>➤ If "No," you do not need to complete the remainder of this section.</p>	<p>Yes</p> <p><input type="checkbox"/></p>	<p>No</p> <p><input type="checkbox"/></p>
<p>B. Are there existing residential tenants in the affected residential units, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units; or did residential tenants occupy the affected residential units within the past 12 months?</p> <p>➤ If "Yes," go to Question C.</p> <p>➤ If "No," you do not need to complete the remainder of this section.</p>	<p><input type="checkbox"/></p>	<p><input type="checkbox"/></p>
<p>C. Will existing residential tenants in the affected residential units, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units, be temporarily or permanently evicted or relocated due to the project, or were residential tenants previously occupying the affected units within the past 12 months temporarily or permanently evicted or relocated due to the project?</p> <p>➤ If "Yes," provide the information below about these units and complete the remainder of this section.</p> <p>1) Number of Affected Units: _____</p> <p>2) Number of Affected Tenants: _____</p> <p>➤ If "No," you do not need to complete the remainder of this section.</p>	<p><input type="checkbox"/></p>	<p><input type="checkbox"/></p>

D. Project Information (to be completed if Questions A-C above are marked "Yes"):

- 1) Property Address: _____
- 2) Assessor's Parcel Number: _____
- 3) Applicant's Name: _____
- 4) Applicant's Address: _____
- 5) Applicant's Phone: _____
- 6) Applicant's Email: _____

Existing and former tenants on the site may be entitled to protections and benefits, including 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 the 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.

To be completed by staff

Case Number(s): _____ Case Planner's Name: _____ Date: _____

Note to Case Planner: If Questions A, B, or C are marked "Yes," please route a copy of this page to the Housing and Community Development Department.

14. SUBMITTAL REQUIREMENTS: WHAT TO SUBMIT

The following information and drawings must be included in the submittal package for your application. Planning staff reserves the right to require additional plans and information as needed for certain development proposals.

The following items are required for ALL applications unless otherwise noted.
Each and every item is required at the time of application submittal.
APPLICATIONS WITH MISSING ITEMS WILL NOT BE ACCEPTED.

All fees are due at the time of application submittal.

(1) Basic Application for Development Review

This application form signed and completed (including impervious surface, protected tree, creek information, the Hazardous Waste and Substances Statement, and green building sections). Original signatures of clear & legible copies are required.

(2) Supplemental Forms and Findings

Explanation describing how the proposal complies with City requirements (forms provided by staff).

- DRX, DS, DR, or SP supplemental findings.
- CUP and/or Variance supplemental findings.
- TP/MTM supplemental findings.
- Other extra CUP or DR findings, such as alcohol, ground floor use, extra units, telecom (mini, micro, macro), etc.
- Specific Plans Design Guidelines Checklist (Broadway Valdez District, Central Estuary, Lake Merritt Station, or West Oakland).

- Affordable Housing Density Bonus Requirements and Checklist

(3) Assessor's Parcel Map

Available at the City of Oakland Engineering Services or Zoning counters, the County Assessor's Office, 1221 Oak St. or the County Assessor's website at <http://ae.gov.org/MS/prop/index.aspx>

(4) Photographs (Photographs placed in a secure envelope or mounted on a board folded to a size no larger than 9" x 12")

- Color photographs showing the existing structure or lot as seen from across the street and from the front, side and rear property lines. Label each photograph with the view pictured (e.g., front, side, rear, across the street).
- Color photographs showing the 20 nearest neighbors from the street (5 nearest lots on either side, 10 nearest lots across the street). Label each photograph with the address pictured.

(5) Plans (see supplemental requirements for all Tentative Parcel Map (TPM), Tentative Tract Map (TTM), Parcel Map Waiver (PMW) applications)

- Two (2) stapled and folded sets of full-sized plans and Two (2) additional sets of reduced plans (11" x 17") are required for all applications. For Major Permits, a color 11"x17" rendering MUST be submitted.
- For all projects that will require a presentation before a Board or Commission you will be required to provide fifteen (15) color sets of your final plans sized at 11"x17" at least three weeks before your scheduled hearing date or as directed by Planning staff.
- Fold plans to 9" x 12" maximum size. Plans must be on sheets no greater than 24" x 36".
- Include north arrow, date prepared and scale.
- Acceptable drawing scales are: 1/4" = 1', 3/16" = 1', 1/8" = 1', and 1" = 10'. Other scales may be appropriate, but should be discussed with Planning staff before filing. Also, please limit the range of scales used, so Planning staff can more easily analyze your project in relation to adjacent properties.
- Include the name and phone number of person preparing the plan(s). As appropriate or required, include the stamp and "wet signature" of any licensed architect, landscape architect, surveyor and/or civil engineer preparing final plans.
- Show all encroachments over the public Right-of-Way.
- All submittals are required to provide an electronic submission of the all required submittal items at time of intake. Plan sets will have two copies submitted, one (1) low resolution and one (1) high resolution in .PDF format. Each item will be scanned separately and clearly identified. For each revision of the project, the applicant will be required to submit both a paper and electronic submittal of all the material being revised as directed by Planning staff.

(a) Survey (required only for the following project types listed below)

- Must be no more than 3 years old from the time of submittal - date of survey must be included.
- Must be prepared by a California State Licensed Land Surveyor or by a Civil Engineer with a license number below 33966 (licensed prior to January 1, 1982).
- Include the wet stamp and signature of the Land Surveyor or Civil Engineer who prepared the survey.
- Include the applicable surveyor's statement in accordance with the Professional Land Surveyors Act
- In addition to paper copies, the survey must also be submitted on a CD.

Required for all new buildings, including Secondary Units Type 2 and > 100% footprint additions to existing buildings (except small non-habitable buildings):

- Full boundary & topographic survey with field-verifiable monuments set or found by the surveyor.
- Location, dimensions, and dimensions to property lines of all existing buildings and similar structures.

Required for any building or addition within any required setback:

- Applicable line survey with field-verifiable monuments set or found by the surveyor.
- Location, dimensions, & dimensions to property line of existing buildings & similar structures adjacent to relevant property line.

Required for any building or addition located on a lot with a slope of 20% or more:

- Site topography for all areas of proposed work and for all existing driveways, buildings, and similar structures.
- Location and dimensions for all existing driveways, buildings, and similar structures.

(b) **Site Plan**

- Location and dimensions of all property boundaries.
 - Location and dimensions of all existing and proposed buildings, decks, stairs, and patios.
 - Dimensions of all existing and proposed building setbacks from property lines.
 - Location of building footprints and approximate height of buildings on adjacent lots.
 - Location, dimensions, and paving materials of all adjacent sidewalks, curbs, curb-cuts (including curb-cuts on adjacent neighbor's lots), and streets.
 - Location and dimension of all existing and proposed driveways, garages, carports, vehicle parking spaces, bicycle parking spaces, maneuvering aisles, wheel-stops, pavement striping/markings, and directional signage. Indicate existing and proposed paving materials.
 - Location, height, and building materials of all existing and proposed fencing and walls.
 - Location, height (including top and bottom elevation measurements), and building materials of all existing and proposed retaining walls.
 - Location and size (dbh) of all existing trees and indication of any trees to be removed, include trees on neighboring properties that are within 10 feet of construction.
 - Location of drainage ways, creeks, and wetlands (check with the Engineering Services Division for this information)
 - Roof plan showing roof slope and direction, and location of mechanical equipment ducts, and vents.
 - For projects located on a lot with a slope of 20% or more: Show existing and proposed topographic contours overlaid with proposed roof plan and indicating roof ridge spot elevations.
 - For multi-family residential projects: Show the location, dimension, slope, and site area of all existing and proposed Group Usable Open Space and Private Usable Open Space, including a summary table of site area.
 - For projects in all Residential, Commercial, and Industrial Zones, including the CIX-1A Zone, show any building to be demolished both historic and non-historic.
 - Location and size of storage area for recycling containers (see page 7 for more information).
- #### (c) **Landscape Plan** (required for new buildings, new dwellings, and residential additions of more than 500 sq. ft.)
- Indicate any existing landscaping and new landscaping.
 - Indicate the size, species, location, and method of irrigation for all plantings.
 - Include the square footage of new landscaping. If over 500 square feet or over 2,500 square feet of new landscaping please provide all requirements per the Water Efficiency Landscape Ordinance (WELO), visit <https://water.ca.gov/LegacyFiles/wateruseefficiency/docs/MWEL009-10-09.pdf>
 - Include all existing and proposed groundcovers, driveways, walkways, patios, and other surface treatments.

(d) **Floor Plan**

- Include complete floor plan of all floors of entire building, including existing and proposed work.
- Label all rooms (e.g., bedroom, kitchen, bathroom), and include dimensions of room sizes.
- Show the location of all existing and proposed doors, windows, and walls.
- Location of and distance to all adjacent property boundaries.
- For non-residential projects: show all existing and proposed seating areas, mechanical/kitchen equipment, and/or other major functional components of the proposed project.

(e) **Elevations** (required only for new construction, additions, or exterior alterations)

- Show all structure elevations (front, sides and rear) that will be affected by the proposed project.
- For additions/alterations: label existing and new construction, as well as items to be removed.
- Identify all existing and proposed exterior materials - including roofing, roof eaves, eave brackets, siding, doors, trim, sills, windows, fences, and railings. Show details of proposed new exterior elements.
- Show any exterior mechanical, duct work, and/or utility boxes.
- Include dimensions for building height and wall length.

(f) **Cross Sections** (required only for buildings or additions located on a lot with a slope of 20% or more)

- Include all critical cross sections, including at least one passing through the tallest portion of the building.
- Include floor plate and roof plate elevation heights.
- Location of and distance to all adjacent property boundaries.

- Label the location of the cross-sections on the site plan.
- (g) **Tree Survey** (required only for projects which involve a Tree Preservation/Removal Permit [see page 5])
 - **Three (3) folded full-sized plans** are required (in addition to the plans required under No. 5 above).
 - Fold plans to 9" x 12" maximum size. Plans must be on sheets no greater than 24" x 36".
 - Include north arrow, date prepared and scale (Tree Survey should be drawn to the same scale as the Site Plan).
 - Include the name & phone number of person preparing the plan(s). As appropriate or required, include the stamp & "wet signature" of any licensed architect, landscape architect, surveyor and/or civil engineer preparing final plans.
 - For new construction on an undeveloped lot, include the stamp and "wet signature" of the licensed architect, landscape architect and/or civil engineer preparing the survey.
 - Indicate the size (dbh), species, and location of all protected trees within 30 feet of development activity on the subject lot, regardless of whether or not the protected trees are included on any tree preservation/removal permit application.
 - Label all protected trees that are located within 10 feet of construction (including trees located on neighbor's properties or the adjacent public right-of-way) with the matching number or letter from the Tree Preservation/Removal Permit application (see section 6 of this application).
- (h) **Shadow Study (for DS-III projects and other two-story DR projects for one- and two-units)**
 - Include a roof plan of proposed house/addition with adjacent homes and show the shadows at different times of the day as shown in the Design Review Manual for One- and Two-Unit Residences on page 2.1 and 2.2.
- (i) **Grading Plan** (required only if the project proposes any site grading)
 - Show proposed grading plan and/or map showing existing and proposed topographic contours (this may be combined with the Site Plan for small projects with only minor grading).
 - Include an erosion & sedimentation control plan.
 - Include a summary table of all proposed excavation, fill, and off-haul volumes.

The following are required only for non-residential, mixed-use, and/or multi-family residential projects.

- (j) **Sign Plan** (required only for non-residential and mixed-use projects)
 - Include fully dimensioned color elevations for all proposed signs.
 - Indicate proposed sign location(s) on site plan
 - Indicate proposed material(s) and method of lighting for all proposed signs.
- (k) **Lighting Plan** (required only for non-residential, multi-family residential, and mixed-use projects)
 - Show the type and location of all proposed exterior lighting fixtures (this may be combined with the Site Plan for small projects).
- (l) **Materials & Color Board** (required only for non-residential, multi-family residential, and mixed-use projects involving new construction or an addition/allocation that does not match existing materials and colors).
 - Limit board(s) to a maximum size of 9" x 12". Large projects (generally more than 25 dwelling units or 50,000 square feet of floor area) should also submit a large sized materials & color board (24" x 36") for use at public hearings.
 - Include samples of proposed exterior building materials and paint colors.
 - Include manufacturer's brochures as appropriate.
- (m) **Three-dimensional Exhibits** (required only for large projects with more than 25 dwelling units or 50,000 square feet of floor area).
 - Provide color perspective drawings showing the project from all major public vantage points, or provide a scale model of the proposed project.
- (n) **Preliminary Post-Construction Stormwater Management Plan*** (required only for "Regulated Projects" subject to NPDES C.3 stormwater requirements [see page 4 for more information])
 - Show location and size of new and replaced impervious surface.
 - Show directional surface flow of stormwater runoff.
 - Show location of proposed on-site storm drain lines.
 - Show preliminary type and location of proposed site design measures, source control measures, and stormwater treatment measures.
 - Show preliminary type and location of proposed hydromodification management measures (if applicable).
 - Please refer to the Stormwater Supplemental Form for more information concerning NPDES C.3 requirements. The Stormwater Supplemental Form must also be submitted with the application.
- (7) **Preliminary Title Report or deed not more than 60 days old** (required for all Tentative Parcel Map (TPM), Tentative Tract Map (TTM), Parcel Map Waiver (PMW), Rezoning, and General Plan Amendment applications, and any application where the owner information does not match the current Alameda County Assessor's records)

- (8) Fees (all fees are due at the time of application submittal)
- Additional fees may be required if the project changes or based on staff's environmental determination.
- (9) **Additional Telecom Information Required** (See full requirements in Chapter 17.128 in the Oakland Planning Code)
- For the whole parcel, indicate the total number of existing and proposed antennas and equipment cabinets, their location, and the carriers they serve (please include all wireless carriers). Also indicate area, height, and width of all equipment cabinets and antennas (existing and proposed).
- Additional Telecom CUP & DR findings for either: Mini, Micro, Macro, Monopole, or Tower (See definitions in 17.10.865).
- Include Radio Frequency emissions report (RF), see Section 17.128.130 for requirements.
- If a revision, please include previous approved case number if applicable and can be obtained.
- If swapping out & replacing existing antennas, include existing & proposed heights of antennas (per Federal Section 6409).

For any questions regarding this application, visit the Zoning Counter or call the Zoning Information Line:

Zoning Counter:

250 Frank H. Ogawa Plaza, 2nd Floor Oakland CA 94612

Mon, Tues, Thurs & Friday: 9am-Noon & 2pm-4pm

Wednesday 9:30am-Noon & 2pm-4pm

Zoning Information Line:

(510) 238-3911

Mon, Tues, Thurs & Friday: 9am-Noon & 2pm-4pm

Wednesday 9:30am-Noon & 2pm-4pm

To obtain an electronic PDF fillable copy of this form please visit

<https://www.oaklandca.gov/documents/development-review-basic-application>

CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA • SUITE 3315 • OAKLAND, CALIFORNIA 94612

Planning and Building Department
Bureau of Planning

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

March 1, 2021

Bruce Loughridge
P2 Oakland CA LLC
1112 Peralta Street
Oakland, CA 94607

RE: Case File No. PLN19246; 1110-1114 Peralta Street; APN: 004 008901100

Dear Mr Loughridge,

Your application, as described below, has been **DENIED** for the reasons stated in Attachment A, which contains the findings required to support this decision. This decision is effective ten (10) days after the date of this letter unless appealed pursuant to the procedures set forth below.

The following table summarizes the proposed project:

Proposal:	To convert three units (single-family home and two-unit building) into condominiums
Planning Permits Required:	Tentative Parcel Map for Condominium Conversion per Title 16 of the Oakland Municipal Code
General Plan:	Mixed Housing Residential
Zoning:	RM-2 Mixed Housing Type Residential - 2 Zone
Environmental Determination:	CEQA Guidelines Section 15270: Projects which are disapproved
Historic Status:	Potential Designated Historic Property; Oakland Point Area of Primary Importance; Oakland Cultural Heritage Survey Rating: Eb-1*
City Council District:	3

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten (10) calendar days from the date of this letter, by **4:00 p.m. on March 11, 2021**. An appeal shall be on a form provided by the Bureau of Planning of the Planning and Building Department, and submitted via email to: (1) **Michele Morris, Planner III**, at mmorris2@oaklandca.gov or **Heather Klein, Planner IV** at hklein@oaklandca.gov, (2) **Robert Merkamp, Zoning Manager**, at Rmerkamp@oaklandca.gov, and (3) Catherine Payne, Development Planning Manager, at Cpayne@oaklandca.gov. The appeal form is available online at <https://www.oaklandca.gov/documents/appeal-application-form>. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Manager or decision-making body or wherein the decision is not supported by substantial evidence. Applicable appeal fees in the amount of \$2404.01 in accordance with the City of Oakland Master Fee Schedule must be paid within five (5) calendar days (**March 16, 2021**) of filing the appeal.

Attachment B

If the fifth (5th) calendar day falls on a weekend or City holiday, appellant will have until the end of the following City business day to pay the appeal fee. Failure to timely appeal (or to timely pay all appeal fees) will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the Zoning Manager prior to the close of the previously noticed public comment period on the matter. For further information, see the attached Interim City Administrator Emergency Order No. 3 and Interim Procedures for Appeals of City Planning Bureau Decisions for Development Projects.

If you have any questions, please contact the case planner, Michele Morris, Planner III at (510) 238-2235 or mmoris2@oaklandca.gov, or Heather Klein, Planner IV at (510) 238-3659 or hklein@oaklandca.gov however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,



ROBERT D. MERKAMP
Zoning Manager

cc: Bruce Loughridge, bruce.loughridge@sbcglobal.net
Don Schwartz, triallaw@cruzio.com, donald@lawofficedonaldschwartz.com
Janice Wendt, wendtjanice@gmail.com
Joan Wendt, joan.wendt.jw@gmail.com
Brian Mulry, bmulry@oaklandcityattorney.org
Raymond Hebert, rhebert@oaklandca.gov

Attachments:

- A. Findings
- B. Interim City Administrator Emergency Order No. 3 and Interim Procedures for Appeals of City Planning Bureau Decisions for Development Projects

ATTACHMENT A: FINDINGS

This proposal fails to meet all the required findings under Sections 16.04.010, 16.08.030 and 16.04.040 of the Oakland Subdivision Code (OMC Title 16) as set forth below and which are required to approve your application. Required findings are shown in **bold** type; reasons your proposal satisfies them/fails to satisfy them are shown in normal type.

SECTION 16.04.010 PURPOSE

“... ensure that the development of subdivisions is consistent with the goals and policies of the Oakland General Plan.”

The City of Oakland’s General Plan includes a Housing Element which is meant to identify existing and projected housing needs and create a housing program that states the City’s housing policy goals, objectives and summary of financial resources for preserving, improving, and developing new housing units. The Housing Element established policies and programs to address eight housing goals including the following:

Goal 5 Preserve Affordable Rental Housing: This goal notes that staff support and implementation of City ordinances protecting existing affordable housing is another method for preserving affordable rental housing.

To implement Goal 5, additional policies were developed including Policy 5.6 (Limitations on Conversion of Rental Housing to Condominiums) which notes that the City shall “continue to use regulatory controls to limit the loss of rental housing units due to their conversion to condominiums.” Furthermore, future actions included Policy 2.4.2 and 5.6.1 which discussed revisions of Condominium Conversion Ordinance.

The project does not meet Goal 5 or this Finding related to compliance with the General Plan as:

- 1) adequate tenant notification was not provided prior to the revision of the Condominium Conversion Ordinance in 2020, and
- 2) the project does not meet the requirements of the the revised 2020 Condominium Conversion Ordinance.

Discussion of Inadequate Tenant Notification

The project was submitted on September 30, 2019. The project application noted that it involved a single-family home and duplex (3-units). Application Section 12 regarding Residential Tenant Protections was left blank and only one tenant notification document was submitted.

Staff did not provide an Incomplete Letter within the 30-day period and did not provide communication that the project was incomplete until January 23, 2020. This communication (email) noted that the application was incomplete as Section 12 was incomplete, each tenant had not signed the tenant notification, the tenant notification itself was inadequate, the tenants had not been provided the required 60 days to review their entire rights under the Ordinance, and staff needed to receive a Title Report less than 60 days old. Of these items, the most serious were the lack of documentation regarding vacancy or tenant habitation of the two units per O.M.C. Section 16.36.060(B) (Tentative map and tentative parcel map requirements for conversions), and the tenant notification for the one unit was missing required language per O.M.C. Sections 16.36.020 (Notice to Convert), 16.36.040 (Tenant notifications), and 16.36.050, (Tenant rights and preliminary tenant assistance program).

Per Section 16.36.070, "It (the Advisory Agency) shall also deny approval if it finds that the subdivider's preliminary tenant assistance program, as set forth in Section 16.36.050, or any submission required by Section 16.36.020, 16.36.040 or 16.36.060 is unacceptable or otherwise inconsistent with the purpose of this title as it concerns the city's housing goals and policies."

Due to the timing of the public hearings regarding the revised Condominium Conversion Ordinance, the application could not be rectified with adequate tenant notification and the 60-day minimum review period for tenants prior to re-submittal. As such, staff has no choice but to deny the project.

Discussion of the project not meeting the requirements of the the revised 2020 Condominium Conversion Ordinance

The City Council presented the draft proposal for the revised 2020 Condominium Conversion Ordinance to the Community and Economic Development Committee on December 3, 2019 and again on January 14, 2020. Public comments were received at both meetings. A public hearing (first reading) of the 2020 Condominium Conversion Ordinance was held before the full Oakland City Council on January 21, 2020. The Oakland City Council voted to move the Ordinance to second reading on February 4, 2020 by a vote of 7 ayes, 0 noes and 1 recusal.

It should be noted that, as this Ordinance was drafted by a City Councilmember, Bureau of Planning staff was not aware of the Ordinance until around mid-January. Bureau of Planning staff sent an email to all applicants with applications for condominium conversions under review informing them of the new Ordinance which could result in staff's inability to process their applications.

On February 4, 2020 amendments to the Ordinance were approved with a vote of 5 ayes, 1 abstention, 1 absent, and 1 recusal. As such, the Ordinance required another second reading, which occurred on February 18, 2020. Public comments were heard, and concerns were expressed by applicants regarding the processing of this project. However, the City Council did not amend the Ordinance again to account for these concerns. Instead, the Ordinance was adopted. The Ordinance did not include language exempting "deemed complete" projects. Section 8 of the Ordinance (Applicability to Existing Projects) only noted that "This Ordinance shall apply to all existing projects that have not obtained a vested right, as defined by California law, as of the effective date of this Ordinance." Furthermore, per Section 7, the Ordinance was to become effective immediately on final adoption if it receives six (6) or more affirmative votes on final adoption. Otherwise, it shall become effective upon the seventh day after final adoption." Since the Ordinance did not receive six votes, it became effective on February 25th. Finally, despite the "deemed complete" status of the application, the applicant could not benefit from a "vested right," relating back to the date the application was "deemed complete," as a Vesting Tentative Parcel Map was not submitted; therefore, the application was subject to the revised Ordinance. With adoption of the 2020 Condominium Conversion Ordinance, additional requirements were placed on the tenant notification process and any project with two or more units requires the applicant to seek Conversion Rights.

While the applicant made their tenant a 1/3 partial owner of the property in February of this year, information was not received that met the requirements of O.M.C. Section 16.36.070J. Specifically, "a subdivider is eligible for a one-for-one reduction from the conversion rights requirements of this Section for each unit: That is occupied and purchased by a current tenant who has continuously occupied a rental unit in the building for at least three (3) years preceding the date of the notice of intention to convert." Staff has not received information about how long the tenant lived in the building and whether they were offered their specific unit for fee ownership. Further complicating matters, staff is unsure whether O.M.C. Section 16.36.070A(3) applies, which states: "the Advisory Agency shall deny approval of a tentative map or tentative parcel map for a conversion if the conversion is from a building in which the owners have a fully executed written agreement within five (5) years of the application date in which the owners each have an exclusive right of

occupancy to individual units in the building to the exclusion of the owners of the other units (tenancy-in-common).”

Even if the tenant’s partial ownership complies with the Ordinance, which is up for debate pending additional information, staff has not received Conversion Rights for the other two units. As such, staff has no choice but to deny the application per O.M.C. Section 16.36.070A: “the Advisory Agency shall deny approval of a tentative map for the conversion of two or more housing units unless it finds that every converted unit will be replaced with a rental unit added to the City's housing supply.”

SECTION 16.08.030 - ACTION ON

A. That the proposed map is not consistent with applicable general and specific plans;

The project does not meet this Finding as stated above in the discussion related to the O.M.C. Section 16.04.010 Purpose as well as the discussion below.

The project is in the West Oakland Specific Plan (WOSP) area. The WOSP notes on page 420, that the City’s Condominium Conversion Ordinance addresses the conversion of rental units to ownership condominiums and outlines tenant protections which are in Oakland Municipal Code Section 16.36. It also notes that as of the writing of this Specific Plan, there are discussions underway at the City Council level that contemplates additional protections for two- to four-unit properties.

As noted in the WOSP’s *Affordable Housing Strategies* Goal, the intent is to ensure continued availability of affordable housing options for lower and moderate-income households in West Oakland. In addition, the WOSP includes the following policies related to condominium conversions:

Policy AH-2: Prioritize preservation of subsidized affordable housing includes a bullet item to “continue coordination of counseling and referral services for homeowners and renters” such as tenant notifications.

Policy AH-6: Ensure continued availability of safe and affordable housing options for lower income and moderate income households reiterates the need for “continued coordination of counseling and referral services for homeowners and renters”, and notes the need to “continue to utilize the Condominium Conversion Ordinance to preserve existing rental housing stock in the Plan area” and “review the Condominium Conversion Ordinance for possibilities to strengthen protections for renters, including replacement units for two to four-unit conversions.”

For the same reasons stated above, regarding inadequate tenant notification and lack of conversion rights, the project does not meet this Finding related to compliance with the WOSP.

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

Again, the project does not meet this Finding as stated in the above discussions related to the O.M.C. Section 16.04.010 and 16.08.030A.

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

The project meets this Finding. The site contains an existing single-family dwelling and duplex. No new construction is proposed. Therefore, the project site is physically suitable for the conversion into condominiums.

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

The project meets this Finding. The site already contains two residential units on an existing lot. No construction or change in density is proposed.

E. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;

The project meets this Finding. The project is a subdivision of an existing three-unit residential lot for condominium purposes only. The project will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The project does not include construction; the site has no value for fish or wildlife, is surrounded by residential development, and is not located near environmentally-sensitive areas, waterways, or wildlife habitat.

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

The project meets this Finding. The project is a subdivision of an existing single-family dwelling and duplex for condominium purposes only. The subdivision will not cause serious public health problems. The project does not involve construction, and the site is in an existing residential neighborhood. Each of the units on the property has access to public water, sewer, and drainage systems designed to City standards which prevent serious health problems.

G. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public;

The project meets this Finding. Per the survey and preliminary report, there are no dedicated easements involving public interests.

H. That the design of the subdivision does not provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision. Examples of passive or natural heating and cooling opportunities include subdivision design which permits orientation of a structure in an east-west alignment for southern exposure and subdivision design which permits orientation of a structure to take advantage of shade and prevailing breezes.

The project meets this Finding. The design of the subdivision does not include new construction or changes to the envelopes of the existing buildings; therefore, no future passive heating or cooling opportunities will be missed as a result of the project.

I. That the design of the subdivision, if located in a designated water reuse area pursuant to Section 13550 of the Water Code does not provide for the use of recycled water pursuant to Government Code Sections 65601--65607, water reuse notwithstanding that recycled water has been determined to be available pursuant to Section 13550 of the Water Code and no finding has been made that there is an alternative higher or better use for the recycled water, its use is not economically justified for the project, and its use is not financially and technically feasible for the project.

The project meets this Finding. The project is not located in an area served by recycled water; However, the applicant would need to comply with any East Bay Municipal Utility District requirements.

Lot Design Standards (Section 16.24.040 O.M.C.):

Lot design shall be consistent with the provisions of Section 16.04.010, Purpose, and the following provisions:

- A. No lot shall be created without frontage on a public street, as defined by Section 16.04.030, except:**
 - 1. Lots created in conjunction with approved private access easements;**
 - 2. A single lot with frontage on a public street by means of a vehicular access corridor provided that in all cases the corridor shall have a minimum width of twenty (20) feet and shall not exceed three hundred (300) feet in length. Provided further, the corridor shall be a portion of the lot it serves, except that its area (square footage) shall not be included in computing the minimum lot area requirements of the zoning district.**

The project meets this Finding. The proposed project consists of the subdivision of an existing single-family dwelling and duplex for condominium purposes; no new lots are being created. The existing lot has frontage onto a public street (Peralta Street).

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

The project meets this Finding. The proposed project is a one-lot subdivision for the purposes of creating condominium units. The project does not include a change to the existing lot configuration, and no new lots are being created. However, the lot does run at right angles to the street.

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

The project meets this Finding. The proposal is a one-lot subdivision for the purposes of creating condominium units. All applicable zoning requirements of the RM-2 Zone are met.

- D. Lots shall be equal or larger in measure than the prevalent size of existing lots in the surrounding area except:**
 - 1. Where the area is still considered acreage;**
 - 2. Where a deliberate change in the character of the area has been initiated by the adoption of a specific plan, a change in zone, a development control map, or a planned unit development.**

This Finding is not applicable as no new lots are being created, and the overall lot size is not being affected. The project consists of a one-lot subdivision for condominium purposes only.

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

The project meets this Finding. The project consists of a one-lot subdivision for condominium purposes only, and no new lots will be created. No natural amenities are proposed to be affected with the condominium conversion.

APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

I feel that the denial issued is not justified. This application denial is based on “Language” not contained within the tenant notification that was used. The notification letter that was obtained from the city of Oakland website, was reviewed, returned to be notarized and then accepted at the beginning of my application process.

In all fairness, all applications should be worked on with the order that they were submitted. This has not occurred with even my 3 applications. As this application was one of 3 applications i discovered that none of my applications were processed in the order it was submitted. Is it ethical for the Planning Department picking and choosing the order of review?

While I am sympathetic to the housing difficulty within City of Oakland, the housing my building represents is not about maintaining affordable housing at all. I spent almost \$500,000 in renovations. The rents in my area for a 3 bedroom 2 bath are in the range of \$4,000-\$5,300 per month. This was never affordable housing. For the last 5 years I have personally used the units at 1110 and 1114 as my personal residence for my 11 children plus grandchildren during visits and family get togethers.

This denial is causing harm to the one person you keep saying you are trying to protect, Joan Wendt, the Tenant. She has waited since 2016 to purchase her unit. Within that time I have never raised her rent. She would like to build equity rather than pay rent. Is this not the ultimate goal? To enable tenants to participate in home ownership?

The planning department did not make any attempt to “Work with Me” as requested by the City Council meeting on 2/18/20.

I feel the project could have been accepted prior to the 2/27/20 enactment of the condo conversion amendment had they made an effort to review the documents as opposed to providing me with an ultimatum to file a new application or lose my application money.

This application should be under previous Condo Conversion regulations based that the application was submitted on 9/30/19 well before the any hearings about new regulations had begun.

Repeatably, within requirements a Vesting Map has been brought up. However, the planning department is remiss in providing information to any applicant about the option for filing a Vesting Tentative Map which would provide protections to the public. I feel that they are using the Vesting Tentative Map requirement as a legal loophole to take away my rights or any other applicant’s right who are in the middle of the permitting process.

Below I am addressing each of Heather Klein’s reasons for denying my application for condo conversions. My response to her findings are in blue.

Attachement A Findings:

This proposal fails to meet all the required finding under Section 16.04.010, 16.08.030 and 16.04.040 or the Oakland Subdivision Code (OMC title 16) as set forth below and which are required to approve your application. Required findings are shown in Bold type; reason your proposal satisfies them/fails to satisfy them are shown in **bold** type; reason your proposal satisfies them/fails to satisfy them are shown in normal type.

Attachment C

Section 16.04.010 Purpose

“...ensure that the development of subdivision is consistent with the goals and policies of the Oakland General Plan.”

The City of Oakland’s General Plan includes a Housing Element which is meant to identify existing and projected housing needs and create a housing program that state the city’s housing policy goals, objectives and summary of the financial resources for preserving, improving and developing new housing units. The Housing Element established policies and programs to address eight housing goals including the following:

Goal 5 Preserve Affordable Rental Housing: This goal notes that staff support and implementation of City ordinances protecting existing affordable housing is another method for preserving affordable rental housing.

Response:

1. Goal 5 Preserve Affordable Rental Housing
 1. The property has never been a part of affordable housing
 1. 3 bedroom 2 bath fully remodeled Victorians rent for More than \$4000 per month
 1. Affordable housing lists as \$2500 to \$3200 per month

To implement Goal 5, additional policies were developed including Policy 5.6 (Limitations on Conversion of Rental Housing to Condominiums) which notes that the City shall “continue to use regulatory controls to limit the loss of rental housing units due to their conversion to condominiums.” Furthermore, future actions included Policy 2.4.2 and 5.6.1 which discussed revisions of Condominium Conversion Ordinance.

The project does not meet goal 5 as this Finding related to compliance with the General Plan as:

- 1) adequate tenant notification was not provide prior to the revision of the Condominium Ordinance in 202, and
- 2) the project does not meet the requirements of the revised 2020 Condominium Conversion Ordinance.

Response:

1. The Tenant Notification provided to the tenant, Joan Wendt on April 1, 2019. this was more than 182 days before the application
 1. This Condo Conversion notification letter used was copied from the City of Oakland Website and was current at the time it was used
 2. Joan Wendt was provided and signed off that she received a complete booklet with all the rules and regulations as it relates to Tenant rights for condo conversions
2. At time of intake Jose M. Herrera-Preza indicated that the letter needed to be notarized.
 1. The letter was notarized and turned in on 9/30/19
 2. At no time did Jose indicate that letter was not adequate

APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

3. See letter attached, Planning department has notarized copy
3. The revised 2020 condominium rules do not apply since the letter was complete at time of intake
 1. Planning department had 30 days to review under the Permit Streamlining Act before the application was deemed complete
 2. See Screen capture of Accela Oakland for this TPM. It shows that no work was completed after it was assigned to MM on 10/08/2019
 1. Application intake Due 10/01/2019, Assigned to TBD
 1. Marked as Accepted for assignment on 09/30/2019
 2. Assignment was made and then the application sat on the assigned person's desk without any action taken to review the TPM
 1. Assignment Due on 10/07/2019, assigned to MM
 2. Marked as Assigned on 10/08/2019 by HAK
 3. Completeness Review due dates were ignored
 1. Completeness review was due 11/07/2019, Assignment was (TBD) to be determined
 2. Completeness Marked as TBD on TBD by TBD
 3. This shows that there was no attempt to complete the review within the required 30 days
 4. Application misplaced? Why no progress?
 4. CEQA Determination
 1. CEQA Determination Due on 01/06/2020, Assigned to TBD
 2. CEQA Determination Marked as TBD on TBD by TBD
 5. Zoning Review Dates are still being ignored and not action being taken to complete this application. This shows that the it could have been processed before 1st reading of the new Condo Conversion Amendment
 1. Zoning Review Due on 01/06/2020, assigned to TBD
 2. Zoning Review Marked as TBD on TBD by TBD



APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

Discussion of Inadequate Tenant Notification

The project was submitted on September 30, 2019. The project application noted that it involved a single family home and duplex (3-units). Application Section 12 regarding Residential Tenant Protection was left blank and only one tenant notification document was submitted.

Response:

1. Section 12 asked about the units affected with a check box and the answer was NO so as per instructions in the application I did not need to complete the remainder of the section (See a copy of the section below)
 1. 12A. Will the project affect the existing residential units on the site, including Live/Work Units, Work/Live Units, Joint Living and Working or unpermitted units? If "Yes" go to question B. If "No" you do not need to complete the remainder of this section
 1. The answer was "NO" so no further action on this section was required.

12. RESIDENTIAL TENANT PROTECTION

The City of Oakland has laws in place to protect residential tenants, including the State of California's Tenant Protection Act of 2019 (AB 1482), the City of Oakland's Tenant Protection Ordinance (TPO) (Title 22, Chapter 22.01), and the City of Oakland's Compliance Release Ordinance (CRO) (Title 22, Chapter 22.02). These laws apply to the conversion project and include a tenant notice.

	Yes	No
<p>A. Will the project affect existing residential units on the site, including Live/Work Units, Work/Live Units, Joint Living and Working or unpermitted units?</p> <p>B. If "Yes" from Question A,</p> <p>1. If "Yes," you are required to answer the remainder of this section.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>B. Are there existing residential units on the site, including Live/Work Units, Work/Live Units, Joint Living and Working Units, or unpermitted units, or other residential units, occupied by residential tenants who will be impacted by the project?</p> <p>1. If "Yes," go to Question C.</p> <p>2. If "No," you do not need to complete the remainder of this section.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>C. Will existing residential units on the site, including Live/Work Units, Work/Live Units, Joint Living and Working Units, or unpermitted units, be impacted by the project in a way that requires the project owner to provide a tenant notice to the tenants occupying the affected residential units, including unpermitted units, or other residential units, prior to the project?</p> <p>1. If "Yes," provide the information requested below and sign and date the completed tenant notice.</p> <p>2. If "No," you do not need to complete the remainder of this section.</p>	<input type="checkbox"/>	<input type="checkbox"/>

2. The property only had one tenant Joan Wendt in unit 1112 Peralta
 1. See Copy of her notification below
 2. Planning department has the Certified copy of this letter
 3. Note she was also notified twice, once on 05/14/16 of intent to convert to condo and again on 04/01/19
3. The Units 1110 Peralta and 1114 Peralta have been continuously occupied by the Bruce Loughridge, who is the owner and applicant for the TPM
 1. Bruce has a very large family, consisting of 11 children plus grandchildren thus the need for such a large space for family get togethers
 2. Bruce has occupied 2 units for the last 5 years
 3. Since he is the owner and occupant there is no requirement to provide a Tenant notification.

April 1, 2019

Joan Wendt
1112 Peralta St
Oakland, CA 94607

Dear Joan,

This is a notice of intent to convert your rental unit to a condominium effective within 60 days.

Tenant Rights (6.36.050A):

Tenants are guaranteed the following minimum rights (these must be included in the "notice of tenant rights"): - tenants may terminate their lease or rental agreement without penalty within 30 days of receipt of "notice of intent to convert" –

- no rent increase is permitted until at least 12 months after sub- divider files the tentative map application
- no remodeling of the interior of tenants' units may occur until at least 30 days after issuance of the final subdivision report, or after the start of the sales program
- tenants have the exclusive right to contract for the purchase of their unit, or any other available unit in the building, upon the same or more favorable terms and conditions that such units will be initially offered to the general public – these right runs for at least 90 days from the issuance of the final subdivision report –
- tenants have a right of occupancy of at least 180 days from the issuance of final subdivision report, or the start of the sales program.

Rights of tenants of units containing a tenant 62 years of age or older (16.36.050(A)(6)):

Tenants who are 62 years of age or older are guaranteed the following additional rights (these must be included in the "notice of tenants rights"):

- option of a lifetime lease on his or her unit, or, at tenant's option, on any other available unit in the building
- limitations on base monthly rent and % increase (based on rent price one year prior to filing of the tentative parcel map, with increases tied to the consumer price index (CPI) for the Bay Area)
- tenants cannot be evicted except for just cause - except as listed above, the terms and conditions of the lifetime lease shall be the same as those contained in the tenant's current lease or rental agreement.



Staff did not provide an Incomplete Letter within the 30-day period and did not provide communication that the project was incomplete until January 23, 2020. This communication (email) noted that the application was incomplete as Section 12 was incomplete, each tenant had not signed the tenant notification, the tenant notification itself was inadequate, the tenants had not been provided the required 60 days to review their entire right under the Ordinance, and the staff needed to receive a Title Report less than 60 days old. Of these items the most serious were the lack of documentation regarding vacancy or tenant habitation of the two units per O.M. C. Section 16.36.060(B) (Tentative map and tentative parcel map requirement for conversions), and the tenant notification for the one unit was missing required language per O.M.C. Section 16.36.020 (Notice to Convert), 16.36.040 (Tenant notifications), and 16.36.050, (Tenant right and preliminary tenant assistance program).

APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

Response:

1. Section 12 asked about the units affected with a check box and the answer was NO so as per instructions in the application I did not need to complete the remainder of the section (See a copy of the section above)
 1. 12A. Will the project affect the existing residential units on the site, including Live/Work Units, Work/Live Units, Joint Living and Working or unpermitted units? If "Yes" go to question B. If "No" you do not need to complete the remainder of this section
 1. The answer was "NO" so no further action on this section was required.
2. The property in question only has one tenant, Joan Wendt, who received her notification on 4/1/2019. She has resided in this unit for almost 10 years
3. The owner and his large family of 11 children plus grandchildren has occupied 2 units for the last 5 years, units 1110 and 1114 Peralta Street,
 1. Tenant notification for 1110 and 1114 units is not required since these have been owner occupied for 5 years
4. Notation title report not less than 60 days old
 1. Since the surveyor must complete his own title verification as a part of the survey this alone verifies ownership
 2. Title report is redundant requirement. Duplicates surveyor report
 3. Findings from Section G indicates following
 1. "The project meets this Finding. Per the survey and preliminary report, there are not dedicated easements involving public interests."
 2. This shows that the preliminary report has been accepted and that the survey duplicates the information

Due to the timing of the public hearings regarding the revised Condominium Conversion Ordinance, the application could not be rectified with the adequate tenant notification and the 60-day minimum review period for tenants prior to re-submittal. As such, staff has no choice but to deny the project.

Response:

1. The hearings started December 3, 2019
 1. No noticed received from the planning department to allow applicants to attend and provide public comment
2. Additional Hearing on January 14, 2020
 1. Again no notice provided to applicants
 2. Applicants with applications already submitted were not allowed to provide comment at this hearing
3. On January 16, 2020 the planning department was contacted as to the status and delay of the TPM
4. City Council Meeting first reading January 21, 2020
 1. No notification was sent to me prior this meeting.
 2. Due to lack of a notification I was not able to provide Public comment
 3. Why were Condo Conversion applicants not notified prior to this amendment reading?

APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

5. As a response to my inquiry 1/16/20 to the Planning department, Michele Morris replied and sent an email 1/23/20 She required a new application and a new tenant notice letter to be sent.
 1. Creating a new application would nullify my application that was already on record
 2. Please review that ACCELA Oakland screen capture above shows a lack of action since it was assigned to Michele Morris from 10/7/19 until 1/23/20 without any review
 3. Michele acknowledged my application was delayed internally
6. Heather Klein contacted all

Condominium Conversion Ordinance

From: Klein, Heather (hklein@oaklandca.gov)
Cc: RMerKamp@oaklandca.gov
Date: Tuesday, January 28, 2020, 04:21 PM PST

Dear Applicant,

The purpose of this email is to inform you that the City Council has proposed changes to the Condominium Conversion Ordinance. These changes will likely affect staff's ability to process your application for a condo conversion.

The City Council voted to adopt the Ordinance on first reading on January 21, 2020. Final adoption requires approval of a second reading by the City Council, which is on the consent calendar (item 7.6 on the Agenda 2-4-20 document) for the February 4, 2020 City Council Meeting. The meeting is in the City Council Chambers at City Hall (1 Frank Ogawa Plaza) and starts at 5:30pm.

If adopted on second reading, the Ordinance is effective immediately, if 6 votes are obtained. Otherwise, the Ordinance is effective seven days later.

If you would like to find out more regarding the proposal, please see the attached agenda (item S13 on the Agenda 1-21-20 document), which includes to the proposed staff report and Ordinance materials. You can also contact your Councilmember's office. Bureau of Planning staff has yet to be fully briefed on the Ordinance and is not prepared to answer detailed questions.

Best,

Heather Klein, Planner IV | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510) 238-3659 | Fax: (510) 238-6538 | Email: hklein@oaklandca.gov | Website: <https://www.oaklandca.gov/departments/planning-and-building>

 Agenda- 2-4-20.pdf
174.9kB

 Agenda 1-21-20.pdf
202.7kB

1. See that there is no willingness to work with applicants with her note that planning staff has not been briefed
7. 1/30/20 My assistant sent an email Letter to Robert Merkamp,
 1. Brought up many issues
 2. Robert noted that the tenant notice issued was not compliant to the code 16.36.030 and .040
 1. This is a code for perspective tenants and does not apply since we do not have any perspective tenants for this property.
 2. 1112 Current tenant Joan Wendt was notified adequately per rules
 3. The owner and his large family of 11 children plus grandchildren has occupied 2 units for the last 5 years, units 1110 and 1114 Peralta Street, so notice is not required
 3. Robert's notes seem to want to cover up the fact that the Planning department had sidelined this application for 115 days.
 1. Makes excuses that do not bear out since application submitted before and after were processed and completed on a timely basis

From: Merkamp, Robert (merkamp@oaklandca.gov)
 To: wendtjanice@gmail.com
 Cc: bruce.loughridge@sbcglobal.net; HKlein@oaklandca.gov; Mmorris2@oaklandca.gov
 Date: Thursday, January 30, 2020, 08:59 PM PST

Ms. Wendt,

Thanks for your email. I'm sorry you've had a disappointing experience I also addressed some these points in the voicemail I left Mr. Loughridge this morning but let's address your points one by one.

1. Noted. It is unfortunate that it expired but that does not confer any sort of advantage to reprocessing.
2. It appears your case was taken in on 9/30/19. Taking it in means it was considered sufficient to take in and begin review. We still have a legally mandated completeness review period after intake to identify if anything is missing or incomplete or inadequate. That can't be done at intake as there is not enough time to review the project at that level of detail and unfortunately being taken in is not a sign that the City believes it has a complete application that won't need augmenting, updating or fixing.
3. The tenant notice issue is that is missing the code language from 16.36.030 and .040 which has highly specific language to use and that's not what we have in your documents. Therefore they need to be revised and to be honest that's not always going to be readily apparent to the planners at intake.
4. The date on the Title Report was August 6th 2018. Your case was submitted on September 30, 2019, therefore it was almost 14 months old at this point and it was too old at the point of intake therefore it's inaccurate to say that it was a timely report that expired because the City delayed processing your application (if that were the case, I would agree it wouldn't be a legitimate incompleteness item). Indeed, we must've overlooked this at intake as that would've been a legitimate reason to refuse intake.
5. Michelle's question was related to our Engineering Division's review of your project where they needed help with this question and understanding the project better. It's not uncommon that the routing process raises new questions from our colleagues that we would pass to an applicant to answer.

I apologize for the delay and I can't explain it but to say that we lost over 33% of our staff in our unit alone last year for various reasons which has significantly impacted our ability to review all the cases within our unit, including yours. We're telling applicants right now that at minimum it'll take 4-6 months to process applications, even under the best of circumstances. We're working on hiring more staff this year to hopefully improve our capability.

I can pass your concerns about what you might've been told at intake to the supervisor of the unit but I don't oversee the counter so I can't account for what was said.

As I mentioned in my voicemail to Mr. Loughridge, the City has very recently changed how we're to process applications such as yours. This was a council driven ordinance with little staff input and where we were not involved our kept abreast of the timelines. It's unfortunate but the way the ordinance was written would essentially prohibit your application as well as any others unless you had filed your map at the beginning as a "Vesting" map, which it wasn't. This process was out of our control but it has impacts for you. I have to be honest, I can't change this situation for you. One thing that could help is the council ordinance needs two readings. The second (and typically final) reading is this coming Tuesday and if they vote for it at second reading it goes into immediate effect. You might want to contact your city

Thank you for your kind consideration.

Janice Wendt

8. 2/5/20 I paid the Oakland Fire Department \$585.70 for an Inspection work order
 1. Addresses for inspection 1110 Peralta Street, 1112 Peralta Street and 1114 Peralta Street
 2. The paper work had a note marked on it "*TPM for Pick-up*"
 3. *Why would an* Inspection request is not issued if the TPM was not approved

Document below:

On February 4, 2020 amendment to the Ordinance were approved with a vote of 5 ayes, 1 abstention, 1 absent and 1 recusal. As such the Ordinance required another second reading, which occurred on February 18, 2020. Public comments were heard, and concerns were expressed by applicants regarding the processing of this project. However the City Council did not amend the Ordinance again to account for these concerns. Instead, The ordinance (Application to Existing Project) only noted that "This Ordinance shall apply to all existing project

APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

that have not obtained a vested right as defined by California law, as of the effective date of this Ordinance.” Furthermore, per Section 7, the Ordinance did not receive six votes, it became effective on February 25th. Finally, despite the “deemed complete” status of the application the applicant could not benefit from the a “vested right,” relating back to the date of the application was “deemed complete,” as a Vesting Tentative Parcel Map was not submitted: therefore, the application was subject to the revised Ordinance. With adoption of the 2020 Condominium Conversion Ordinance, additional requirements were placed on the tenant notification process and any project with two or more units requires the applicant to seek Conversion Rights.

Response:

2/18/20 City Council meeting

1. I informed my TPM applications were taken out of order.
 1. Application one PLN19240 submitted on 9/23/19 was reviewed second and approved on 1/30/20
 2. Application two PLN19246 submitted on 9/30/19 was not reviewed until 1/23/20 denied 3/1/21
 3. Application three PLN19248 submitted 10/1/19 was reviewed first and approved on 11/26/19
2. The following shows that there was concern that Oakland applicants would be harmed by the proceedings
 1. Also they addressed that the because applicants were not advised to Vesting maps that the city administrators should work with applicants that are in process.

From CC meeting transcripts:

Transcript time stamp: 02:15:18

Madam President

“Okay, I’ll go to Council member Mcelhaney and then I’ll come back. I wanted to redirect on that same question but it’s not to you, Ms. Bulatino but to the Planning Staff, the speaker talked about the items not being process timely, so how are those particular ones being considered that may have been held up from a Tentative Map because of the staff delays or illness?”

Transcript time stamp: 02:16:54

City Attorney

“Okay, Great, and I want to be clear, did they receive their Tentative Map Approval, if they had not received their Tentative Map Approval yet, Planning generally, they’re under the Permit Streamlining Act, they have to respond back within 30 day to deem the application complete or not, Where it sound like maybe some of the applicants may be getting held up is our Map Surveyor has a backlog of Maps through the city and he’s basically under a pile of maps, that could be where delay has occurred.”

Transcript time stamp: 02:17:43

Madam President

“So, I guess just to be clear, if they submitted what they were supposed to submit and our staff didn’t get back to them and if our staff has been alleged is picking who to get back to or not, not doing them in the order they submitted, we have a potential problem

APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

on our hands that certain people are exempt, but not who the staff chose to get back to or not.”

Transcript time stamp: 02:18:05

City Attorney

“Staff doesn’t know who to get back to or not, is that not what’s going on here. What is going on is staff basically receives an application within 30 days, they have to get back to every applicant, that is part of the law, so they get — tuned permit streamline act, they get back or the application is deemed complete”

NOTE: This is the transcript where the Vesting map is addressed.

Transcript time stamp: 02:20:19

Council member Mcelhaney

“I wonder if the administrator can take a look at if there were any anomalies in the process of, (inaudible). I hear what you’re saying, Mr. Attorney, there are thing that get misplaced, some of the speaker have cited illness of Planner so that happens but if there’s a way — the spirit and intent of the legislations changes that Mr. Kalb has proposed was so people would not be harmed who have invested and who were placing reliance upon the law at the time, so I think that there may be an opportunity and I’m saying this through the President to the Administrator that perhaps we can review the few people here who are saying there was something anomalous in the timeline and then I guess the question with respect to does staff advise or is it written-in our paperwork about the vesting map?”

Transcript time stamp: 02:21:22

City Attorney

“No”

Transcript time stamp: 02:22:06

Council Member Mcelhaney

“So, that’s what I’m saying. I think for Madam President, I think to address the concerns that are cited here, I don’t know if there would need to be any legislative amendments after adoption tonight, but I would request that the administrator take a look at these cases and to — I mean, I believe you would probably have discretion to do whatever’s necessary, but if not, that you could bring back whatever — I was going to say — I just think if somebody brought in something and there was an extended period of time, 7,8 months and it’s outside the pale, you would have the discretion to say, had this planner not be ill, something to the effect so the members of the public are not harmed by the action that’s intended to help”

Response:

APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

3. To obtain a Vesting map is a simple as writing on top of the application Vesting Map
 1. Why is this information not available on the application?
 2. Could a box where if you want a Vesting Map you could select it on the application?
 3. At intake why is the planning department not asking if you would like a file a Vesting

Map?

1. This is not a legal question just informational and procedural
2. Vesting map 16.57.020 Procedures.

A. Filing and Processing. A vesting tentative map shall be filed in the same form and have the same contents, accompanying data and reports and shall be processed in the same manner as set forth in the city subdivision ordinance for a tentative map except as hereinafter provided:

1. At the time a vesting tentative map is filed it shall have printed conspicuously on its face the words "vesting tentative map."

4. After the 2/18/20 CC meeting, the planning department did not make any attempt to work with me to approve the application as requested by the City Council that night.

1. City council asked that applicants be worked with one on one instead of adding additional amendments. See transcript:

Transcript time stamp: 02:27:11

Madam President

So, That's a motion by President Pro Tem Kalb, is there a second? By Mr. Gallo, That is with the understanding that the Administration will work with the folks who have raised these questions, will work to incorporate it into the administrative regulations and if you can't you will let us know about any needed amendment to deal with the folks who started the process long ago, and that's sufficiently clear to everybody.

Is somebody going to go trade contact info with these folks to be able to follow up with them?

2. There was sufficient time to have addressed all questions and approve the application before the new rules were enacted 7 days later

While the applicant made their tenant a 1/3 partial owner of the property in February of this year, information was not received that met the requirement of O.M.CI Section 16.36.070J.

Specifically, "a subdivider is eligible for a one-for-one reduction from the conversion right requirement of this Section for each unite: That is occupied and purchased by the current tenant who has continuously occupied the rental unit in the building for at least three (3) years preceding the date of the notice of the intent to convert." Staff has not received information about how long the tenant lived in the building and weather they were offered their specific unit for fee ownership. Further complicating matters, staff is unsure weather O.M.C. Section 16.36.070A(3) applies, which states: "the Advisory Agency shall deny approval of a tentative map or tentative parcel map for a conversion of the conversion is from a a building in which the owners have a fully executed written agreement within five (5) years of the application date in which the owners each have an exclusive right of occupancy to individual units in the building to the exclusion of the owner of the other units (tenancy-in-common).

APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

Response:

1. This was an attempt to protect the tenant Joan Wendt.
 1. After almost 10 years as a tenant Joan Wendt wanted to ensure that she would be able to purchase her unit so she invested
 1. Joan also had received and signed a tenant notification before the 5/14/16 TPM 9354
 2. Since she has occupied her unit for almost 10 years this would more than satisfy the 3 years required
 2. She was hoping to satisfy the tenant ownership requirements
 3. The transaction is signed but not recorded and therefor not executed
 4. This could be changed to satisfy tenant purchase as needed
 5. Note: The Planning department at no time inquired to Joan Wendt how long she has resided at 1112 Peralta
 6. Section 16.36.070A is applying the new rules, this application is covered at the request of the City Council to have the Planning department work with the applicant to prevent harm and allow applications already in process under the previous rules

SECTION 16.08.030 - ACTION ON

- A. That the proposed map is not consistent with the applicable general and specific plans;

The project does not meet this finding as stated above in the discussion related to the O.M.C. Section 16.04.010 Purpose as well as the discussion below.

Response:

1. This is a repeat of previous argument.
2. Planning department did not act in "Good Faith" to work with me before the new rules were enacted.
 1. This could have been approved
3. Heather Klein sent an email Letter 2/21/20 Just 3 days after the CC vote
 1. This letter was an ultimatum letter two choices
 1. You must Submit a new application under the new rules nullifying your current application
 2. OR Lose your application fees paid
4. This does not show any effort to follow the guidelines the City Council requested that the Planning Department and City Attorney work with those applicants that may need to have consideration since they are already in process.

The rest of the application shows approval of Findings.

-
1. 2/21/20 Heather Klein sent an email that amounted as an ultimatum
Quote from email.

APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

1. "At this point you have two options. One is to withdraw the project and resubmit after you have a formal determination and agreement regarding condo conversion rights. Robert has indicated that he would provide a full refund. I've attached the refund request form. Should you choose this option, please complete it and submit it to the permit counter cashier with the accompanying documents for processing.

2. "The other option is to have staff put the project out for denial. In this case, you would not receive any refund. "

1. Please note in her letter there was no offer to work with me as per requested by the city council request

Transcript time stamp: 02:27:11

Madam President

"So, That's a motion by President Pro Tem Kalb, is there a second? By Mr. Gallo, That is with the understanding that the Administration will work with the folks who have raised these questions, will work to incorporate it into the administrative regulations and if you can't you will let us know about any needed amendment to deal with the folks who started the process long ago, and that's sufficiently clear to everybody.

Is somebody going to go trade contact info with these folks to be able to follow up with them?"

2. Heather Klein has sent misleading emails that reference an appeal requirement.
 1. After I file the appeal she has sent me an email saying that I was too early to appeal
 2. I feel that she has done this action to obtain information ahead of time to get insight into my planned appeal using this information within her denial filing.

Timeline of application and interaction.

It appears that the Planning department is intentionally covering up their lack to review TPM applications in the correct order as well as an oversight within the department that exceeded the required 30 day review deadline imposed by the Permit Streamlining Act.

1. TPM application was deemed complete on 9/30/19 during intake by Jose M. Herrera-Preza
 1. It was deemed complete after initially rejecting the Tenant notice due to lack of it being Notarized and not due to any missing information within the letter
 2. On 9/30/19 a notarized copy of the tenant notice was provided and approved by Jose.
2. Submitted Applications for 3 Temporary Parcel Maps were taken out of order.
 1. Application one PLN19240 submitted on 9/23/19 was reviewed second and approved on 1/30/20
 2. Application two PLN19246 submitted on 9/30/19 was not reviewed until 1/23/20 denied 3/1/21
 3. Application three PLN19248 submitted 10/1/19 was reviewed first and approved on 11/26/19
3. The Planning department had an additional 30 days after intake to address any items overlooked or incorrect at time of intake of the application otherwise would need to be deemed complete by the Permit Streamlining Act

APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

4. Due to lack of communication from the planning department I sent an email on 1/16/20 to find out why the TPM was delayed
5. Planning department did not notify pending applicants of the new Condo Conversion rules after the 1st reading at the city council meeting on 1/21/20 Planning department employee, Michele Morris, requested a new application instead of deeming the application submitted as complete on 1/23/20 and then applied the new Condo Conversion rules not yet approved to application and tenant notification letter language. She also requested a reply to comments from the City's Dept. of Transportation and to The application should have been deemed complete before this time since it clearly was past the 30 days allowed for review. Therefore the application should have been process as submitted and a Public notice posting issued.
 1. Tenant notice issued was a legal form downloaded from the City of Oakland Planning department when the tenant was notified on 4/1/19
 2. There was no need for a new application to be completed for just two check marks could have been handled at intake or over the phone.
 3. The comments to reply to the City's Dept. of Transportation are not applicable since there was no modifications to the existing buildings. So the questions were confusing and not applicable
 4. A new title report request was well past the 30 day review period and should be deemed complete as well. A new title report would be redundant since the surveyor that completed the TPM does a title check on records and confirms the ownership of the property before completing survey.
 5. Michelle made a request for me to mark the survey maps to what buildings are included.
 1. This is not an applicable request since all buildings were included in the TPM request. See addresses that were included 1110 Peralta Street, 1112 Peralta Street and 1114 Peralta Street please also see the tentative parcel map attached to appeal.
 6. Michele Morris in her email acknowledged that there was a delay internally
 7. Bruce replied to request as follows: *"All of the requirements were met for the intake. There's a duplex & single family cottage equaling 3 condominiums. The property had a approved TPM in the past that expired. There's only one tenant on the property outside myself. That tenant has been waiting to purchase her unit before the last TPM was filed many years ago. We provided her acknowledgement during the intake. I've recently filed 3 Condo applications. Don't understand the problem with this one."*
 8. Additional Email sent 1/30/20 to Planning department
 1. Pointed out that TPM 9354 on May 14.2016 was granted but since expired and Joan Wendt was the tenant at that time and a notification for intent to convert can be traced back to 2016
 2. See email attached
 9. After a phone call with Heather Klein indicated that we would be denied since condo conversion rules would be changing.
6. 1/28/20 by Heather Klein wrote: *"The purpose of this email is to inform you that the City Council has proposed changes to the Condominium Conversion Ordinance.*

APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

These changes will likely affect staff's ability to process your application for a condo conversion.

1. Our application could

7. Robert Merkamp replied on 1/30/20 and his reply did not adequately address that the permit should not move forward
 1. The previous application does not confer any advantages.
 1. We were trying to point out that the tenant has been adequately notified
 2. Indicates that the planning department needs to complete a completeness review.
 1. This was not completed within 30 days as legally required
 3. Robert noted that the tenant notice issued was not compliant to the code 16.36.030 and .040
 1. This is a code for perspective tenants and does not apply since I do not have any perspective tenants for this property.
 1. 1112 Current tenant Joan Wendt was notified adequately per rules
 2. The owner, Bruce Loughridge and his large family of 11 children plus grandchildren has occupied 2 units for the last 5 years, units 1110 and 1114 Peralta Street, therefore a tenant notice is not required
 2. Noted the date of title report too was old and acknowledges that it should have been caught at time of intake for completeness
 3. Request for new Title report should have been requested within 30 days of application
 4. The requirement for a Title report is to confirm ownership of property is redundant since the surveyor in creating the TPM completes confirmation of all records for ownership
 4. Robert Brought up Michele's request Engineering Division review.
 1. Not applicable City's Dept. of Transportation review in Michele's request
 2. No construction, no alterations to current buildings no review required
 5. Robert brought up that the Planning department has lost 33% of the staff and applications are now taking 4-6 months to review.
 1. Does not excuse the requirement to deem the application complete after 30 days
 2. Does not bear out since an application was submitted one day after this application was reviewed and approved 11/26/19 and an application that was submitted 7 days before this application was approved on 1/30/20
8. 2/5/20 I paid the Oakland Fire Department \$585.70 for an Inspection work order
 1. Addresses for inspection 1110 Peralta Street, 1112 Peralta Street and 1114 Peralta Street
 2. The paper work had a note marked on it "TPM for Pick-up"
 3. Inspection request is not issued if the TPM was not approved
9. 2/4/20 City Council meeting
 1. CC Agreed to review and modify condo conversion rules for existing applicants
10. 2/18/20 City Council meeting
 1. I addressed that my TPM applications were taken out of order.
 1. Application one PLN19240 submitted on 9/23/19 was reviewed second and approved on 1/30/20

APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

2. Application two PLN19246 submitted on 9/30/19 was not reviewed until 1/23/20 denied 3/1/21
 3. Application three PLN19248 submitted 10/1/19 was reviewed first and approved on 11/26/19
2. From CC meeting transcripts:
Transcript time stamp: 02:15:18
Madam President
“Okay, I’ll go to Council member Mcelhaney and then I’ll come back. I wanted to redirect on that same question but it’s not to you, Ms. Bulatino but to the Planning Staff, the speaker talked about the items not being process timely, so how are those particular ones being considered that may have been held up from a Tentative Map because of the staff delays or illness?”

Transcript time stamp: 02:16:54

City Attorney

“Okay, Great, and I want to be clear, did they receive their Tentative Map Approval, if they had not received their Tentative Map Approval yet, Planning generally, they’re under the Permit Streamlining Act, they have to respond back within 30 day to deem the application complete or not, Where it sound like maybe some of the applicants may be getting held up is our Map Surveyor has a backlog of Maps through the city and he’s basically under a pile of maps, that could be where delay has occurred.”

Transcript time stamp: 02:17:43

Madam President

“So, I guess just to be clear, if they submitted what they were supposed to submit and our staff didn’t get back to them and if our staff has been alleged is picking who to get back to or not, not doing them in the order they submitted, we have a potential problem on our hands that certain people are exempt, but not who the staff chose to get back to or not.”

Transcript time stamp: 02:18:05

City Attorney

“Staff doesn’t know who to get back to or not, is that not what’s going on here. What is going on is staff basically receives an application within 30 days, they have to get back to every applicant, that is part of the law, so they get — tuned permit streamline act, they get back or the application is deemed complete”

NOTE THIS ADDRESSES THE VESTING MAP

Transcript time stamp: 02:20:19

Council member Mcelhaney

“I wonder if the administrator can take a look at if there were any anomalies in the process of, (inaudible). I hear what you’re saying, Mr. Attorney, there are thing that get misplaced, some of the speaker have cited illness of Planner so that happens but if there’s a way — the spirit and intent of the legislations changes that Mr. Kalb has proposed was so people would not be harmed who

APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

have invested and who were placing reliance upon the law at the time, so I think that there may be an opportunity and I'm saying this through the President to the Administrator that perhaps we can review the few people here who are saying there was something anomalous in the timeline and then I guess the question with respect to does staff advise or is it write-in our paperwork about the vesting map?"

Transcript time stamp: 02:21:22

City Attorney

"No"

REQUEST TO ACCOMMODATE AND NOT DO HARM AND HAVE ADMINISTRATOR WORK WITH PARTIES INVOLVED

Transcript time stamp: 02:22:06

Council Member Mcelhaney

"So, that's what I'm saying. I think for Madam President, I think to address the concerns that are cited here, I don't know if there would need to be any legislative amendments after adoption tonight, but I would request that the administrator take a look at these cases and to — I mean, I believe you would probably have discretion to do whatever's necessary, but if not, that you could bring back whatever — I was going to say — I just think if somebody brought in something and there was an extended period of time, 7,8 months and it's outside the pale, you would have the discretion to say, had this planner not be ill, something to the effect so the members of the public are not harmed by the action that's intended to help"

Summary:

It is my belief that the Planning department has not acted in good faith while processing my TPM Condo Conversion application. Repeatedly they are pressing to have me complete a new application and start a new filing which will nullify my original application that was submitted before the new Condo Conversion ruling. This is an attempt to hide the fact that they did not process my application within the order it was received and to coverup that the application was misplaced and overlooked until I made an inquiry as to the disposition of my TPM Condo Conversion application. Under the new law I would not be able to meet the requirements of a new TPM application

At no time during the initial process to change the Condo Conversion rules starting December 3, 2019, did the Planning department notify any TPM applicants, that there would be a change in the requirements for Condo Conversion. If I had not inquired as to why my application was delayed, I would not never known about the pending changes. I attended both the 2/4/20 and the 2/18/20 City Council meetings and spoke about how my application was taken out of the order in which they were submitted.

APPEAL DENIAL CONDO CONVERSION APPLICATION PLN 19246

My application submitted on 9/30/19 needs to be honored as qualifying before the new condo conversion rules were passed on 2/18/20. The City Council meeting on 2/18/20 indicated that any submission that was in process needs to be covered under the previous Condo conversion rules since it is unclear if the planning department acted in good faith.

1. The application was not processed within 30 days of submission as required by the State Permit Streamlining Act.
 1. the application was reviewed 115 days after submission
2. The application review was taken out of order.
 1. Planning reviewed application submitted 9/23/19 was the Second application to be reviewed
 2. Planning reviewed application submitted 10/1/19 was the First application to be reviewed
 3. Planning has yet to review the application submitted 9/30/19
3. The planning department fails on the application provide information about the option for filing a Vesting map application (See copy of application attached)
4. The planning department does not ask verbally if the applicant would like to file a Vesting map during the submission process

At the City Council Meeting on 2/18/20 it was noted that no applicant who has already submitted and application for a TPM under the Condo Conversion Rules before 2/18/20 shall be harmed due to the new Condo Conversion provisions. Application for PLN 19246 should be considered under the same rules and regulation that the other two application submitted within the same time frame. It is not my fault that the review sat on Planning department desk.

This application denial not only harms me but also the tenant that the regulations are supposed to protect. This tenant just wants the American dream of owning her own home.



CITY OF OAKLAND

BASIC APPLICATION FOR DEVELOPMENT REVIEW

250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031
Zoning Information: 510-238-3911
www.oaklandnet.com/planning

CERTAIN APPLICATIONS ARE ACCEPTED BY APPOINTMENT ONLY!

Please call (510) 238-3940 to schedule an appointment if your project involves any of the following:

- Conditional Use Permit
- Variance
- Regular Design Review
- Parcel Map Waiver
- Tentative Parcel/Tract Map
- New dwelling unit(s)
- 1,000 sq. ft. or more of new floor area/footprint
- Additions ≥ 100% of existing floor area/footprint
- Creek Protection Permit (Category 3 or 4)

Applicants must cancel at least 24 hours in advance of appointment or pay a cancellation fee.

All other projects may be submitted to the zoning counter without an appointment.

Submit applications for Small Project Design Review to station #13 at the zoning counter by signing the sign-up sheet.

1. TYPE OF APPLICATION

(Check all that apply)

Development Permits

- Conditional Use Permit (CUP) (Major or Minor)
- Variance (Major or Minor)
- Regular Design Review (DR)
- Small Project Design Review (DS) (Type 1, 2, 3)
- Special Project Design Review (SP) (West Oakland)
- Design Review Exemption (DRX)
- Tree Preservation or Removal Permit (T)
- Determination (DET)
- Planned Unit Development/Mini-Lot Development

Subdivision Applications

- Parcel Map Waiver (PMW) (Lot Line Adjustment/Merger)
- Tentative Parcel Map (TPM) (subdivision for 1- 4 lots)
- Tentative Tract Map (TTM) (subdivision 5 or more lots)

Other Applications

- Request for Environmental Review
- General Plan Amendment Rezoning
- Creek Protection Permit (separate application required)
- State Bill 35 Streamlining
- Other: _____

**FOR AFFORDABLE HOUSING PROJECTS WITH FUNDING DEADLINES, PLEASE INDICATE DATE: _____ **

2. GENERAL INFORMATION

APPLICANT'S NAME/COMPANY: Bruce Loughridge / P2 Oakland CA LLC

PROPERTY ADDRESS: 1110/1112/1114 Peralta Street Oakland CA 94607

ASSESSOR'S PARCEL NUMBER(S): 604-0089-011-00

EXISTING USE OF PROPERTY: Duplex + Single family = 3 units

DESCRIPTION OF PROPOSAL (including type of use, hours of operation, number of employees, etc., on additional sheets if needed.):

Converting into condos

TO BE COMPLETED BY STAFF

GENERAL PLAN LAND USE CLASS.: _____ ZONING: _____

SPECIFIC PLAN: Broadway Valdez District Central Estuary Coliseum Area Lake Merritt Station West Oakland

FEES¹:

- APPLICATION FEE: \$ _____
- POSTER DEPOSIT²: \$ _____
- TREE PERMIT FEE: \$ _____
- CREEK PERMIT FEE: \$ _____
- TOTAL FEES DUE: \$ _____

EXPECTED PROCESSING TIME³:

¹Fees are subject to change without prior notice. The fees charged will be those that are in effect at the time of application submittal. **All fees are due at submittal of application.**

²For permit applications requiring public notice, a refundable security deposit is required for the on-site poster containing the public notice. Posters MUST be returned within 180 days and in good condition to claim a refund of the deposit.

³Expected processing time is only an estimate and is subject to change without notice due to staff workload, public hearing availability, and the completeness or complexity of the application.

3. PROPERTY OWNER AND APPLICANT INFORMATION

Original signatures or clear & legible copies are required.

Owner: P2 Oakland LLC
Owner Mailing Address: 1112 Peralta Street
City/State: Oakland CA Zip: 94607
Phone No.: (510) 435-8786 Fax No.: _____ E-mail: _____

To be completed only if Applicant is not the Property Owner:

I authorize the applicant indicated below to submit the application on my behalf. _____
Signature of Property Owner

Applicant (Authorized Agent), if different from Owner: _____
Applicant Mailing Address: _____
City/State: _____ Zip: _____
Phone No.: _____ Fax No.: _____ E-mail: _____

I understand that approval of this application does not constitute approval for any administrative review, Conditional Use Permit, Variance, or exception from any other City regulations which are not specifically the subject of this application. I understand further that I remain responsible for satisfying requirements of any private restrictions or covenants appurtenant to the property. I understand that the Applicant and/or Owner phone number listed above will be included on any public notice for the project.

I certify that I am the Applicant and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand that the City is not responsible for inaccuracies in information presented, and that inaccuracies may result in the revocation of planning permits as determined by the Planning Director. I further certify that I am the Owner or purchaser (or option holder) of the property involved in this application, or the lessee or agent fully authorized by the owner to make this submission, as indicated by the owner's signature above.

I certify that statements made to me about the time it takes to review and process this application are general. I am aware that the City has attempted to request everything necessary for an accurate and complete review of my proposal; however, that after my application has been submitted and reviewed by City staff, it may be necessary for the City to request additional information and/or materials. I understand that any failure to submit the additional information and/or materials in a timely manner may render the application inactive and that periods of inactivity do not count towards statutory time limits applicable to the processing of this application.

I understand that the proposed project and/or property may be subject to other laws, codes, regulations, guidelines, restrictions, agreements, or other requirements of other public agencies within or outside of the City of Oakland, and that the project and/or property may also be subject to requirements enforced by private parties, including but not limited to private easements/agreements and Covenants, Conditions and Restrictions (CC&Rs) of a homeowners association. I am aware that the City recommends that I become fully aware of any other potential requirements before I submit this application and that I comply with all other requirements prior to commencing the proposed project.

I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT I HAVE READ THE ABOVE AND THAT ALL THE INFORMATION PROVIDED IN THIS APPLICATION IS TRUE AND CORRECT.

Signature of Owner or Authorized Agent

9/22/19
Date

4. PROJECT & LOT INFORMATION

CALCULATIONS	Existing Pre-Project	Demolition	New Proposed	Total Post-Project	% Change (Existing / Total)
Type/Size of Dwelling Units (Please fill in the number of each type)					
Rooming Units					
Efficiency Units	1		1	1	0%
1-Bedroom Units					
2-Bedroom Units					
3-Bedroom Units	2		2	2	0%
≥ 4-Bedroom Units					
Total Number of Dwelling Units	3		3	3	0%
Are Any of the Project Units Affordable? If Yes, Please Fill Out the Section Below (include number of each type)					
Market-Rate/Unrestricted Dwelling Units (DU)	N/A				
Moderate-Income Restricted DU (80%-120% AMI)	N/A				
Low-Income Restricted DU (50%-80% AMI)	N/A				
Very Low-Income Restricted DU (30%-50% AMI)	N/A				
Extremely Low-Income Restricted DU (<30% AMI)	N/A				
Total Affordable Units	N/A				
Total Affordable Units located Onsite:	N/A				
Other Types of Units/Rooms (if applicable) (not counted towards density) - include number of each type					
Secondary Units					
Live/Work Units					
Work/Live Units					
Mobile Homes					
Hotel Rooms					
Floor Area					
Office Floor Area (square feet)					
Retail Floor Area (square feet)					
Industrial Floor Area (square feet)					
Other Non-Residential Floor Area (sq. ft.)					
Total Non-Residential Floor Area (sq. ft.)					
Residential Floor Area (sq. ft.)	3077.33		3077.33	3077.33	0%
Total Res. & Non-Res. Floor Area (sq. ft.)					
Other Project Information					
Total Building Footprint Area (square feet)	1693.55		1693.55	1693.55	0%
Building Height (feet)					0%
Building Stories (number)	2		2	2	0%
Total Lot Area (square feet)	6347		6347	6347	0%
Number of Lots	1		1	1	0%
Parking Spaces (number)	3		3	3	0%
Bicycle Parking Spaces (number)					0%
New Landscape Square Footage (WELO see pg. 13)		n/a		n/a	n/a
Setback Slope (for hillside properties only)				n/a	n/a
Structure Slope (for hillside properties only)				n/a	n/a

Definitions For Table 4 on Page 3

"Building Height" means the vertical distance measured from any point on top of the facility to a line directly below which meets finished grade on the outside perimeter of the facility, or intersects with a perpendicular plane connecting opposite points of finished grade at the outside perimeter of the facility.

"Floor Area" for all projects with **one or two dwelling units on a lot** means the total square footage of all levels of all buildings on the lot, measured horizontally from the outside surface of exterior walls and supporting columns, but excluding: (a) unenclosed living areas such as balconies, decks, and porches; (b) carports that are unenclosed on two or more sides; (c) 440 square feet within an attached or detached garage or carport that is enclosed on three sides or more; (d) non-habitable accessory structures of less than 120 square feet; (e) unfinished understories, attics and basements; and (f) finished basements if the height from finished grade at the exterior perimeter of the building to the finish floor elevation above is six (6) feet or less for at least 50% of the perimeter and does not exceed twelve (12) feet above grade at any point. For new floor area, only include new floor area located outside of the existing building envelope.

"Floor Area" for all projects **except those with one or two dwelling units on a lot** means the total of the gross horizontal areas of all floors, including usable basements and cellars, below the roof and within the outer surfaces of the main walls of principal or accessory buildings, or the center line of party walls separating such buildings, but excluding: (a) areas used for off-street parking spaces, loading berths, driveways, and maneuvering aisles; (b) areas which qualify as usable open space in Chapter 17.126; and (c) arcades, porticoes, and similar open areas which are located at or near street level of Nonresidential Facilities, are accessible to the general public, and are not designed or used as sales, display, storage, or production areas. For new floor area, only include new floor area located outside of the existing building envelope.

"Footprint" means the total land area covered by all structures on a lot, measured from outside of all exterior walls and supporting columns, including residences, garages, covered carports, and accessory structures, except that the following shall not be considered in determining footprint:

1. The portions of any uncovered and unenclosed decks, porches, landings, or patios, not including railings, which are less than thirty (30) inches above finished grade; 2. The portions of any uncovered and unenclosed balconies and stairways, including railings, which are less than six (6) feet above finished grade; 3. Eaves and roof overhangs; and 4. Trellises and similar structures which do not have solid roofs and which would not otherwise be included in this definition.

"Market-Rate/Unrestricted Dwelling Units" are residential units for which the rent/price is set by the real estate market and not limited to certain household incomes.

"Restricted Dwelling Units" are residential units for which the rent/price is legally restricted to households earning a certain income expressed as a percentage of the Area Median Income or AMI. For more information, visit the Housing and Community Development Department's website at <https://www.oaklandca.gov/services/housing-index-a-z/housing-policies-plans-and-data/rent-and-income-limits-for-affordable-housing>

"Setback Slope" means the slope between edge of pavement and the front setback line, at the midpoint and perpendicular to the front property line.

"Structure Slope" means the steepest slope across building footprint measured from one side of the building to another.

5. IMPERVIOUS SURFACE INFORMATION

PROJECT CHARACTERISTICS: (check one)

- (1) The project will create or replace **10,000 square feet or more** of new or existing impervious surface area* (not including projects involving one single-family dwelling).
- (2) The project will create or replace **5,000 square feet or more but less than 10,000 square feet** of new or existing impervious surface area* AND involves the following:
- Auto servicing, auto repair, or gas station;
 - Restaurant (full service, limited service, or fast-food); or
 - Uncovered parking (stand-alone parking lot or parking serving an activity; including uncovered parking garages).
- If you checked (1) or (2) the project is considered a "Regulated Project" and must comply with NPDES C.3 stormwater requirements. You must submit a completed Stormwater Supplemental Form and a Preliminary Post-Construction Stormwater Management Plan with your application (see page 14).
- (3) The project will create or replace **2,500 square feet or more but less than 5,000 square feet** of new or existing impervious surface (including projects involving one single-family dwelling), unless the project meets the definition of (1) or (2) above.
- If you checked (3) site design measures to retain stormwater on-site are required. Refer to the City's "Overview of Provision C.3" for more information. <https://www.oaklandca.gov/documents/overview-of-provision-c-3-requirements-for-stormwater-management>
- (4) None of the above.

* Impervious Surface = Any surface that cannot be effectively (easily) penetrated by water. Permeable paving (such as permeable concrete and interlocking pavers) underlain with permeable soil or permeable storage material, and green roofs with a minimum of three inches of planting media, are not considered impervious surfaces. Do not include existing impervious surface to be replaced as part of routine maintenance/repair activities when calculating the amount of new/replaced impervious surface.

6. TREE PRESERVATION ORDINANCE

Pursuant to the Tree Preservation Ordinance (§12.36 O.M.C.) a Tree Preservation/Removal Permit is required for any proposed construction activity (including buildings, driveways, paths, decks, construction vehicle routes, sidewalk improvements, & perimeter grading) within 10 feet of a Protected Tree, even if such trees are not being removed or if they are located on a neighbor's property.

The following are Protected Trees:

- a. Any Coast Live Oak tree that is larger than 4 inches dbh*
- b. Any tree (except Eucalyptus) that is larger than 9 inches dbh* (Eucalyptus trees and up to 5 Monterey Pines per acre are not considered Protected Trees under this section. Monterey Pines must be inspected and verified by the Public Works Agency – Tree Division prior to their removal. Contact the Tree Division at (510) 615-5934 for more information or to schedule an inspection).
- c. Any tree of any size located in the public right-of-way (including street trees).

I ATTEST THAT: *(check one)*

- (1) There are no existing Protected Trees anywhere on the subject property or within 10 feet of the proposed construction activities** (including neighbor's properties or the adjacent public right-of-way).
- (2) There are Protected Trees on the subject property or within 10 feet of the proposed construction activities**, and their location is indicated on the site plan and landscape plan **and** *(check one)*;
- (a) No Protected Trees are to be removed and No construction activity** will occur within 10 feet of any Protected Tree.
- (b) No Protected Trees are to be removed and Construction activity** will occur within 10 feet of any Protected Tree.
- (c) Protected Trees will be removed.

If you checked (2b) or (2c), a Tree Preservation/Removal Permit is required. Please complete the section below.

DESCRIPTION OF TREES (Identification numbers and letters must be consistent with the Tree Survey, see submittal requirements in Section 8)

<u>Trees proposed for removal</u>			<u>Trees not proposed for removal but located within 10 feet of Construction Activity**</u>		
#	Species	dbh*	#	Species	dbh*
1			A		
2			B		
3			C		
4			D		
5			E		
6			F		
7			G		

Reason for removal/impacting of trees: _____

* *dbh: "diameter at breast height" is determined by measuring the trunk at 4'-6" from the ground. Multi-trunked trees are measured by combining the diameters of all trunks at 4'-6" from the ground.*

** *Construction Activity: Any proposed building, driveway, path, deck, construction vehicle route, sidewalk improvement, grading, or demolition.*

7. CREEK PROTECTION ORDINANCE

Pursuant to the Creek Protection, Storm Water Management and Discharge Control Ordinance (§13.16 O.M.C.) a Creek Protection Permit is required for any proposed construction activity occurring on a Creekside property. The extent to which your development will be regulated by the Creek Protection Ordinance depends upon the location and type of proposed work.

WHAT IS A CREEK?

"A Creek is a watercourse that is a naturally occurring swale or depression, or engineered channel that carries fresh or estuarine water either seasonally or year around."

A creek must include the following two components:

1. The channel is part of a contiguous waterway. It is hydrologically connected to a waterway above or below the site or is connected to lakes, the estuary, or Bay. Creek headwaters, found at the top of watersheds, are connected in the downhill direction. Additionally, creeks in Oakland are often connected through underground culverts. Only the open sections of creeks are subject to the permit, and
2. There is a creek bed, bank and topography such as a u-shape, v-shape channel, ditch or waterway (identified through field investigation, topographical maps, and aerial photos). To help with identification in the field a creek may also have the following features (the absence of these features does NOT mean there is no creek):
 - A riparian corridor, which is a line of denser vegetation flowing downhill. This is sometimes missing due to landscaping or vegetation removal practices, landslide or fire.
 - The channel has a bed with material that differs from the surrounding material (i.e. more rocky, or gravelly, little or no vegetation).
 - There are man-made structures common to waterways, - for example bank retaining walls, trash racks, culverts, inlets, rip rap, etc.

I ATTEST THAT: (check one)

- (1) **I do not know if there is a Creek on or near the proposed project site.** I have submitted a request for a Creek Determination by the City of Oakland (separate form and fee required).
- (2) **No Creek exists on or near the project site;** (check one)
- (a) Based on my review of the characteristics of the project site, as well as all relevant maps and plans, and the Creek Determination criteria provided in the "What is a Creek?" section above; or
- (b) Based on the attached report prepared by a relevant licensed professional.
- However, if the City determines that a Creek exists on or near the project site, a Creek Protection Permit is required.*
- (3) **A Creek DOES exist on or near the project site and;** (check one)
- (a) The proposed project only entails interior construction and/or alterations (including remodeling), and therefore requires a **Category 1 Creek Permit** (this is a no fee permit and only requires distribution of educational materials); or
- (b) The proposed project entails exterior work that does not include earthwork and is located more than 100 feet from the centerline of the Creek, and therefore requires a **Category 2 Creek Permit** (this permit requires a site plan and distribution of educational materials); or
- (c) The proposed project entails (a) exterior work that is located between 20 feet from the top of the Creek bank and 100 feet from the centerline of the Creek, and/or (b) exterior work that includes earthwork involving more than three (3) cubic yards of material located beyond 20 feet from the top of the Creek bank, and therefore requires a **Category 3 Creek Permit** (this permit requires a site plan and creek protection plan and may require environmental review); or
- (d) The project entails exterior work conducted from the centerline of the Creek to within 20 feet from the top of the Creek bank, and therefore requires a **Category 4 Creek Permit** (this permit requires a site plan and creek protection plan and may require environmental review and a hydrology report).

The Creek Permit requirements for your project are subject to verification by the City of Oakland and may differ from what you have indicated above. Additionally, you are responsible for contacting and obtaining all required permits from the relevant state and federal permitting agencies for Category 3 and Category 4 Creek Permits.

8. HAZARDOUS WASTE AND SUBSTANCES STATEMENT

STATE GOVERNMENT CODE SECTION 65962.5 (f): Before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project and any alternatives are located on a site that is included on any of the lists compiled pursuant to this section and shall specify any list.

Please refer to the following State-maintained websites:

<https://calepa.ca.gov/SiteCleanup/CorteseList/http://geotracker.waterboards.ca.gov/>

or contact the CalEPA at (916) 323-2514 to determine if your project is on any list of properties containing hazardous waste, toxic substances or underground fuel tanks. **NOTE: YOU MUST REVIEW ALL LISTS**

- I have reviewed **ALL** the lists and my site does **not** appear on them (sign below). **City Verification Required**
 My site does appear on the list(s) (please complete the flowing statement and sign below).

HAZARDOUS WASTE AND SUBSTANCES STATEMENT

Name of applicant: _____

Applicant's address: _____

Phone number: _____

Address of site on list: _____

Local agency (city/county): _____

Specify any list pursuant to Section 65962.5 of the Government Code: _____

Regulatory identification number: _____

Date of list: _____

Status of regulatory action: _____

Signature of Owner or Authorized Agent

Date

9. RECYCLING SPACE REQUIREMENTS

Applicants are required to provide sufficient space for the storage and collection of recyclable materials to comply with Ordinance No. 11807 – Recycling Space Allocation Requirements. This space should be in addition to that provided for garbage service.

Affected projects:

1. New multifamily buildings in excess of five (5) units
2. New commercial and industrial projects that require a building permit
3. New public facilities
4. Additions and alternations for a single or multiple permits that add 30% or more to the gross floor area

Requirements:

For residential projects, two (2) cubic feet of storage per unit, with a minimum requirement of not less than ten (10) cubic feet. Additionally, Oakland Municipal Code Section 8.28.140 requires the provision of 32 gallons or 4.3 cubic feet of storage per unit for garbage. For affected commercial, industrial and public facility project, two (2) cubic feet of storage and collection space per each one thousand (1,000) square feet of the total gross building footage, with a minimum requirement not less than ten (10) cubic feet. For these projects, the space for storage and collection of garbage varies based on the type and operation of the facility. Space for storage of recyclables should be separated into the following categories: paper and cardboard (mixed together); plastic bottles, glass bottles and metal cans (mixed together); and organics/plant material.

10. GREEN BUILDING ORDINANCE

If GreenPoint Rater is required, this sheet must be filled in and signed by the GreenPoint Rater along with the checklist and is due at the Intake appointment or over the counter approval, the submittal will not be accepted if this is not complete at intake and the applicant will need to come back for another appointment.

If there is an addition and/or remodel that total over 1,000 square feet, the project is over 1,000 square feet, or there is a new unit; a GreenPoint Rater is required. Please read the guidelines from the code as listed below.

Pursuant to the Ordinance 'Sustainable Green Building Requirements for Private Development,' (Chapter 18.02 of the Oakland Municipal Code), a Green Building Permit is required for any proposed construction activity within certain categories. The extent to which your development will be regulated by the Green Building Ordinance depends upon the location, type of proposed work, and size of proposed work.

A. PROPERTY ADDRESS: 1110 / 1112 / 1114 Peralta Street Oakland CA 94607

B. PROJECT TYPE OF DEVELOPMENT (check one): New Construction New Construction-Mixed Use Addition
 Existing Building Tenant Improvement Remodel
 Historic Landscape Project

C. TOTAL NEW AND ALTERED FLOOR AREA (square feet): 0.00

I, THE APPLICANT/OWNER, ATTEST THAT: (check one)

- (1) I have reviewed the Green Building Ordinance and the project **DOES NOT** fall within the list of applicable project types.
- (2) I have reviewed the Green Building Ordinance and the project **MUST** comply with the ordinance, AND I'm submitting the required additional green building materials with this application.
- (3) I have reviewed the Green Building Ordinance and the project must comply with the ordinance, AND I'm submitting the required additional green building materials with this application, but a GreenPoint Rater or LEED AP is not required as the project uses the Small Commercial Checklist or the Bay Friendly Basic Checklist.

D. Name of Greenpoint Rater (required for Greenpoint Rated Projects)*: N/A

Name of LEED Accredited Professional (AP)(required for LEED projects) * _____

MAILING ADDRESS: _____

PHONE: _____ E-MAIL: _____

RATING SYSTEM: _____ # OF POINTS THE PROJECT IS ANTICIPATED TO RECEIVE: _____

E. GREEN BUILDING FEATURES NOT SHOWN ON PLANS BUT PART OF CHECKLIST (include additional sheets if needed): N/A

I, hereby certify under the penalty of perjury that I have reviewed the project and appropriate checklist and attest that to the best of my knowledge the proposed project would likely comply with the City of Oakland's Green Building Ordinance and attain green building certification. I, hereby further certify under the penalty of perjury, that I: 1) have no vested financial interest in the project other than my green building services, 2) have reviewed the project and appropriate green building checklist, and 3) attest that to the best of my knowledge the proposed project would likely comply with City of Oakland's Green Building Ordinance and attain green building certification.

X
Signature of the GreenPoint Rater or LEED Accredited Professional

Date

This permit is issued pursuant to all provisions of City of Oakland Ordinance No. 13040 C.M.S., "Sustainable Green Building Requirements for Private Development." This permit is granted upon the express condition that the permittee shall be responsible for all claims and liabilities arising out of work performed under this permit or arising out of permittee's failure to perform the obligations with respect to this permit. The permittee shall, and by acceptance of this permit agrees to defend, indemnify, save and hold harmless the City, its officers and employees, from and against any and all suits, claims or actions brought by any reason for or on account of any bodily injuries, disease or illness or damage to persons and/or property sustained or arising in the construction of the work performed under this permit or in consequence of permittee's failure to perform the obligations with respect to this permit. Violations of the provisions of the Green Building Ordinance are subject to fines and penalties specified under Section 20-3.030 of the Ordinance.

TO BE COMPLETED BY CITY STAFF:

CASE NUMBER(S): _____ CASE PLANNER'S NAME: _____

Note to Case Planner: Please route a copy of this form to the green building coordinator in the Planning and Zoning Division.

11. PUBLIC ART FOR PRIVATE DEVELOPMENT REQUIREMENTS

Effective February 9, 2015, Ordinance No. 13275 requires a public art allocation for private developments. (OMC Chapter 15.78). The following reflects the Ordinance updated through Ordinance No. 13491, which was adopted by the City Council on June 15, 2018.

Applicant information

Name: _____
Phone: _____
Email: _____

Project information

Address: _____
Number of dwelling units: _____
Floor area of nonresidential: _____
Floor area of residential: _____

Applicability

The public art for private development requirement applies to:

- 1) Private non-residential developments of 2,000 square feet or more of new floor area that are subject to Regular Design Review approval; and
- 2) Private residential developments of 20 or more new dwelling units that are subject to Regular Design Review approval.

The public art requirements do not apply to affordable housing if the developer demonstrates that they would cause the project to be economically infeasible.

Contribution Requirements

- 1) For non-residential developments, at least 1.0% of "building development costs."
- 2) For residential developments, at least 0.5% of "building development costs."

The "building development cost" is the construction cost declared on the building permit application and accepted by the Building Official.

CHECK ONE OF THE FOLLOWING COMPLIANCE METHODS:

- On-site art Art in the public right of way within .25 miles from the site In-lieu contribution Combination of in-lieu payment and on-site cultural space and/or art gallery Contribution to City-owned art facility within 0.5 miles from site

Compliance Methods

Compliance with art requirement shall be demonstrated when filing the Building Permit application through one of the following:

- 1) An approved public art plan and contractual agreement to install the artwork at the site or in the public right of way within .25 miles from the site. Note that development in the public right of way requires additional permits and approval from the City's Public Art Advisory Committee. The installation of the artwork must be complete prior to issuance of certificate of occupancy; or
- 2) Full payment of an in-lieu contribution; or
- 3) Provide up to 75% of the contribution as follows, with the remaining to be fulfilled through an in-lieu payment*:
 - a. Space within the development project that is generally open to the public during regular business hours for use as a rotating art gallery can satisfy up to 25% of total contribution; and/or
 - b. A minimum of 500 square feet of arts and cultural programming space within the development that is made available to the public can satisfy up to 50% of the total contribution; or
- 4) Capital improvements to a City-owned arts facility(s) within 0.5 miles of the development.

*All proposals must be approved by the City in advance. Please contact Kristen Zaremba, the Public Art Coordinator, at kzaremba@oaklandca.gov or (510)238-2155 for more information regarding approval of a public art plan or compliance requirements.

I, hereby certify under the penalty of perjury that I have reviewed the project and appropriate checklist and attest that to the best of my knowledge the proposed project would likely comply with the City of Oakland's Public Art Requirements Ordinance.

X _____
Signature of Applicant

Date

12. RESIDENTIAL TENANT PROTECTIONS

The City of Oakland has laws to protect residential tenants, including the 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). These laws may apply to development projects under certain circumstances.

	Yes	No
A. Will the project affect existing residential units on the site, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units? > If "Yes," go to Question B. > If "No," you do not need to complete the remainder of this section.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Are there existing residential tenants in the affected residential units, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units; or did residential tenants occupy the affected residential units within the past 12 months? > If "Yes," go to Question C. > If "No," you do not need to complete the remainder of this section.	<input type="checkbox"/>	<input type="checkbox"/>
C. Will existing residential tenants in the affected residential units, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units, be temporarily or permanently evicted or relocated due to the project, or were residential tenants previously occupying the affected units within the past 12 months temporarily or permanently evicted or relocated due to the project? > If "Yes," provide the information below about these units and complete the remainder of this section. 1) Number of Affected Units: _____ 2) Number of Affected Tenants: _____ > If "No," you do not need to complete the remainder of this section.	<input type="checkbox"/>	<input type="checkbox"/>

D. Project Information (to be completed if Questions A-C above are marked "Yes"):

- 1) Property Address: _____
- 2) Assessor's Parcel Number: _____
- 3) Applicant's Name: _____
- 4) Applicant's Address: _____
- 5) Applicant's Phone: _____ 6) Applicant's Email: _____

Existing and former tenants on the site may be entitled to protections and benefits, including 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 the 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.**

To be completed by staff:

Case Number(s): _____ Case Planner's Name: _____ Date: _____

Note to Case Planer: If Questions A, B, or C are marked "Yes," please route a copy of this page to the Housing and Community Development Department.

13. COMMUNITY ENGAGEMENT

Although community engagement is important for all development projects requiring discretionary approval, it is especially important for larger projects, controversial projects, and projects with the potential to cause substantial community impacts. Applicants proposing the following project types will be required to submit a written statement to the City describing the community engagement efforts undertaken to date:

	Yes	No
<p>A. Does the application involve any of the following?</p> <ul style="list-style-type: none"> • New residential project with 100 or more dwelling units; • New nonresidential project with 100,000 square feet or more of floor area; • New Planned Unit Development (PUD); • New subdivision of 25 or more lots; • Proposed regulatory change (Development Agreement, Rezoning, and/or General Plan Amendment); or • Any other new project requiring discretionary approval that the Planning Bureau has determined may potentially cause substantial community impacts. <p>➤ If "Yes," complete Section B below.</p>	<input type="checkbox"/>	<input type="checkbox"/>

B. Community Engagement Efforts. Please summarize community engagement efforts undertaken to date concerning the project, community input received concerning the project, and how the project has or has not been modified in response to community input (attach additional sheets if necessary):

14. SUBMITTAL REQUIREMENTS: WHAT TO SUBMIT

The following information and drawings must be included in the submittal package for your application. Planning staff reserves the right to require additional plans and information as needed for certain development proposals.

**The following items are required for ALL applications unless otherwise noted.
Each and every item is required at the time of application submittal.
APPLICATIONS WITH MISSING ITEMS WILL NOT BE ACCEPTED.
All fees are due at the time of application submittal.**

- (1) **Basic Application for Development Review**
This application form signed and completed (including impervious surface, protected tree, creek information, the Hazardous Waste and Substances Statement, and green building sections). Original signatures or clear & legible copies are required.
- (2) **Supplemental Forms and Findings**
Explanation describing how the proposal complies with City requirements (forms provided by staff).
- DRX, DS, DR, or SP supplemental findings.
 - CUP and/or Variance supplemental findings.
 - TPM/TTM supplemental findings.
 - Other extra CUP or DR findings, such as alcohol, ground floor use, extra units, telecom (mini, micro, macro), etc.
 - Specific Plans Design Guidelines Checklist (Broadway Valdez District, Central Estuary, Lake Merritt Station, or West Oakland).
 - Affordable Housing Density Bonus Requirements and Checklist.
- (3) **Assessor's Parcel Map**
Available at the City of Oakland Engineering Services or Zoning counters, the County Assessor's Office, 1221 Oak St. or the County Assessor's website at <http://acgov.org/MS/prop/index.aspx>
- (4) **Photographs** (Photographs placed in a secure envelope or mounted on a board folded to a size no larger than 9" x 12")
- Color photographs showing the existing structure or lot as seen from across the street and from the front, side and rear property lines. Label each photograph with the view pictured (e.g., front, side, rear, across the street).
 - Color photographs showing the 20 nearest neighbors from the street (5 nearest lots on either side, 10 nearest lots across the street). Label each photograph with the address pictured.
- (5) **Plans** (see supplemental requirements for all Tentative Parcel Map (TPM), Tentative Tract Map (TTM), Parcel Map Waiver (PMW) applications).
- Two (2) stapled and folded sets of full-sized plans and Two (2) additional sets of reduced plans (11" x 17") are required for all applications. For Major Permits, a color 11"x17" rendering **MUST** be submitted.
 - For all projects that will require a presentation before a Board or Commission you will be required to provide **fifteen (15) color** sets of your final plans sized at 11"x17" at least **three weeks** before your scheduled hearing date or as directed by Planning staff.
 - Fold plans to 9" x 12" maximum size. Plans must be on sheets no greater than 24" x 36".
 - Include north arrow, date prepared and scale.
 - Acceptable drawing scales are: 1/4" = 1', 3/16" = 1', 1/8" = 1', and 1" = 10'. Other scales may be appropriate, but should be discussed with Planning staff before filing. Also, please limit the range of scales used, so Planning staff can more easily analyze your project in relation to adjacent properties.
 - Include the name and phone number of person preparing the plan(s). As appropriate or required, include the stamp and "wet signature" of any licensed architect, landscape architect, surveyor and/or civil engineer preparing final plans.
 - Show all encroachments over the public Right-of-Way.
 - All submittals are required to provide an electronic submission of the all required submittal items at time of intake. Plan sets will have two copies submitted, one (1) low resolution and one (1) high resolution in .PDF format. Each item will be scanned separately and clearly identified. For each revision of the project, the applicant will be required to submit both a paper and electronic submittal of all the material being revised as directed by Planning staff.
- (a) **Survey** (required only for the following project types listed below)
- Must be no more than 3 years old from the time of submittal – date of survey must be included.
 - Must be prepared by a California State licensed Land Surveyor or by a Civil Engineer with a license number below 33966 (licensed prior to January 1, 1982).
 - **Include the wet stamp and signature** of the Land Surveyor or Civil Engineer who prepared the survey.
 - Include the applicable surveyor's statement in accordance with the Professional Land Surveyors Act.
 - In addition to paper copies, the survey must also be submitted on a CD.

Required for all new buildings, including Secondary Units Type 2 and >100% footprint additions to existing buildings (except small non-habitable buildings):

- Full boundary & topographic survey with field-verifiable monuments set or found by the surveyor.
- Location, dimensions, and dimensions to property lines of all existing buildings and similar structures.

Required for any building or addition within any required setback:

- Applicable line survey with field-verifiable monuments set or found by the surveyor.
- Location, dimensions, & dimensions to property line of existing buildings & similar structures adjacent to relevant property line.

Required for any building or addition located on a lot with a slope of 20% or more:

- Site topography for all areas of proposed work and for all existing driveways, buildings, and similar structures.
- Location and dimensions for all existing driveways, buildings, and similar structures.

(b) **Site Plan**

- Location and dimensions of all property boundaries.
- Location and dimensions of all existing and proposed buildings, decks, stairs, and patios.
- Dimensions of all existing and proposed building setbacks from property lines.
- Location of building footprints and approximate height of buildings on adjacent lots.
- Location, dimensions, and paving materials of all adjacent sidewalks, curbs, curb-cuts (including curb-cuts on adjacent neighbor's lots), and streets.
- Location and dimension of all existing and proposed driveways, garages, carports, vehicle parking spaces, bicycle parking spaces, maneuvering aisles, wheel-stops, pavement striping/markings, and directional signage. Indicate existing and proposed paving materials.
- Location, height, and building materials of all existing and proposed fencing and walls.
- Location, height (including top and bottom elevation measurements), and building materials of all existing and proposed retaining walls.
- Location and size (dbh) of all existing trees and indication of any trees to be removed, include trees on neighboring properties that are within 10 feet of construction.
- Location of drainage ways, creeks, and wetlands (check with the Engineering Services Division for this information)
- Roof plan showing roof slope and direction, and location of mechanical equipment, ducts, and vents.
- For projects located on a lot with a slope of 20% or more: Show existing and proposed topographic contours overlaid with proposed roof plan and indicating roof ridge spot elevations.
- For multi-family residential projects: Show the location, dimension, slope, and site area of all existing and proposed Group Usable Open Space and Private Usable Open Space, including a summary table of site area.
- For projects in all Residential, Commercial, and Industrial Zones, including the CIX-1A Zone, show any building to be demolished both historic and non-historic.
- Location and size of storage area for recycling containers (see page 7 for more information).

(c) **Landscape Plan** (required for new buildings, new dwellings, and residential additions of more than 500 sq. ft.)

- Indicate any existing landscaping and new landscaping.
- Indicate the size, species, location, and method of irrigation for all plantings.
- Include the square footage of new landscaping, if over 500 square feet or over 2,500 square feet of new landscaping please provide all requirements per the Water Efficiency Landscape Ordinance (WELO), visit <https://water.ca.gov/LegacyFiles/wateruseefficiency/docs/MWELO09-10-09.pdf>
- Include all existing and proposed groundcovers, driveways, walkways, patios, and other surface treatments.

(d) **Floor Plan**

- Include complete floor plan of all floors of entire building, including existing and proposed work.
- Label all rooms (e.g., bedroom, kitchen, bathroom), and include dimensions of room sizes.
- Show the location of all existing and proposed doors, windows, and walls.
- Location of and distance to all adjacent property boundaries.
- For non-residential projects: show all existing and proposed seating areas, mechanical/kitchen equipment, and/or other major functional components of the proposed project.

(e) **Elevations** (required only for new construction, additions, or exterior alterations)

- Show all structure elevations (front, sides and rear) that will be affected by the proposed project.
- For additions/alterations: label existing and new construction, as well as items to be removed.
- Identify all existing and proposed exterior materials - including roofing, roof eaves, eave brackets, siding, doors, trim, sills, windows, fences, and railings. Show details of proposed new exterior elements.
- Show any exterior mechanical, duct work, and/or utility boxes.
- Include dimensions for building height and wall length.

(f) **Cross Sections** (required only for buildings or additions located on a lot with a slope of 20% or more)

- Include all critical cross sections, including at least one passing through the tallest portion of the building.
- Include floor plate and roof plate elevation heights.
- Location of and distance to all adjacent property boundaries.

- Label the location of the cross-sections on the site plan.
- (g) **Tree Survey** (required only for projects which involve a Tree Preservation/Removal Permit [see page 5])
 - **Three (3)** folded full-sized plans are required (in addition to the plans required under No. 5 above).
 - Fold plans to 9" x 12" maximum size. Plans must be on sheets no greater than 24" x 36".
 - Include north arrow, date prepared and scale (Tree Survey should be drawn to the same scale as the Site Plan).
 - Include the name & phone number of person preparing the plan(s). As appropriate or required, include the stamp & "wet signature" of any licensed architect, landscape architect, surveyor and/or civil engineer preparing final plans.
- For new construction on an undeveloped lot: include the stamp and "wet signature" of the licensed architect, landscape architect and/or civil engineer preparing the survey.
- Indicate the size (dbh), species, and location of all protected trees within 30 feet of development activity on the subject lot, regardless of whether or not the protected trees are included on any tree preservation/removal permit application.
- Label all protected trees that are located within 10 feet of construction (including trees located on neighbor's properties or the adjacent public right-of-way) with the matching number or letter from the Tree Preservation/Removal Permit application (see section 6 of this application).
- (h) **Shadow Study (for DS-III projects and other two-story DR projects for one- and two-units)**
 - Include a roof plan of proposed house/addition with adjacent homes and show the shadows at different times of the day as shown in the Design Review Manual for One- and Two-Unit Residences on page 2.1 and 2.2.
- (i) **Grading Plan** (required only if the project proposes any site grading)
 - Show proposed grading plan and/or map showing existing and proposed topographic contours (this may be combined with the Site Plan for small projects with only minor grading).
 - Include an erosion & sedimentation control plan.
 - Include a summary table of all proposed excavation, fill, and off-haul volumes.

The following are required only for non-residential, mixed-use, and/or multi-family residential projects.

- (j) **Sign Plan** (required only for non-residential and mixed-use projects)
 - Include fully dimensioned color elevations for all proposed signs.
 - Indicate proposed sign location(s) on site plan
 - Indicate proposed material(s) and method of lighting for all proposed signs.
- (k) **Lighting Plan** (required only for non-residential, multi-family residential, and mixed-use projects)
 - Show the type and location of all proposed exterior lighting fixtures (this may be combined with the Site Plan for small projects).
- (l) **Materials & Color Board** (required only for non-residential, multi-family residential, and mixed-use projects involving new construction or an addition/alteration that does not match existing materials and colors).
 - Limit board(s) to a maximum size of 9" x 12". Large projects (generally more than 25 dwelling units or 50,000 square feet of floor area) should also submit a large sized materials & color board (24" x 36") for use at public hearings.
 - Include samples of proposed exterior building materials and paint colors.
 - Include manufacturer's brochures as appropriate.
- (m) **Three-dimensional Exhibits** (required only for large projects with more than 25 dwelling units or 50,000 square feet of floor area).
 - Provide color perspective drawings showing the project from all major public vantage points, or provide a scale model of the proposed project.
- (6) **Preliminary Post-Construction Stormwater Management Plan*** (required only for "Regulated Projects" subject to NPDES C.3 stormwater requirements [see page 4 for more information])
 - Show location and size of new and replaced impervious surface.
 - Show directional surface flow of stormwater runoff.
 - Show location of proposed on-site storm drain lines.
 - Show preliminary type and location of proposed site design measures, source control measures, and stormwater treatment measures.
 - Show preliminary type and location of proposed hydromodification management measures (if applicable).
- * Please refer to the Stormwater Supplemental Form for more information concerning NPDES C.3 requirements. The Stormwater Supplemental Form must also be submitted with the application.
- (7) **Preliminary Title Report or deed not more than 60 days old** (required for all Tentative Parcel Map (TPM), Tentative Tract Map (TTM), Parcel Map Waiver (PMW), Rezoning, and General Plan Amendment applications, and any application where the owner information does not match the current Alameda County Assessor's records)

- (8) **Fees** (all fees are due at the time of application submittal)
 - Additional fees may be required if the project changes or based on staff's environmental determination.
- (9) **Additional Telecom Information Required** (See full requirements in Chapter 17.128 in the Oakland Planning Code)
 - For the whole parcel, indicate the total number of existing and proposed antennas and equipment cabinets, their location, and the carriers they serve (please include all wireless carriers). Also indicate area, height, and width of all equipment cabinets and antennas (existing and proposed).
 - Additional Telecom CUP & DR findings for either: Mini, Micro, Macro, Monopole, or Tower (See definitions in 17.10.860).
 - Include Radio Frequency emissions report (RF), see Section 17.128.130 for requirements.
 - If a revision, please include previous approved case number if applicable and can be obtained.
 - If swapping out & replacing existing antennas, include existing & proposed heights of antennas (per Federal Section 6409).

For any questions regarding this application, visit the Zoning Counter or call the Zoning Information Line:

Zoning Counter:

250 Frank H. Ogawa Plaza, 2nd Floor Oakland CA 94612
Mon, Tues, Thurs & Friday: 9am-Noon & 2pm-4pm
Wednesday 9:30am-Noon & 2pm-4pm

Zoning Information Line:

(510) 238-3911
Mon, Tues, Thurs & Friday: 9am-Noon & 2pm-4pm
Wednesday 9:30am-Noon & 2pm-4pm

To obtain an electronic PDF fillable copy of this form please visit
<https://www.oaklandca.gov/documents/development-review-basic-application>



For best results, use one of the following browsers: Internet Explorer 11, C Safari 8.

****Document Service is down**:** Curr Document Service is Down. You may able to upload/download documents actively addressing the issue and will updates shortly!

Ma

**Planning Number PLN19246:
Development Permit
Record Status: Incomplete**

Record Info ▾

Custom Component

Processing Status

✓ ▾ Application Intake

Due on **10/01/2019**, assigned to **TBD**
Marked as **Accepted for Assignment** on **09/30/2019** by **JMH**

✓ ▾ Assignment

Due on **10/07/2019**, assigned to **MM**
Marked as **Assigned** on **10/08/2019** by **HAK**

🕒 ▾ Completeness Review

Due on **11/07/2019**, assigned to **TBD**
Marked as **Incomplete** on **01/23/2020** by **MM**

*Due on 11/07/2019, assigned to TBD
Marked as TBD on TBD by TBD*

🕒 ▾ CEQA Determination

Due on **01/06/2020**, assigned to **TBD**
Marked as **TBD** on **TBD** by **TBD**

🕒 ▾ Zoning Review

Due on **01/06/2020**, assigned to **TBD**
Marked as **TBD** on **TBD** by **TBD**

Closure



Compose



Comments on 1110-1114 Peralta St (PLN19246) 11 Yahoo/Sent

- Inbox 15
- Unread
- Starred
- Drafts 37
- Sent
- Archive
- Spam
- Trash
- ^ Less
- Views Show
- Folders Hide
- + New Folder
- 1101 11th st
- Deleted Items
- Drafts
- Home Depot re... 1
- Notes
- > P2 oakland ...
- Sent Items
- Storage - Ca...



Morris, Michele <mmorris2@oaklandca.gov> Thu, Jan 23, 2020 at 5:47 PM

To: bruce.loughridge@sbcglobal.net
Cc: Klein, Heather

Hello Mr. Loughridge,

I apologize for the delay in my response to your proposed project. This email outlines the modifications and clarifications required so we can then move forward.

- The Notice of Intent to Convert to Condominiums letter is inadequate and must be revised, signed by each tenant and resubmitted. Please see the attached sample letter as an example.
- Once the all the tenants have signed the revised letter, the 60 day period begins on the date of the last tenant signature.
- Complete page 10, Residential Tenant Protections, item 12 of the Basic Application (<https://www.oaklandca.gov/documents/basic-application-form>), and return it to me as soon as possible.
- Please submit a Preliminary Title Report or deed that are not more than 60 days old.
- From the City Survey Dept.: Which buildings on the parcel are to be converted to condominium units? Please specify in writing on the map.
 - o Is the "guest house" proposed to be converted into a condominium?
- Please see the attached comments from the City's Dept. of Transportation.

Thank you,

Michele T. Morris, Planner II | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612 | Phone: (510) 238-2235 | Email: mmorris2@oaklandca.gov | Website: [Planning & Building](#) | [ACA/Online Permit Center](#)

[Download all attachments as a zip file](#)



April 1, 2019

Joan Wendt
1112 Peralta St
Oakland, CA 94607

Dear Joan,

This is a notice of intent to convert your rental unit to a condominium effective within 60 days.

Tenant Rights (6.36.050A):

Tenants are guaranteed the following minimum rights (these must be included in the "notice of tenant rights"): - tenants may terminate their lease or rental agreement without penalty within 30 days of receipt of "notice of intent to convert" –

-no rent increase is permitted until at least 12 months after sub- divider files the tentative map application

- no remodeling of the interior of tenants' units may occur until at least 30 days after issuance of the final subdivision report, or after the start of the sales program

-tenants have the exclusive right to contract for the purchase of their unit, or any other available unit in the building, upon the same or more favorable terms and conditions that such units will be initially offered to the general public – these right runs for at least 90 days from the issuance of the final subdivision report –

-tenants have a right of occupancy of at least 180 days from the issuance of final subdivision report, or the start of the sales program.

Rights of tenants of units containing a tenant 62 years of age or older (16.36.050(A)(6)):

Tenants who are 62 years of age or older are guaranteed the following additional rights (these must be included in the "notice of tenants rights"):

- option of a lifetime lease on his or her unit, or, at tenant's option, on any other available unit in the building

- limitations on base monthly rent and % increase (based on rent price one year prior to filing of the tentative parcel map, with increases tied to the consumer price index (CPI) for the Bay Area)

- tenants cannot be evicted except for just cause - except as listed above, the terms and conditions of the lifetime lease shall be the same as those contained in the tenant's current lease or rental agreement.

Joan *16.36.050(A)(6)*
16.36.050(A)(6)

Tenant assistance program (16.36.050(B)): •

The subdivider must develop a tenant assistance program that includes: - incentives and inducements that would increase the potential for, and ability of, tenants to become owners in the conversion

- actions and procedures to enable hard-to-relocate tenants to remain as tenants
- relocation and moving assistance and information to be provided to each tenant and all the steps the subdivider will take to ensure the successful relocation of each tenant
- specific steps that will be taken to assist elderly, disabled, and other tenants who may encounter difficulty in finding new quarters.

Other provisions (16.36.070(C)): • A subdivider may not vacate units in a building proposed for conversion in order to avoid the costs of conversion

Thank you.



P2 Oakland CA LLC

Bruce Loughridge, Managing Member

4/10/19

Joan Wendt 4/11/19

RECEIVED BY JOAN WENDT

By 2/2
JMW



FW: Comments on 1110-1114 Peralta St (PLN19246)

bruce.loughridge <bruce.loughridge@sbcglobal.net>
To: Janice Wendt <wendtjanice@gmail.com>

Mon, Jan 27, 2020 at 12:39 PM

----- Original message -----

From: "bruce.loughridge" <bruce.loughridge@sbcglobal.net>
Date: 1/23/20 6:23 PM (GMT-08:00)
To: "Morris, Michele" <Mmorris2@oaklandca.gov>
Subject: RE: Comments on 1110-1114 Peralta St (PLN19246)

All of the requirements were met for the intake. There's a duplex & single family cottage equaling 3 condominiums. The property had a approved TPM in the past that expired. There's only one tenant on the property outside myself. That tenant has been waiting to purchase her unit before the last TPM was filed many years ago. We provided her acknowledgement during the intake. I've recently filed 3 Condo applications. Don't understand the problem with this one.

[Quoted text hidden]



RE: PLN19246 Delay

Janice Wendt <wendtjanice@gmail.com>

Thu, Jan 30, 2020 at 3:48 PM

To: rmerkamp@oaklandca.gov

Cc: Bruce Loughridge <bruce.loughridge@sbcglobal.net>, Mmorris@oaklandca.gov, HKlein@oaklandca.gov

Dear Mr. Robert Merkamp,
My name is Janice Wendt and I am the assistant to Bruce Loughridge.

I would like to address the Condo Conversion for 1110/1112/1114 Peralta Street Oakland CA 94607. PLN19246.

Let me start with a little history and what has occurred and then go through what has occurred.

1. The property 1110/1112/1114 had an approved condo conversion per TPM 9354 on May 14, 2016. This TPM, however, did expire.
2. Bruce then submitted for a new Condo Conversion request on September 30, 2019. All paperwork was current and accepted by Jose Herrera-Preza. Jose indicated to us that all items required were complete and in order at that time. At no time were we contacted that any additional paperwork or any of the submitted paperwork was incorrectly filed.
 1. Note: After having a condo conversion approved for two other properties, 1101 Peralta and 1032 /1034 Peralta, approved we started to wonder why the first submission, 1110/1112/1114 Peralta was not completed. For more than a month I have been calling and sending emails to the planning department asking for an update on 1110/1112/1114 Peralta. To date, I received no callbacks and no email. On 1/23/20 Bruce Loughridge received an email from Michelle Morris indicating that the paperwork submitted was incomplete and not current.
3. Michelle indicated in her email that "The Notice of Intent to Convert to Condominiums" letter which was signed by the partial property owner Joan Wendt was inadequate without a 60-day notice. (I do not understand why this would be true since she had signed the letter on April 1, 2019. I only remember that we were notified by Jose, that the letter needed to be notarized. This was completed and a copy was included on the intake September 30, 2019. At the intake, Jose Herrera said it was correct and everything concerning the letter was in place. At the time of intake, the property has no other tenants. The property continues to only be occupied by owners of the property. So I do not understand why this is not adequate.
4. Michelle indicated in her email that the Preliminary Title Report is more than 60 days old. However, when the condo conversion request was submitted, the Preliminary Title Report was current. The only reason the report now is not current is due to the internal delays that have occurred while in the possession of the Planning department. The planning department has possessed the condo conversion request for a total of 115 days before Michelle contacted Bruce about anything she felt was in error.
5. Within Michelle's email, she asked the question if all buildings were to be converted to Condominium units. I looked at the condo conversion request forms it clearly stated there were 3 units and the conversion also include all 3 units. So I do not understand her confusion. Nothing had changed so I do not know why she questioned if the Guesthouse was to be included since it was clearly listed as one of the three units.

First ...It is clear that Michelle was delayed in contacting Bruce since acknowledgment of the delay was included in her email stating that she was sorry for the delay on the proposed project.

Second ... The paperwork was current and in order at the time of filing, no update is needed.

Third I would also like to address the unprofessional conduct of Heather Kline. While talking to her on the phone about the project, she laughed at me when I told her that we were current and correct when we submitted the condo conversion paperwork 9/30/19. Then she laughed again when she told me that we would not be approved before new rules went into a place that the City Council plans on putting into place in February. She seemed to take great pleasure at making me feel helpless under her power to hold this project up that would cost us additional funds. I felt very humiliated.

It seems clear that the project got misplaced until our phone calls and emails made the department aware the project had not been processed.

Bruce Loughridge would like to arrange a meeting with you as soon as possible. Can the meeting be arranged for Friday, January 31 or Monday, February 3rd?

Thank you for your kind consideration.

Janice Wendt
wendtjanice@gmail.com
T:619-459-1981



RE: PLN19246 Delay

Merkamp, Robert <RMerkamp@oaklandca.gov>

Thu, Jan 30, 2020 at 8:58 PM

To: Janice Wendt <wendtjanice@gmail.com>

Cc: Bruce Loughridge <bruce.loughridge@sbcglobal.net>, "Klein, Heather" <HKlein@oaklandca.gov>, "Morris, Michele" <Mmorris2@oaklandca.gov>

Ms. Wendt,

Thanks for your email. I'm sorry you've had a disappointing experience I also addressed some these points in the voicemail I left Mr. Loughridge this morning but let's address your points one by one.

1. Noted. It is unfortunate that it expired but that does not confer any sort of advantage to reprocessing.
2. It appears your case was taken in on 9/30/19. Taking it in means it was considered sufficient to take in and begin review. We still have a legally mandated completeness review period after intake to identify if anything is missing or incomplete or inadequate. That can't be done at intake as there is not enough time to review the project at that level of detail and unfortunately being taken in is not a sign that the City believes it has a complete application that won't need augmenting, updating or fixing.
3. The tenant notice issue is that is missing the code language from 16.36.030 and .040 which has highly specific language to use and that's not what we have in your documents. Therefore they need to be revised and to be honest that's not always going to be readily apparent to the planners at intake.
4. The date on the Title Report was August 6th 2018. Your case was submitted on September 30, 2019, therefore it was almost 14 months old at this point and it was too old at the point of intake therefore it's inaccurate to say that it was a timely report that expired because the City delayed processing your application (if that were the case, I would agree it wouldn't be a legitimate incompleteness item). Indeed, we must've overlooked this at intake as that would've been a legitimate reason to refuse intake.
5. Michelle's question was related to our Engineering Division's review of your project where they needed help with this question and understanding the project better. It's not uncommon that the routing process raises new questions from our colleagues that we would pass to an applicant to answer.

I apologize for the delay and I can't explain it but to say that we lost over 33% of our staff in our unit alone last year for various reasons which has significantly impacted our ability to review all the cases within our unit, including yours. We're telling applicants right now that at minimum it'll take 4-6 months to process applications, even under the best of circumstances. We're working on hiring more staff this year to hopefully improve our capability.

I can pass your concerns about what you might've been told at intake to the supervisor of the unit but I don't oversee the counter so I can't account for what was said.

As I mentioned in my voicemail to Mr. Loughridge, the City has very recently changed how we're to process applications such as yours. This was a council driven ordinance with little staff input and where we were not involved our kept abreast of the timelines. It's unfortunate but the way the ordinance was written would essentially prohibit your application as well as any others unless you had filed your map at the beginning as a "Vesting" map, which it wasn't. This process was out of our control but it has impacts for you. I have to be honest, I can't change this situation for you. One thing that could help is the council ordinance needs two readings. The second (and typically final) reading is this coming Tuesday and if they vote for it at second reading it goes into immediate effect. You might want to contact your city councilmember to register your views on how this ordinance effects you as well as attending Tuesday night's hearing to speak out about it, perhaps with the hope of delaying the time they have to process.

I spoke with Heather as this was disturbing but also not in character with how I know she works with our applicants. She disputes that's how she behaved and she never intended to hurt or humiliate you or anyone else when she was conveying the information.

I am able to meet Monday afternoon on this but as I mentioned above, the real problem here is the council has hindered your ability to get your project approved and meeting with me will not change that. In fact, no one aside from Council can alter it now. Therefore, it's important if you wish to try and go forward to reach out to both your councilmember and the office of the councilmember who introduced it (Kalb, CD 1) and ask them to see if they'd consider altering the timing of their ordinance to allow you to complete your project.

Respectfully,
Robert D. Merkamp

From: Janice Wendt <wendtjanice@gmail.com>

Sent: Thursday, January 30, 2020 3:48 PM

To: Merkamp, Robert <RMerkamp@oaklandca.gov>

Cc: Bruce Loughridge <bruce.loughridge@sbcglobal.net>; Morris, Melinda <MMorris@oaklandca.gov>; Klein, Heather <HKlein@oaklandca.gov>

Subject: RE: PLN19246 Delay

<p>[[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.</p>
--

[Quoted text hidden]

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

WE MOVE TO THE BALANCE OF THE

02:00:52

AGENDA, BEAR WITH ME.

02:00:53

>> 11.

02:00:55

>> AND ON PAGE 19, ITEM 11, IT

02:00:58

IS AN ORDINANCE AMENDING

02:01:00

OAKLAND MUNICIPAL CODE CHAPTER

02:01:04

16.36 CONDOMINIUM CONVERSIONS

02:01:05

TO EXTEND THE CONVERSION

02:01:07

RIGHTS REQUIREMENT TO TWO TO

02:01:08

FOUR UNIT RESIDENTIAL

02:01:10

BUILDINGS, REQUIRE THAT A

02:01:12

CONVERSION RIGHTS AGREEMENT BE

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:01:13

RECORDED AT LATEST 60 DAYS

02:01:15

AFTER THE BUILDING PERMIT FOR

02:01:19

THE GENERATING RESIDENTIAL

02:01:21

BUILDING IS ISSUED, ENHANCE

02:01:22

TENANT RIGHTS AND NOTICE

02:01:23

REQUIREMENTS TO TENANTS AND

02:01:25

MAKE OTHER MODIFICATIONS AND

02:01:27

TO DIRECT CITY ADMINISTRATOR

02:01:29

OR DESIGNEE TO STUDY

02:01:32

ALTERNATIVE MOTHS OF ENSURING

02:01:34

ONE FOR ONE REPLACEMENT OF

02:01:35

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

RENTAL UNITS IN THE CITY AS A

02:01:39

RESULT OF CONDOMINIUM

02:01:41

CONVERSIONS AND INCREASING

02:01:42

AFFORDABLE HOME OWNERSHIP AND

02:01:45

REDUCING DISPLACEMENT OF

02:01:46

RENTERS SUBJECT TO CONVERSION

02:01:48

AND ADOPT CEQA EXEMPTING

02:01:50

FINDINGS.

02:01:50

I HAVE 11 SPEAKERS ON THE ITEM.

02:01:52

>> DO YOU WISH TO MAKE FRAMING

02:01:54

REMARKS?

02:01:54

>> I WILL FIRST OF ALL MAKE A

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:01:56

MOTION TO PASS THIS ITEM ON

02:01:57

SECOND READING BECAUSE I KNOW

02:01:59

WE ALWAYS -- WE NOW MAKE THE

02:02:05

MOTIONS FIRST.

02:02:05

IT'S BEEN SECONDED BY MR.

02:02:06

GALLO.

02:02:06

I WANT TO CALL

02:02:09

ATTENTION AT THE LAST MEETING

02:02:10

WHICH WAS GOING TO BE SECOND

02:02:12

READING, NOW IT'S FIRST

02:02:13

READING, WE ADDED ONE

02:02:15

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

ADDITIONAL PROVISION AND I'LL

02:02:16

READ THAT AGAIN, IT'S THE

02:02:18

SECTION 8, PAGE 29,

02:02:21

NOTWITHSTANDING THE SENTENCE

02:02:23

IMMEDIATELY ABOVE, IF

02:02:24

SUBDIVIDERS HAVE RECEIVED THEIR

02:02:26

TENTATIVE PARCEL DATE PRIOR TO

02:02:27

TO THE DATE OF THIS ORDINANCE

02:02:28

AND IS CONVERTING A TWO TO

02:02:31

FOUR UNIT WILLED, THE

02:02:33

SUBDIVIDER SHOULD NOT BE

02:02:36

REQUIRED FOR CONVERSION RIGHTS

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:02:38

PROVIDED THE SUBDIVIDER HAVE

02:02:40

THE APPROVED MAP OF THE

02:02:41

EFFECTIVE DATE OF THIS

02:02:42

ORDINANCE, THAT WAS THE

02:02:46

ADDITIONAL COMPROMISED

02:02:46

LANGUAGE AMENDMENT THAT WE ADD

02:02:49

EFFECTIVE LAT REQUEST OF SOME

02:02:50

OF THE PROPERTY OWNERS IN

02:02:51

ADDITION TO THE FOUR OTHER

02:02:53

AMENDMENTS THAT WERE ADDED

02:02:55

PRIOR TO THAT OVER THE PAST

02:02:57

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

THREE OR FOUR MONTHS THAT WERE

02:02:59

ALSO COMPROMISES, SO I'M

02:03:01

LOOKING FORWARD TO HEARING THE

02:03:02

SPEAKERS AND PASSING THIS

02:03:03

ORDINANCE AND GETTING THIS ON

02:03:04

AS WE NEED TO DO, THANK YOU.

02:03:08

>> THANK YOU VERY MUCH, THE

02:03:10

ITEM HAS A MOTION AND A SECOND

02:03:11

AND NOW WE'LL TAKE THE PUBLIC

02:03:15

SPEAKERS.

02:03:15

>>(CALLING SPEAKER NAMES).

02:03:32

IN ANY ORDER, PLEASE.

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:03:33

>> IF ANYBODY WHO'S SPEAKING

02:03:35

ON THIS ITEM WOULD PLEASE COME

02:03:37

FORWARD AT THIS TIME.

02:03:45

>> JANE KRAMER, IT SEEMS TO ME

02:03:48

THERE'S SOME FAULTY

02:03:53

ASSUMPTIONS AND REASONING IN

02:03:55

COMING TO SOME KIND OF

02:03:58

REALISTIC SOLUTION.

02:04:01

ONE OF THEM IS MARKET PRICE

02:04:07

FOR BUILDING A NEW APARTMENT

02:04:13

TO REPLACE THE ONE THAT IS

02:04:16

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

GOING TO BE CONVERTED TO A

02:04:20

CONDO.

02:04:20

THE ASSUMPTION IS THE LABORERS

02:04:24

WILL BE PUT OUT OF WORK,

02:04:25

THAT'S TRUE BECAUSE YOU CAN'T

02:04:27

AFFORD IT.

02:04:28

SO, IF YOU CAN'T AFFORD TO

02:04:32

BUILD A MARKETPLACE

02:04:36

REPLACEMENT APARTMENT, LET

02:04:40

PEOPLE -- LET COMMUNITY PERSONS

02:04:52

EITHER BUILD APARTMENTS FOR

02:04:54

THEMSELVES, THERE'S A LAW THAT

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:04:55

SAYS YOU CAN'T --

02:04:56

>> THANK YOU, MA'AM, YOUR TIME

02:04:58

HAS ELAPSED.

NEXT SPEAKER, PLEASE.

02:05:04

>> LOVE LIFE.

02:05:06

PLEASE DO NOT VOTE FOR MEASURE

02:05:09

Q, IT IS VERY DECEPTIVE, IT

02:05:14

DOES NOT ALLOW FOR

02:05:16

REPRESENTATION OF THE HOMELESS

02:05:17

LIKE IT SAYS AND THE MONEY CAN

02:05:20

BE PUT BACK IF THE GENERAL

02:05:22

FUND IF THEY DECIDE AT LEAST

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:05:25

30-SOMETHING PERCENT OF IT,

02:05:26

DON'T VOTE FOR MEASURE Q.

02:05:28

THIS THING ABOUT -- THIS IS

02:05:30

ANOTHER THING THAT LOOKS AT

02:05:33

TENANT'S RIGHTS, AND I HAVEN'T

02:05:35

SEEN ANYTHING THAT COMES TO

02:05:38

THE DAIS THAT TALKS ABOUT

02:05:40

PROPERTY OWNERS BUT YOU WANT

02:05:40

TO GIVE US THE PARCEL TAXES

02:05:43

ALL THE TIME THAT PAY FOR WHAT

02:05:46

THIS CITY NEEDS, SO I LIVE IN

02:05:49

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

A CONVERTED CONDOMINIUM FROM

02:05:53

APARTMENTS AND RIGHT NOW IT'S

02:05:55

OVER 300 UNITS BUT 40% OF IT,

02:05:59

THE OWNERS WENT OUT AND THAT'S

02:06:00

WHAT PEOPLE DO WHEN THEY DO

02:06:03

THESE CONDOMINIUMS, THEY

02:06:06

CONVERT THEM, BUT THEY RENT

02:06:07

THEM OUT, SO I DON'T KNOW WHY

02:06:08

YOU THINK YOU HAVE TO PUT THE

02:06:10

STICK ON PEOPLE WHO WANT TO

02:06:12

HAVE THEIR UNITS THAT ARE

02:06:15

APARTMENTS CONVERTED TO CONDOS

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:06:16

BUT THAT'S ALL YOU DO.

02:06:18

THAT'S ALL YOU DO IS TALK

02:06:20

ABOUT TENANTS' RIGHTS AND YOU

02:06:21

DON'T HAVE THE EQUITY TO LOOK

02:06:24

AT WHAT'S BEST FOR --

02:06:25

>> THANK YOU.

02:06:27

>> LANDLORDS OR PROPERTY

02:06:29

OWNERS.

02:06:29

THAT'S WHY YOU HAVE TO VOTE

02:06:31

AGAINST MEASURE Q.

02:06:33

BECAUSE YOU DON'T LOOK OUT FOR

02:06:34

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

THE PROPERTY OWNERS BUT YOU

02:06:35

WANT THEM TO PAY MORE TAXES.

02:06:37

>> THANK YOU, IS ANYBODY ELSE

02:06:39

WISHING TO SPEAK ON THIS

02:06:40

ITEM?

COME ON UP.

DON'T BE SHY.

02:06:44

COME TO THE MICROPHONE.

WE WON'T BITE.

02:06:49

>> DON'T WORRY, I'M FAR FROM

02:06:52

BEING SHY.

02:06:55

FOR THE RECORD, GENE HAZZARD,

02:07:00

WHEN YOU REMOVE A PIECE OF

02:07:04

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

PROPERTY FROM THE RENTAL SIDE,

02:07:06

ARE YOU GOING TO REPLACE IT

02:07:08

WITH ANOTHER RENTAL PROPERTY

02:07:09

SOMEWHERE ELSE IN THE CITY?

02:07:14

AS MS. OLUGBALA SAID, VOTE NO

02:07:18

ON Q.

02:07:19

YOU ALWAYS WANT TO PASS

02:07:20

SOMETHING ON TO THE LANDLORDS,

02:07:26

AND WITH Q, IT WENT FROM \$40 A

02:07:31

PARCEL TAX TO \$146 OF PARCEL

02:07:34

TAX.

02:07:36

ALMOST A THREE-FOLD JUMP AND

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:07:41

YOU MADE THAT THREE-FOLD BASED

02:07:44

UPON INCLUSION OF DEALING WITH

02:07:47

THE HOMELESS OR THE UNHOUSED.

THREE-FOLD.

02:07:58

>> GOOD EVENING, JEFF LEVIN

02:08:00

WITH EAST BAY HOUSING

02:08:02

ORGANIZATIONS, WE'VE BEEN

02:08:04

WORKING ON PROPOSED REFORMS TO

02:08:06

THE CONDO ORDINANCE AT LEAST

02:08:08

SINCE 2006 WHEN THE BLUE

02:08:09

RIBBON COMMISSION TOOK THIS UP

02:08:10

SO IT WILL BE NICE TO SEE YOU

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:08:12

ALL FINALLY PASS THIS TONIGHT.

02:08:14

I DID SEND YOU ALL A LETTER

02:08:17

EARLIER TODAY, I JUST WANTED

02:08:18

TO KNOW, THIS IS NOT A NEW

02:08:20

ORDINANCE, THESE ARE NOT NEW

02:08:22

RULES, THIS IS CLOSING

02:08:23

LOOPHOLES IN THE CITY'S 40

02:08:27

YEAR-OLD CONDO CONVERSION

02:08:28

ORDINANCE, CONSISTENT WITH

02:08:29

POLICY STATEMENTS THAT THE

02:08:30

CITY HAS MADE FOR YEARS IN THE

02:08:34

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

HOUSING ELEMENT, HOUSING

02:08:36

EQUITY ROAD MAP, HOUSING AT

02:08:37

HOME, SO IT'S TIME TO PUT

02:08:39

THOSE INTO PRACTICE, WHAT THIS

02:08:40

WILL DO IS PROTECT ANOTHER 20

02:08:42

THOUSAND UNITS IN TWO TO FOUR

02:08:46

UNIT BUILDINGS THAT ARE AT

02:08:47

RISING OF BEING COULD

02:08:56

[INAUDIBLE] STRENGTHENING

02:08:56

TENANT PROTECTIONS AND FINALLY

02:08:59

PROVIDING REAL INCENTIVES FOR

02:09:01

TENANTS WHO ARE IN UNITS NOW

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:09:03

TO PURCHASE THEIR UNITS SO

02:09:07

THEY'RE EXEMPT FROM THE NEED

02:09:10

FROM CONVERSION RIGHTS IF IT'S

02:09:10

THE EXISTING TENANT WHO IS ARE

02:09:10

PURCHASING THOSE UNITS, THANK

02:09:10

YOU.

02:09:11

>> THANK YOU.

02:09:18

>> MY NAME IS AKEETH BUSH, I

02:09:23

REPRESENT A FEW CLIENTS THAT

02:09:24

ARE GOING THROUGH THE PROCESS,

02:09:28

I REQUESTED MEETINGS WITH ALL

02:09:29

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

OF YOU AND GOT NOTHING BACK.

02:09:30

I HAVE TALKED TO MANY

02:09:33

DEVELOPERS, THEY'RE SMALL

02:09:34

DEVELOPERS, THEY'RE NOT HUGE

02:09:36

BUT THEY HAVE A CONCERN FOR

02:09:38

TENANTS RIGHTS BUT THEY ALSO

02:09:39

HAVE A CONCERN FOR PRIVATE

02:09:40

RIGHTS AND RIGHT NOW ALL

02:09:42

YOU'RE DOING IS TAKING THEIR

02:09:43

PRIVATE RIGHTS AWAY.

02:09:45

THERE'S NOT -- IF YOU WANT

02:09:47

CONDOS TO HAPPEN, THEY SIMPLY

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:09:49

ARE NOT, IT'S NOT ECONOMICALLY

02:09:51

FEASIBLE, NO TWO UNIT

02:09:52

DEVELOPMENT IS GOING TO CREATE

02:09:54

TWO MORE UNITS TO OFFSET THE

02:09:57

TWO THEY MAY ALREADY LIVE IN,

02:09:59

IT MAKES NO SENSE, THE IDEA THAT

02:10:02

THE OWNER IS OWNER OCCUPIED IS

02:10:04

NOT EXEMPT UNLESS THEY LIVE

02:10:08

THERE 10 YEARS, WHO'S GOING

02:10:09

TO DO THAT, MR. KALB, WITH YOU

02:10:11

DO THAT, THESE ARE NORMAL

02:10:13

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

PEOPLE THAT HAVE WORKED HARD

02:10:14

TO BUY A MULTIFAMILY HOME AND

02:10:16

NOW THEY HAVE AN OPPORTUNITY

02:10:19

TO MAKE IT BETTER, IT MAKES NO

02:10:21

SENSE AT ALL AND 76 UNITS AT

02:10:25

MOST LAST YEAR IF YOU USE YOUR

02:10:27

MATH AND YOU KNOW THAT'S NOT

02:10:29

TRUE, HOW MANY PEOPLE WERE

02:10:31

DISPLACED LAST YEAR, I WANT A

02:10:33

POINT OF CLARIFICATION, AS FAR

02:10:36

AS A TENTATIVE MAP GOES, IT

02:10:39

SAYS RECEIPT OF TENTATIVE MAP,

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:10:40

DOES THAT MEAN I GIVE IT TO MY

02:10:42

CLIENT AND NOW HE'S IN RECEIPT.

02:10:44

THIS IS FULL OF HOLES AND

02:10:46

QUITE FRANKLY, YOU NEED TO

02:10:48

COME TO THE TABLE THAT IT'S

02:10:50

AFFECTING, TALK TO THE PEOPLE

02:10:52

THAT IT'S AFFECTING, WE CAN

02:10:53

COME TO A SOLUTION, IT CREATES

02:10:56

UNITS, RIGHT NOW YOU'RE

02:10:58

SABERING IT.

02:10:58

I HAVE ANOTHER CLIENT THAT TRIED

02:11:00

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

TO GO THROUGH THE SYSTEM,

02:11:03

GOT -- HAS FIVE CREDITS

02:11:04

BECAUSE OF THE OLD RULES AND

02:11:06

NOW THEY'RE SQUASHED, HE SPENT

02:11:09

125 THOUSAND DOLLARS PLAYING

02:11:09

THE GAME WITH YOU GUYS AND

02:11:12

NOW THEY'RE SQUASHED, WHAT

02:11:13

DOES HE DO, I REALLY NEED TO

02:11:15

KNOW, YOU TALK ABOUT WIN, WIN,

02:11:17

THIS IS A LOSE, LOSE, NO NEW

02:11:20

UNITS ARE GOING TO BE CREATED,

02:11:23

IT'S NOT ECONOMICALLY VIABLE,

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:11:26

PERIOD.

[APPLAUSE].

02:11:34

>> GOOD EVENING, ANY

02:11:36

NAME IS JOHN GUTIERREZ A REAL

02:11:38

ESTATE ATTORNEY, I REPRESENT

02:11:40

NUMEROUS CLIENTS, AS KEITH BUSH

02:11:42

MENTIONED, GENERALLY SPEAKING

02:11:43

THESE ARE SMALL TIME PROPERTY

02:11:45

OWNERS, THESE ARE MILLENNIALS

02:11:47

WHO HAVE BOUGHT THEIR FIRST

02:11:48

HOME ALONG WITH OTHER

02:11:50

INDIVIDUALS OR COUPLES, THESE

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:11:51

ARE BABY BOOMERS WHO ARE DOWN

02:11:53

SIZING, THESE ARE BOOMERS

02:11:55

WHOSE EQUITY IN THEIR PROPERTY

02:11:58

REPRESENTS THEIR LIFE SAVINGS

02:12:00

AND THEIR RETIREMENT EARNINGS.

02:12:01

COUNCILMEMBER KALB, I WANT TO

02:12:02

THANK YOU FOR TAKING TIME TO

02:12:05

LISTEN TO AND HEED SOME OF THE

02:12:08

CONCERNS THAT WERE EXPRESSED

02:12:08

TO YOU, I WOULD SUBMIT HOWEVER

02:12:10

THAT'S A GOOD START BUT THERE

02:12:12

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

ARE STILL PEOPLE THAT NEED

02:12:13

YOUR HELP.

02:12:13

THERE ARE PEOPLE WHO ARE STUCK

02:12:15

IN THE PROCESS, PEOPLE WHO

02:12:18

HAVE ALREADY SPENT TENS OF

02:12:20

THOUSANDS OF DOLLARS AS KEITH

02:12:21

SAID, INDIVIDUALS WHO HAVE

02:12:22

SPENT OVER 100 THOUSAND

02:12:26

DOLLARS AND BECAUSE OF STAFF

02:12:28

SHORTAGES AND ILLNESSES, THEIR

02:12:29

PROJ SHOULD BE APPROVED BUT

02:12:32

THEY'RE NOT READY TO BE

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:12:33

APPROVED, THIS IS YOUR

02:12:34

OPPORTUNITY TO DO IT RIGHT,

02:12:35

THIS WILL COME BACK TO YOU IN

02:12:37

MORE ELLIS ACT EVICTIONS,

02:12:40

MORE TENANCY INCOME PURCHASES,

02:12:41

THE ONLY WAY TO CREATE HOUSING

02:12:43

IS MORE HOUSING, NOT LESS

02:12:45

HOUSE, HOUSING OF ALL KINDS,

02:12:47

SO I WOULD URGE YOU, THE

02:12:50

URGENCY OF THIS CRISIS AS

02:12:52

STATED IN THE REPORT PEAKED

02:12:54

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

BETWEEN 2006 AND 2008, I URGE

02:12:56

YOU TO TAKE SIX MORE WEEKS TO

02:12:57

GET THIS RIGHT.

02:13:00

THANK YOU.

02:13:11

>> HELLO, MY NAME IS BRUCE

02:13:14

LOCKRIDGE, I ENTERED THE

02:13:19

CONDOMINIUM PROCESS IN

02:13:21

SEPTEMBER, SEPTEMBER THE 29TH

02:13:25

T PROCESS I THINK IS FLAWED

02:13:28

BECAUSE WHEN YOU SUBMIT YOUR

02:13:30

APPLICATION AND YOU PAY YOUR

02:13:32

MONEY, YOU'RE WAITING FOR THE

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:13:39

POSTING, HOWEVER, THEY NAME

02:13:41

WHOMEVER THEY CHOOSE IN TERMS

02:13:42

OF WHO GETS THE POSTING.

02:13:44

I HAVE SUBMITTED APPLICATIONS

02:13:46

AFTER ONE OF THESE -- AFTER MY

02:13:49

APPLICATION WHICH WERE DONE,

02:13:52

SO IT'S NOT FAIR TO PEOPLE

02:13:54

THAT THINK YOUR APPLICATION IS

02:13:57

TAKEN IN LINE, ONE, TWO,

02:13:59

THREE, AS OPPOSED TO TAKING

02:14:02

WHOMEVER THEY CHOOSE TO GIVE

02:14:05

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

THEM THE ABILITY TO MAKE THE

02:14:07

POSTING.

02:14:07

I JUST DON'T THINK THAT'S

02:14:09

FAIR, I SPENT OVER 30 THOUSAND

02:14:10

DOLLARS TO GET TO THIS POINT

02:14:13

AND THEN TO BE WIPED OUT AFTER

02:14:16

I'VE ALREADY PAID THE MONEY, I

02:14:19

MEAN, IT'S NOT FAIR.

02:14:20

I MEAN, AT LEAST I WOULD HAVE

02:14:23

HAD A TENTATIVE PARCEL MAP

02:14:24

LIKE I DID WITH OTHER POSTINGS

02:14:27

AFTER THE DATE, OKAY, SO NO,

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:14:30

WE DON'T NEED TO CHOOSE THIS

02:14:32

PERSON, LET ME CHOOSE MY

02:14:34

FRIEND, LET ME CHOOSE WHOM

02:14:35

OVER, IT SHOULD BE FAIR, AND

02:14:37

THE PROCESS SHOULD BE FAIR.

02:14:38

>> THANK YOU VERY MUCH.

02:14:40

ARE THERE ANY OTHER SPEAKERS

02:14:42

ON THIS ITEM?

02:14:44

OKAY.

02:14:44

THAT BRINGS IT BACK UP TO

02:14:46

COUNCIL.

02:14:46

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

IF THE STAFF AND THE ATTORNEYS

02:14:48

WHO ARE WORKING ON THIS COULD

02:14:52

COME UP, WE HAD A QUESTION

02:14:54

FROM A COUPLE OF PUBLIC

02:14:56

SPEAKERS ABOUT WHAT ABOUT

02:14:57

PEOPLE WHO ARE PART WAY

02:14:59

THROUGH THE PROCESS.

02:15:03

>> SO, CURRENT AMENDMENTS

02:15:06

INCLUDE PEOPLE WHO ALREADY

02:15:08

SEND PEOPLE WHO ARE PAST THE

02:15:12

TENTATIVE MAPS SO IF THEY

02:15:14

DIDN'T RECEIVE THE TENTATIVE

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:15:15

MAPS, THE AMENDMENT DOES NOT

02:15:17

INCLUDE THEM.

02:15:18

>> MADAM PRESIDENT --

02:15:20

>> OKAY, I'LL GO TO

02:15:22

COUNCILMEMBER MCELHANEY AND

02:15:23

THEN I'LL COME BACK.

02:15:24

>> I WANTED TO REDIRECT ON

02:15:26

THAT SAME QUESTION BUT IT'S

02:15:28

NOT TO YOU, MS. BULATINO BUT

02:15:30

TO THE PLANNING STAFF, THE

02:15:34

SPEAKERS TALKED ABOUT THE

02:15:36

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

ITEMS NOT BEING PROCESSED

02:15:38

TIMELY, SO HOW ARE THOSE

02:15:41

PARTICULAR ONES BEING

02:15:42

CONSIDERED THAT MAY HAVE BEEN

02:15:43

HELD UP FROM A TENTATIVE MAP

02:15:45

BECAUSE OF STAFF DELAYS OR

02:15:48

ILLNESS?

02:15:49

>> [INAUDIBLE] FROM THE CITY

02:15:50

ATTORNEY'S OFFICE THROUGH THE

02:15:52

PRESIDENT OF THE COUNCIL, I

02:15:53

WOULD LIKE TO JUST STATE THERE

02:15:55

IS AN AVENUE FOR THAT WHEN

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:15:56

YOU'RE A DEVELOPER AND THAT'S

02:16:00

THROUGH FILING A VESTING

02:16:03

TENTATIVE MAP, WHAT YOU FILE,

02:16:04

YOUR RIGHTS ARE BACK TO

02:16:06

WHEN YOUR APPLICATION WAS

02:16:07

DEEMED COMPLETE.

02:16:08

GENERALLY IN THE DEVELOPMENT

02:16:10

WORLD, IF YOU DON'T FILE FAR

02:16:13

VESTING TENTATIVE MAP, YOU DO

02:16:14

RUN THE RISING OF THE LAW

02:16:16

CHIMING ON YOU, FOR THOSE THAT

02:16:18

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

HAVEN'T HAD THE FORTUNE OF

02:16:19

HAVING GOOD COUNSEL TO FILE

02:16:21

THAT VESTING TENTATIVE MAP,

02:16:22

THEY WOULD BE AT RISK.

02:16:24

IF THEY DID RECEIVE THEIR

02:16:26

TENTATIVE MAP APPROVAL, THEY

02:16:27

DO HAVE THIS EXTENSION NOW

02:16:28

THAT WE TALKED ABOUT AND THAT

02:16:33

COUNCILMEMBER KALB HAS

02:16:35

COMPROMISED ON.

02:16:36

>> JUST TO BE CLEAR THOUGH,

02:16:38

THE QUESTION WAS FROM PEOPLE

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:16:39

WHO HAVE SUBMITTED ALL OF

02:16:41

THEIR MATERIALS, BUT NOT HEARD

02:16:42

BACK, SO IN OTHER WORDS, THEY

02:16:44

DID ALL THE STEPS THEY COULD

02:16:47

DO AND THEY'RE ALLEGING OUR

02:16:49

STAFF EITHER DID NOT RESPOND

02:16:51

TO THEM OR ARE TAKING PEOPLE

02:16:52

OUT OF ORDER.

02:16:54

>> OKAY, GREAT, AND I WANT TO

02:16:55

BE CLEAR, DID THEY RECEIVE

02:16:57

THEIR TENTATIVE MAP APPROVAL, IF

02:16:59

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

THEY HAD NOT RECEIVED THEIR

02:17:01

TENTATIVE MAP APPROVAL YET,

02:17:02

PLANNING GENERALLY, THEY'RE

02:17:04

UNDER THE PERMIT STREAMLINING

02:17:05

ACT, THEY HAVE TO RESPOND BACK

02:17:06

WITHIN 30 DAYS TO DEEM THE

02:17:08

APPLICATION COMPLETE OR NOT,

02:17:09

WHERE IT SOUND LIKE MAYBE SOME

02:17:11

OF THE APPLICANTS MAY BE

02:17:13

GETTING HELD UP IS OUR MAP

02:17:17

SURVEYOR HAS A BACKLOG OF MAPS

02:17:18

THROUGH THE CITY AND HE'S

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:17:20

BASICALLY UNDER A PILE OF

02:17:21

MAPS, THAT COULD BE WHERE THE

02:17:23

DELAY HAS OCCURRED AND I GUESS

02:17:24

WHAT I'M SAYING IS THOSE

02:17:26

APPLICANTS COULD HAVE AVAILED

02:17:27

THESES OF FILING FOR A VESTING

02:17:31

TENTATIVE MAP.

02:17:33

THAT VESTING TENTATIVE MAP

02:17:34

WOULD VEST THEM AGAINST ANY

02:17:36

PURPORTED DELAYS.

02:17:38

>> SO, I GUESS JUST TO BE

02:17:43

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

CLEAR, IF THEY SUBMITTED WHAT

02:17:44

THEY WERE SUPPOSED TO SUBMIT

02:17:45

AND OUR STAFF DIDN'T GET BACK

02:17:47

TO THEM AND IF OUR STAFF HAS

02:17:49

BEEN ALLEGED IS PICKING WHO TO

02:17:51

GET BACK TO OR NOT, NOT DOING

02:17:53

THEM IN THE ORDER THEY

02:17:56

SUBMITTED, WE HAVE A POTENTIAL

02:17:57

PROBLEM ON OUR HANDS THAT

02:17:59

CERTAIN PEOPLE ARE EXEMPT, BUT

02:18:01

NOT WHO STAFF CHOSE TO GET

02:18:02

BACK TO OR NOT.

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:18:05

>> STAFF DOESN'T KNOW WHO TO GET

02:18:07

BACK TO OR NOT, IS THAT

02:18:08

NOT WHAT'S GOING ON HERE,

02:18:11

WHAT'S GOING ON IS STAFF

02:18:13

BASICALLY RECEIVES AN

02:18:14

APPLICATION WITHIN 30 DAYS,

02:18:15

THEY HAVE TO GET BACK TO EVERY

02:18:17

APPLICANT, THAT'S PART OF THE

02:18:21

LAW, SO THEY GET -- TUNED

02:18:24

PERMIT STREAMLINE ACT, THEY

02:18:25

GET BACK OR THE APPLICATION IS

02:18:27

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

DEEMED COMPLETE, THAT HAPPENS

02:18:29

SO THEY GET BACK WITH A LETTER

02:18:31

STATING WHETHER THE

02:18:32

APPLICATION IS COMPLETE OR

02:18:33

NOT, AT THAT POINT PLANNING

02:18:35

PROCESSES AND MAKES A DECISION

02:18:36

WHETHER OR NOT TO APPROVE THE

02:18:38

TENTATIVE MAP OR NOT, IF

02:18:40

THERE'S A TENTATIVE MAP

02:18:42

APPROVAL, THEN THEY HAVE A

02:18:44

CERTAIN PERIOD TO GET THE

02:18:45

FINAL MAP, THAT TENDS TO TAKE

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:18:47

TIME BECAUSE THEY HAVE TO

02:18:49

SUBMIT -- FIRST OF ALL THE

02:18:51

DEVELOPER HAS TO MAKE SURE

02:18:54

THEY'RE ABIDING ON THE

02:18:56

TENTATIVE MAP, YOU GET THE

02:18:57

APPROVAL AND THEN THERE'S THE

02:18:59

FINAL MAP, YOU HAVE TO GET THE

02:19:02

FINAL MAP WITHIN TWO YEAR,

02:19:04

SOMETIMES THAT PROCESS GETS

02:19:05

DELAYED AND A LOT OF TIMES

02:19:07

IT'S NOT JUST STAFF, SOMETIMES

02:19:09

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

THE APPLICANT IS NOT GET BACK

02:19:10

TO WHAT THEY KNEADED TO GET

02:19:13

BACK ON, THAT'S THE CASE, STAFF

02:19:15

DOESN'T MOVE ON IT, IT'S A TWO

02:19:18

WAY STREET AND COMPLICATED BUT

02:19:18

IN ORDER TO GET OVER THAT

02:19:20

ISSUE, YOU SHOULD BE FILING A

02:19:22

VESTING TENTATIVE MAP, BECAUSE

02:19:24

IF YOU FILE THAT, NO MATTER

02:19:25

HOW LONG IT TAKES, YOUR RIGHTS

02:19:28

RELAY BACK TO WHEN YOUR

02:19:29

APPLICATION WAS DEEMED

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:19:30

COMPLETE, THE LAW CAN'T CHANGE

02:19:33

AFTER THAT.

02:19:41

>>[INAUDIBLE].

02:19:41

>> COME TO MIC., SIR.

02:19:44

>> SEPTEMBER THE 23RD, THAT

02:19:45

WAS ACCEPTED.

02:19:46

I HAVE A TENTATIVE PARCEL MAP.

02:19:49

ON OCTOBER 1, I FILED, I

02:19:51

DIDN'T HEAR ANYTHING FROM THEM

02:19:53

AND I HAD TO CALL THEM BACK.

ON OCTOBER -- THERE WAS

02:20:02

ANOTHER ONE I FILED, THAT WAS

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:20:04

APPROVED AND I HAVE A

02:20:06

TENTATIVE PARCEL MAP.

02:20:07

THE ONE I FILED ON SEPTEMBER

02:20:09

30TH WAS IGNORED.

02:20:12

>> THANK YOU.

WE'LL FOLLOW UP.

02:20:14

>> MADAM PRESIDENT?

>> COUNCILMEMBER MCELHANEY?

02:20:19

>> I WONDER IF THE

02:20:22

ADMINISTRATOR CAN TAKE LOOK AT

02:20:23

IF THERE WERE ANY ANOMALIES IN

02:20:25

THE PROCESS OF [INAUDIBLE].

02:20:26

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

I HEAR WHAT YOU'RE SAYING, MR.

02:20:29

ATTORNEY, THERE ARE THINGS THAT

02:20:31

GET MISPLACED, SOME OF THE

02:20:35

SPEAKERS HAVE CITED ILLNESS OF

02:20:36

PLANNERS SO THAT HAPPENS BUT

02:20:39

IF THERE'S A WAY -- THE SPIRIT

02:20:40

AND INTENT OF THE LEGISLATIONS

02:20:42

CHANGES THAT MR. KALB HAS

02:20:43

PROPOSED WAS SO PEOPLE WOULD

02:20:45

NOT BE HARMED WHO HAVE

02:20:47

INVESTED AND WHO WERE PLACING

02:20:49

RELIANCE UPON THE LAW AT THE

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:20:51

TIME, SO I THINK THAT THERE

02:20:54

MAY BE AN OPPORTUNITY AND I'M

02:20:57

SAYING THIS THROUGH THE

02:20:58

PRESIDENT TO THE ADMINISTRATOR

02:21:00

THAT PERHAPS WE CAN REVIEW THE

02:21:03

FEW PEOPLE HERE WHO ARE SAYING

02:21:05

THERE WAS SOMETHING ANOMALOUS

02:21:07

IN THE TIMELINE AND THEN I

02:21:08

GUESS THE QUESTION WITH

02:21:11

RESPECT TO DOES STAFF ADVISE

02:21:13

OR IS IT WRITTEN IN OUR PAPER

02:21:16

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

WORK ABOUT THE VESTING MAP?

02:21:18

>> NO.

02:21:22

>> LIKE, I'M SORRY, SIR, NOT

02:21:25

AT THIS POINT, IT'S THROUGH TO

02:21:26

THE ATTORNEY.

02:21:28

>> SO, AGAIN, BRIAN MURRAY, AS

02:21:31

FAR AS I KNOW, STAFF DOES

02:21:33

ADVISE ON THE COUNTER THAT

02:21:35

HERE ARE YOUR OPTIONS, YOU CAN

02:21:37

FILE A VESTING TENTATIVE MAP

02:21:38

OR YOU CANNOT, HOWEVER WE

02:21:40

CAN'T GUARANTEE THAT'S ALWAYS

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:21:42

THE CASE BECAUSE STAFF DOESN'T

02:21:44

WANT TO BE A POSITION TO

02:21:45

PROVIDING LEGAL ADVISE TO AN

02:21:53

APPLICANT, I HATE TO SPEAK IN

02:21:55

A VACUUM BECAUSE I DON'T KNOW

02:21:56

THOSE SPECIFIC ISSUES AND

02:21:57

THE PLANNING STAFF ARE NOT

02:21:59

HERE TO RESPOND TO IT, SO I

02:22:01

FEEL LIKE I CAN'T SPEAK TO

02:22:04

THAT TONIGHT.

02:22:04

>> SO, THAT'S WHAT I'M

02:22:06

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

SAYING, I THINK FOR MADAM

02:22:07

PRESIDENT, I THINK TO ADDRESS

02:22:09

THE CONCERNS THAT ARE CITED

02:22:11

HERE, I DON'T KNOW IF THERE

02:22:12

WOULD NEED TO BE ANY

02:22:15

LEGISLATIVE AMENDMENTS AFTER

02:22:16

ADOPTION TONIGHT, BUT I WOULD

02:22:18

REQUEST THAT THE ADMINISTRATOR

02:22:20

TAKE A LOOK AT THESE CASES AND

02:22:24

TO -- I MEAN, I BELIEVE YOU

02:22:26

WOULD PROBABLY HAVE DISCRETION

02:22:29

TO DO WHATEVER'S NECESSARY,

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:22:30

BUT IF NOT, THAT YOU COULD

02:22:33

BRING BACK WHATEVER -- I WAS

02:22:35

GOING TO SAY -- I JUST THINK

02:22:37

IF SOMEBODY BROUGHT IN

02:22:38

SOMETHING AND THERE WAS AN

02:22:40

EXTENDED PERIOD OF TIME, 7, 8

02:22:42

MONTHS AND IT'S OUTSIDE THE PALE,

02:22:47

YOU WOULD HAVE THE DISCRETION

02:22:48

TO SAY, HAD THIS PLANNER NOT

02:22:50

BE ILL, SOMETHING TO THE EFFECT SO

02:22:52

THE MEMBERS OF THE PUBLIC ARE

02:22:54

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

NOT HARMED BY AN ACTION THAT'S

02:22:56

INTENDED TO HELP.

02:22:59

>> THROUGH THE CHAIR TO

02:23:01

COUNCILMEMBER MCELHANEY, WE'D

02:23:02

BE HAPPY TO LOOK AT THE

02:23:04

SPECIFIC CASES, I CAN'T SPEAK

02:23:06

TO ANY OF THEM RIGHT NOW AND

02:23:08

WHETHER OR NOT WE HAVE

02:23:10

DISCRETION OR DON'T HAVE

02:23:11

DISCRETION, WE'LL OBVIOUSLY

02:23:12

HAVE TO WORK WITH THE CITY

02:23:14

ATTORNEY'S OFFICE, MORE THAN

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:23:15

HAPPY TO HAVE STAFF TAKE A

02:23:17

LOOK AT IT, I'LL GIVE EACH OF

02:23:19

YOU MY CARD.

02:23:20

>> AND IF WE DO NEED TO COME

02:23:22

BACK WITH -- ONCE YOU DO THAT

02:23:23

REVIEW, I JUST WANT THE ASK IF

02:23:25

YOU DO IN THIS REVIEW DISCOVER

02:23:27

THERE WERE CASES THAT

02:23:29

RATIONALLY SHOULD HAVE BEEN

02:23:30

EXEMPTED THAT WE DIDN'T, WOULD

02:23:31

YOU LET US KNOW AND BOTH

02:23:33

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

WHETHER THEY CAN BE FIXED

02:23:36

THROUGH ADMINISTRATIVE

02:23:36

DISCRETION AND IF IT HAS TO

02:23:38

COME BACK TO US TO FIX IT,

02:23:40

SOMEBODY WILL TRACK THIS AND

02:23:41

LET US KNOW.

02:23:42

>> AND I WILL END WITH THE

02:23:44

FACT THAT COUNCILMEMBER KALB

02:23:45

DID MAKE AN IMPORTANT

02:23:47

CONCESSION AT THE LAST PELTING

02:23:50

WHICH WAS IF ANYONE RECEIVED

02:23:52

TENTATIVE MAP APPROVAL, THERE

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:23:53

IS A TWO YEAR EXTENSION FROM --

02:23:56

>>[INAUDIBLE].

02:23:56

>> THE INTENT IS THAT IT IS

02:24:00

APPROVAL, YES.

02:24:03

>> SO, WE'LL WORK WITH THE

02:24:05

CITY ADMINISTRATION TO MAKE

02:24:07

SURE THAT THOSE CASES THAT

02:24:09

HAVE BEEN NOT FOLLOWED, THAT

02:24:11

THEY GET RESOLVED, EITHER

02:24:15

ADMINISTRATIVELY OR WITH SOME

02:24:16

AMENDMENTS, THANK YOU.

>> MADAM CHAIR?

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

>> MR. KALB?

02:24:21

>> THERE IS ALREADY A

02:24:23

PROVISION IN HERE, A NEW

02:24:24

PROVISION IN HERE THAT WAS NOT

02:24:26

IN THE OLD LAW THAT ALLOWS THE

02:24:30

CITY ADMINISTRATOR TO CREATE

02:24:32

REGULAR RATIONS TO FURTHER

02:24:34

DEFINE HOW IT'S IMPLEMENTED

02:24:36

AND DEFINE WHAT THINGS MEAN,

02:24:37

THAT'S THE OPPORTUNITY TO GET

02:24:39

THAT GRANULAR LEVEL OF DEAF

02:24:41

FISSION THAT AT LEAST SOME

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:24:43

PEOPLE HAVE SOME VALID

02:24:44

CONCERNS ABOUT.

02:24:44

I DO WANT TO ALSO SAY THAT

02:24:47

IT'S NOT UNUSUAL, IN FACT,

02:24:52

IT'S COMMON WHEN THERE'S A NEW

02:24:54

LAW BEING PROPOSED OR A LONG

02:24:57

STANDING LAW, A REVISION,

02:24:58

WHERE IT KIND OF GOES BACK

02:25:00

ONCE IT BECOMES WELL KNOWN OR

02:25:01

AT LEAST PUBLIC THAT IT'S OUT

02:25:03

THERE.

02:25:04

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

THIS HAS BEEN OUT THERE FOR

02:25:07

SEVERAL MONTHS THROUGH

02:25:07

NUMEROUS AVENUES AND PEOPLE

02:25:11

WHO OFTEN LOOK TO DO THINGS

02:25:14

VERY RECENTLY PRIOR TO A NEW

02:25:17

LAW ARE GENERALLY INCLUDED,

02:25:19

UNLIKE THOSE WHO START QUITE A

02:25:23

LONG TIME AGO AND WOULD MOST

02:25:25

LIKELY HAVE A TENTATIVE MAP

02:25:27

ALREADY, THEY ARE NOW EXCLUDED

02:25:31

FROM THAT ONEROUS REQUIREMENT,

02:25:31

SO THERE IS A PRECEDENT FOR

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:25:33

THAT KIND OF DICHOTOMY AND

02:25:35

THAT'S WHAT WE'RE DOING HERE

02:25:36

AND I REALIZE IT'S NOT PERFECT

02:25:40

BECAUSE IT'S ALMOST IMPOSSIBLE

02:25:41

TO FIND PERFECTION IN ANY LAW

02:25:44

BECAUSE THERE AREN'T JUST

02:25:45

THREE PEOPLE THAT ARE GOING TO

02:25:47

BE IMPACTED, THERE ARE

02:25:48

HUNDREDS OF PEOPLE IN ALL

02:25:49

DIRECTIONS THAT ARE GOING TO

02:25:52

BE IMPACTED, RENTERS WHO MAY

02:25:53

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

BE DISPLACED AND COULD BE

02:25:56

IMPACTED IF MORE EXCEPTIONS

02:25:58

ARE MADE SO ALL SORTS OF

02:25:59

THINGS COULD HAPPEN, I ASK

02:26:00

THAT WE PUSH THIS FORWARD NOW,

02:26:02

ALLOW THE ADMINISTRATION TO DO

02:26:06

REGULATIONS.

ALLOW -- THE STAFF REPORTS

02:26:19

HAVE THAT, IF NECESSARY, WE

02:26:21

COULD ALWAYS COME BACK LATER

02:26:23

BUT I THINK -- I'M SORRY, IT'S

02:26:24

NOT YOUR TURN TO TALK

02:26:26

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

RIGHT NOW, IT'S NOT YOUR TURN

02:26:28

TO TALK RIGHT NOW, MADAM

02:26:31

CHAIR, I CAN'T BE INTERRUPTED

02:26:32

OVER AND OVER AND OVER AGAIN.

02:26:35

>> EXCUSE ME, LET MR. KALB

02:26:37

COMPLETE HIS REMARKS: MAID

02:26:42

MULTIPLE AMENDMENTS, I DON'T

02:26:43

FEEL IT'S POSSIBLE WE CAN DO

02:26:46

WHAT WE WANT TO ACCOMPLISH AND

02:26:49

THE OWNERS MAKING THEM

02:26:51

EXCEPTION AFTER EXCEPTION

02:26:51

AFTER EXCEPTION, SO WE MADE A

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:26:53

LOT OF EXCEPTIONS, A LOT OF

02:26:55

GIVES OVER THE PAST SEVERAL

02:26:57

MONTHS INCLUDING A FEW WEEKS

02:26:58

AGO AND THERE IS

02:27:01

REGULATIONS THAT COULD FURTHER

02:27:02

THAT ALONG EVEN MORE AND I

02:27:04

ASK WE PASS THIS TONIGHT AND

02:27:05

COME BACK LATER IF WE NEED TO.

02:27:09

>> SO, THAT'S A MOTION BY

02:27:11

PRESIDENT PRO TEM KALB, IS

02:27:12

THERE A SECOND?

02:27:14

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

BY MR. GALLO, THAT IS WITH THE

02:27:16

UNDERSTANDING THAT THE

02:27:17

ADMINISTRATION WILL WORK WITH

02:27:18

THE FOLKS WHO HAVE RAISED

02:27:20

THESE QUESTIONS, WILL WORK TO

02:27:21

INCORPORATE IT INTO THE

02:27:23

ADMINISTRATIVE REGULATIONS AND

02:27:23

IF YOU CAN'T, YOU WILL LET US

02:27:26

KNOW ABOUT ANY NEEDED

02:27:26

AMENDMENT TO DEAL WITH THE

02:27:28

FOLKS WHO STARTED THE PROCESS

02:27:31

LONG AGO, AND THAT'S

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

02:27:32

SUFFICIENTLY CLEAR TO

02:27:34

EVERYBODY.

02:27:35

IS SOMEBODY GOING TO GO TRADE

02:27:37

CONTACT INFO WITH THESE FOLKS

02:27:38

TO BE ABLE TO FOLLOW UP WITH

02:27:39

THEM?

02:27:39

OKAY, WITH THAT, DO WE NEED A

02:27:41

ROLL CALL ON THIS?

02:27:42

NO, ALL IN FAVOR?

02:27:44

AYE.

02:27:47

>> ANY OPPOSED, ANY

02:27:49

Transcript of February 18,2020 City Council Condo Conversion Amending 16.36

ABSTENTIONS THAT PASSES

02:27:51

UNANIMOUSLY INCLUDING THE

02:27:52

REQUEST FOR THE ADMINISTRATION

02:27:53

TO FOLLOW UP WITH THE FOLKS.

02:27:54

THANK YOU.

02:27:55

WE'LL GO TO THE NEXT ITEM.

02:27:58

>> HAVING DISPENSED WITH ITEM

02:28:00

THE PERMIT STREAMLINING ACT AND OTHER DEVELOPMENT TIME LIMITS

For years, the time limits within which government agencies were required to approve or deny development projects were set forth in a confusing patchwork of statutory schemes that were seemingly irreconcilable. Beginning in the 1990s, however, the Legislature began enacting a series of measures to coordinate the time limits imposed by the Permit Streamlining Act (Government Code § 65920 *et seq.*), the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 *et seq.*), and the Subdivision Map Act (Government Code § 66410 *et seq.*). These Acts will be discussed in turn.

I. The Permit Streamlining Act

The Permit Streamlining Act was enacted in 1977 in order to expedite the processing of permits for development projects. Government Code § 65921.

The Permit Streamlining Act achieves this goal by (1) setting forth various time limits within which state and local government agencies must either approve or disapprove permits and (2) providing that these time limits may be extended once (and only once) by agreement between the parties.

Although hardly a paper tiger, the Permit Streamlining Act is less efficacious than it appears at first blush. As explained immediately below, a permit may not be deemed approved until the agency is provided with notice of the applicant's intent to invoke the Act, and an opportunity to hold a public hearing to decide whether to approve or deny the project. Further, a permit may not be deemed approved until the agency has complied with CEQA. Finally, the Permit Streamlining Act does not apply to legislative land use decisions or to ministerial permits.

A. Deemed Approval

If a local agency fails to approve or disapprove the permit within the time limits specified below, the permit is subject to being "deemed approved." Government Code § 65956(b). A deemed-approved permit confers the same privileges and entitlements as a regularly issued permit. *Ciani v. San Diego Trust & Savings Commission*, 233 Cal. App. 3d 1604, 1613, 285 Cal. Rptr. 699, 705 (1991).

If a local legislative body votes to deny a project within the time limits of the Permit Streamlining Act, but directs staff to return with a resolution on a date that falls outside of the Permit Streamlining Act's time limits, the application is timely denied and does not result in a deemed-approved project. The Permit Streamlining Act does not require that a denial be absolutely final in order to be timely. *El Dorado Palm Springs v. City of Palm Springs*, 96 Cal. App. 4th 1153, 118 Cal. Rptr. 2d 15 (2002).

B. Starting the Permit Streamlining Act's Clock

The Permit Streamlining Act clock does not start ticking until the applicant submits a completed permit application. The agency has 30 days after an application is submitted in which to inform the applicant of whether the application is complete. Government Code § 65943; 14 California Code of Regulations §§ 15060(a), 15101. If the agency does not so inform the applicant within that 30-day period, the application will be "deemed complete" if the application included the statement that it is an application for a development project (Government Code § 65943) even if the application is deficient. *Orsi v. City of Salinas*, 219 Cal. App. 3d 1576, 268 Cal. Rptr. 912 (1990).

A new 30-day period begins with each re-submission of an application. Government Code § 65943.

At one time, some agencies had required that applicants waive, or agree to extend, these time limits. That practice is now prohibited. Government Code § 65940.5; Public Resources Code §§ 21100.2, 21151.5.

Agencies are required to make lists available to the public that specify in detail the information required for an application. Government Code § 65940. Although these lists may be revised, such revisions generally apply prospectively only and not to pending applications. Government Code § 65942. Agencies may not require applicants to submit at the initial application stage all of the information required by the agency to take final action on the project. Government Code § 65944.

C. The Permit Streamlining Act Does Not Apply to All Permit Applications

The Permit Streamlining Act applies only to "development projects" as that term is defined in Government Code § 65928.¹

The Permit Streamlining Act does not apply to the following:

- ❑ Legislative land use decisions, such as amendments to the zoning ordinance or general plan. *Land Waste Management v. Contra Costa County*, 222 Cal. App. 3d 950, 271 Cal. Rptr. 909 (1990); *Landi v. Monterey County*, 139 Cal. App. 3d 934, 189 Cal. Rptr. 55 (1983).

¹ Government Code § 65928 provides:

"Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction but not a permit to operate. "Development project" does not include any ministerial projects proposed to be carried out or approved by public agencies.

- ❑ The approval or disapproval of final subdivision maps. Government Code § 65927.
- ❑ Permits for ministerial projects (Government Code § 65928), i.e., projects which do not involve the exercise of governmental discretion.
- ❑ Administrative appeals. Government Code § 65922(b).

D. Limits on Time Extensions

As noted above, a number of the Permit Streamlining Act's time limits may be extended once for a period of up to 90 days upon the mutual consent of the agency and the applicant. Government Code § 65957. In *Bickel v. City of Piedmont*, 16 Cal. 4th 1040, 68 Cal. Rptr. 2d 758 (1997), the California Supreme Court held that applicants may further waive the Permit Streamlining Act's time limits if the waiver is knowing, intelligent, and voluntary.

Section 65957 was amended effective January 1, 1999, to abrogate *Bickel*. Accordingly, no extension, continuance or waiver of the Permit Streamlining Act's time limits is allowed beyond § 65957's one-time, 90-day extension.

E. Time Limits for Responsible Agencies

The time limits discussed above assume that the agency is the "lead agency" – i.e., the agency principally responsible for carrying out or approving the project. Public Resources Code § 21067; Government Code § 65929.

Different rules apply if the agency is a "responsible agency." A responsible agency is any agency other than the lead agency which is responsible for carrying out or approving the project. Public Resources Code § 21069; Government Code § 65933.

Responsible agencies are required to approve or disapprove a development project that has been approved by the lead agency within 180 days from the later of (1) the date on which the lead agency approved the project or (2) the date on which the application for the project is accepted as complete by the responsible agency. Government Code § 65952.

F. Invoking the Permit Streamlining Act

Most persons affected by the Permit Streamlining Act – real estate professionals, government officials, community activists – assume that the Permit Streamlining Act is self-executing. It is not. It is true that the Permit Streamlining Act decrees that if the agency fails to approve or disapprove a project within the Act's time limits, the permit "shall" be deemed approved. The Permit Streamlining Act is careful to add, however, that such deemed-approved status may be conferred only if the "public notice required by law has occurred." Government Code § 65956(b). The purpose of this notice

requirement is to provide the agency with a final opportunity to hold a public hearing and make a decision on the project, thereby avoiding the harshness of a deemed-approved permit.

The applicant may provide the public notice required by law by giving seven days' advance notice to the agency of its intent to provide public notice. The public notice may not be provided earlier than 60 days from the expiration of the time limits set forth in Government Code § 65950 (or for responsible agencies, the time limits set forth in Government Code § 65952). If the applicant provides such notice, the time limits are extended to 60 days after such notice is provided. Government Code § 65956(b).

Alternatively, the applicant can seek the issuance of a writ of ordinary (traditional) mandamus (Code of Civil Procedure § 1085), directing the agency to provide the public notice required by law or provide the public hearing, or both. The mandamus action must be filed at least 60 days prior to the expiration of the time limits set forth in Government Code § 65950 (or for actions against responsible agencies, the time limits set forth in Government Code § 65952). Government Code § 65956(a).

There is no requirement that the public notice required by law be included in the normal public notices provided by the agency for project approvals. *Mahon v. San Mateo County*, 139 Cal. App. 4th 812, 43 Cal. Rptr. 3d 235 (2006).

G. Staying Within the Permit Streamlining Act's Time Frames May Defeat Unreasonable Delay Arguments

An unintended consequence of the Permit Streamlining Act is that it tends to act as a safe harbor for agencies that stay within its time frames. In *Toigo v. Town of Ross*, 70 Cal. App. 4th 309, 82 Cal. Rptr. 2d 649 (1999), the argument that the Town unreasonably delayed taking action on an application failed in part because the Town took action to deny the project within the Permit Streamlining Act's time frames.

H. Coastal Development Permits

A local agency's approval or denial of a coastal development permit may be appealed to the Coastal Commission. Appeals must be filed within 10 working days from the Commission's receipt of the notice of the local agency's decision. Public Resources Code § 30603(c).

If a permit is deemed approved by virtue of the Permit Streamlining Act, the appeal period will not commence to run as of the date of the deemed approval unless the applicant provides notice to the Coastal Commission. *Ciani v. San Diego Trust & Savings Commission*, 233 Cal. App. 3d 1604, 285 Cal. Rptr. 699 (1991).

II. CEQA

A. Initial Study

Thirty days after an application for a private project is accepted as complete or deemed complete, the lead agency must complete its initial environmental study, which determines whether to require the preparation of an Environmental Impact Report (EIR) or Negative Declaration. Public Resources Code § 21080.2; 14 California Code of Regulations ("CEQA Guidelines") § 15102.

A lead agency's failure to make this determination within 30 days after an application is complete or deemed complete does not nullify the agency's determination to require further environmental review, as CEQA's time limits are directory, not mandatory; there is no sanction for an agency's failure to comply with the time limitations for preparing an initial environmental study. *Eller Media v. Community Redevelopment Agency*, 108 Cal. App. 4th 25, 133 Cal. Rptr. 2d 324 (2003).

The 30-day time limit for completing the initial environmental study may be extended by 15 days if the applicant consents. Public Resources Code § 21080.2; CEQA Guidelines § 15102.

B. Time Limits for Adopting Negative Declarations²

Negative Declarations must be adopted 180 days after the application is accepted as complete. Public Resources Code § 21151.5; CEQA Guidelines § 15107. Additional time to complete the Negative Declaration may be allowed by ordinance or resolution if justified by compelling circumstances and the applicant consents thereto. Public Resources Code § 21151.5. The Negative Declaration may be approved, denied or conditionally approved at the time that the development project is approved, denied or conditionally approved. CEQA Guidelines § 15107.

Sixty days after adoption of the Negative Declaration (or a determination that the project is exempt from CEQA), the lead agency must approve, disapprove or conditionally approve the project. Government Code § 65950. This period may be extended for up to 90 days with the applicant's consent. Government Code § 65957; CEQA Guidelines § 15111(c).

An unreasonable delay by the applicant in meeting requests necessary for the preparation of the Negative Declaration may serve to delay the approval period, or even result in project disapproval. CEQA Guidelines § 15109.

C. Time Limits for Certifying EIRs

Immediately after determining that an EIR is required, the lead agency must notify other government agencies with approval authority over the project by sending them a "Notice of Preparation." CEQA Guidelines §§ 15082, 15375. If the EIR will be prepared under

² The same rules governing Negative Declarations for timeline purposes apply to Mitigated Negative Declarations. Public Resources Code § 21064.5; CEQA Guidelines § 15070(b).

contract (CEQA Guidelines § 15084(a)), the agency is required to execute that contract within 45 days after the Notice of Preparation is issued. Applicants may agree to an extension. Public Resources Code § 21151.5.

An EIR for a private (i.e., non-government) project must be certified within one year from the date the application is accepted as complete. Public Resources Code § 21151.5; CEQA Guidelines 15108. An additional 90 days to certify the EIR may be allowed by ordinance or resolution if justified by compelling circumstances and the applicant consents. Public Resources Code § 21151.5; CEQA Guidelines § 15108.

Development projects must be approved, denied or conditionally approved within 180 days from date of EIR certification. Government Code § 65950. This period may be extended once upon consent of the applicant for up to 90 days. Government Code § 65957; CEQA Guidelines § 15111(c).

If, however, the decision to certify the EIR is not made within the one year after the application is accepted as complete, but is extended pursuant to Public Resources Code § 21151.5, the agency must decide whether to approve or disapprove the project within 90 days after EIR certification. Government Code § 65950.1. This period may be extended one time only for up to 90 days with the applicant's consent. Government Code § 65957.

D. Failing to Comply with CEQA's Time Limits: Deemed Approval?

What if a lead agency fails to adopt a Negative Declaration or certify an EIR, as applicable, within the time limits mandated by Public Resources Code § 21151.5? Can a project be deemed approved in the absence of these environmental approvals?

The answer is no. The Permit Streamlining Act's time limits may not be used to compel an agency to make a CEQA determination. CEQA's time limits are directory, not mandatory. *Eller Media v. Community Redevelopment Agency*, 108 Cal. App. 4th 25, 133 Cal. Rptr. 2d 324 (2003); see also *Riverwatch v. San Diego County (Palomar Aggregates)*, 76 Cal. App. 4th 1428, 91 Cal. Rptr. 2d 322 (1999).

A lead agency's failure to complete an initial environmental study within 30 days after an application is complete does not nullify the agency's determination to require further environmental review. *Eller Media v. Community Redevelopment Agency*, 108 Cal. App. 4th 25, 133 Cal. Rptr. 2d 324 (2003).

In *Sunset Drive Corp. v. City of Redlands*, 73 Cal. App. 4th 215, 86 Cal. Rptr. 2d 209 (1999), however the Court stated that the duty to prepare an EIR within one year is not directory, but a ministerial duty, enforceable by ordinary mandamus. A lead agency has no discretion to refuse to complete an EIR once it determines that an EIR is required. The Court refused to relieve the agency of the one-year requirement, notwithstanding that the applicant's consultant prepared the draft EIR, the consultant's work product was substandard, and the applicant refused to revise the draft EIR to the agency's

standards.

Sunset Drive explained that designating a procedural requirement as "directory" or "mandatory" does not refer to whether the requirement is permissive or obligatory, but merely denotes whether the failure to comply with that procedural step will invalidate the government action. If the action will be invalidated, the requirement is "mandatory." If not, it is "directory," according to the Court. See also *Plastic Pipe and Fittings Association v. California Building Standards Commission*, 124 Cal. App. 4th 1390, 22 Cal. Rptr. 3d 393 (2004); *Orsi v. City of Salinas*, 219 Cal. App. 3d 1576, 268 Cal. Rptr. 912 (1990).

III. Subdivision Map Act

A. Tentative Maps

A tentative map may not be deemed approved under the Permit Streamlining Act under any circumstances unless the map satisfies all applicable subdivision regulations. Government Code § 66452.4; *Pongputmong v. City of Santa Monica*, 15 Cal. App. 4th 99, 18 Cal. Rptr. 2d 550 (1993).

A tentative map may not be deemed approved under the Permit Streamlining Act unless due process requirements, such as notice and a hearing, are satisfied. *Horn v. Ventura County*, 24 Cal. 3d 605, 156 Cal. Rptr. 718 (1979); 81 *Ops. Cal. Atty. Gen.* 166 (No. 97-1209).

B. Subdivision Map Approvals for Which a Negative Declaration Is Required

If a development project which requires a Negative Declaration involves a tentative subdivision map, special rules apply.

Most cities and counties have a planning commission (or body with a similar title) to which the city council or board of supervisors delegates certain land use authority. Fifty days after adoption of the Negative Declaration, or a determination that the project is exempt from CEQA, one of two actions must be taken by the planning commission. If the planning commission has been delegated the authority to approve tentative subdivision maps (as is usually the case), the planning commission must approve, disapprove or conditionally approve the map within the 50-day period. Government Code §§ 65952.1, 66452.1(b).

But if the planning commission has been delegated the authority only to make recommendations regarding tentative subdivision maps, the planning commission must make its recommendation within 50 days after adoption of the Negative Declaration, or a determination that the project is exempt from CEQA. Government Code §§ 65952.1, 66452.1(a). Then, at its next regular meeting following receipt of the planning commission's recommendation, the City Council or Board of Supervisors, as applicable,

must fix a date in which to approve, disapprove or conditionally approve the map. That date must be within 30 days of the receipt of the planning commission's report. Government Code § 66452.2(a).

It is not clear whether the time limits governing tentative subdivision map approvals for which a Negative Declaration is required (or which are exempt from CEQA) may be extended for 90 days upon consent of the applicant. Compare Government Code § 65952.1(a) with § 65957.

An unreasonable delay by the applicant in meeting requests necessary for the preparation of the Negative Declaration may delay the approval period or result in project disapproval. CEQA Guidelines § 15109; *Riverwatch v. San Diego County (Palomar Aggregates)*, 76 Cal. App. 4th 1428, 91 Cal. Rptr. 2d 322 (1999).

C. Subdivision Map Approvals for Which an EIR Is Required

The time limits for tentative subdivision map approvals when an EIR is required are the same, mutatis mutandis, as when a Negative Declaration is required. Accordingly, 50 days after certification of the EIR, the planning commission must approve, disapprove or conditionally approve the map if it has such authority. Government Code §§ 65952.1, 66452.1(b). If the planning commission has the authority only to make subdivision map recommendations, the planning commission must make its recommendation within 50 days following EIR certification. Government Code §§ 65952.1, 66452.1(a). At the next regular meeting following the planning commission's recommendation, the City Council or Board of Supervisors, as applicable, must fix a date in which to approve, disapprove or conditionally approve the subdivision map. That date must be within 30 days of receipt of the planning commission's report. Government Code § 66452.2(a).

As with tentative subdivision map approvals for which a Negative Declaration is required, it is not clear whether the time limits governing tentative subdivision map approvals for which an EIR is required may be extended for 90 days upon consent of the applicant. Compare Government Code § 65952.1(a) with § 65957.



City of Oakland Fire Prevention
250 Frank Ogawa Suite 3341
510-238-3851

Inspection Work Order

PLU#: 120805
120 - FPB - Reference Questions
1x 0.00 0.00
Filemaker Pro #: 2019-71827
Filemaker Pro address: 1110-1114 Peralta
What is the item #: one hour plan review
fee
DEPT#: 1209601
120 - FPB - PLAN CHECK OLD FEE
1x 585.70 585.70

Reason: Planning
Scheduled: 2020-02-03 12:00AM
Assigned To: Iwamoto, Grant

Payer Name: Bruce E Loughridge

SubTotal: 585.70
Total: 585.70

Master Card 585.70
Number : *****5409
Date : 04/21

2/5/2020 15:42 HO
#1097478 /5/8
Receipt #: 1013463

Thank you.

poke to applicant, informed fee due and ready for pick up. cp
binet giwamoto

Plans from Zoning Division re condominium conversion of a detached single
two-unit bldg. Enclosed is one (1) copy of a tentative parcel map. dl

Applicant:
Applicant Ph#:
Contractor:
Contractor Ph#:

Jose Herrera
238-3808
bruce
435-8786

Field Contact #

Plan Pick-Up Person

Cert Mail #

Plans for pickup

Cancelled or Re-Scheduled inspections made with ≤24-hrs notice are subject to a \$409.04 fee according to the 2019-2020 Oakland City Master Fee Schedule.





#315563

Inspection Work Order

Feb 05 2020 03:44 pm Trans#333695

TRANSACTION RECORD

Card Number : *****5409
Expiry Date : **/**
Card Entry : SWIPED
Account : MASTERCARD
Trans Type : PURCHASE
Amount : \$585.70

Auth # : 01574J
Sequence # : 480400005
Reference # : 80400005
Trace # : 0205
Merchant ID : 000018410084
Terminal # : 00104
Date : 20/02/05
Time : 15:44:08

APPROVED

*** CUSTOMER COPY ***

Reason: Planning
Scheduled: 2020-02-03 12:00AM
Assigned To: Iwamoto, Grant

spoke to applicant, informed fee due and ready for pick up. cp abinet giwamoto

Plans from Zoning Division re condominium conversion of a detached single two-unit bldg. Enclosed is one (1) copy of a tentative parcel map. dl

Applicant:
Applicant Ph#:
Contractor:
Contractor Ph#:

Contact Name: Jose Herrera
Field Contact #: 238-3808
Plan Pick-Up Person: bruce
Cert Mail #: 435-8786

Plan for pickup

Cancelled or Re-Scheduled inspections made with ≤24-hrs notice are subject to a \$409.04 fee according to the 2019-2020 Oakland City Master Fee Schedule.





Oakland Fire Department, Fire Prevention Bureau
 250 Frank H. Ogawa Plaza, Ste. 3341
 Oakland, CA 94612-2032



(510) 238-3851
 TTY (510) 238-6884

Inspection Work Order

Business Name:	P2 Oakland CA, LLC	Reason:	Planning
Address:	1110-1114 Peralta ST	Scheduled:	2020-02-03 12:00AM
Job (Insp Ref#):	2019-71827	Assigned To:	Iwamoto, Grant

Comments: 02/04/20 due \$585.70, spoke to applicant, informed fee due and ready for pick up. cp
 2/3/20 completed; on cabinet giwamoto

10/04/19 - Received plans from Zoning Division re condominium conversion of a detached single family residence and a two-unit bldg. Enclosed is one (1) copy of a tentative parcel map. dl

Invoice #	Applicant:
Invoice Amount	Applicant Ph#:
	Contractor:
	Contractor Ph#:

Contact Name	Jose Herrera
Field Contact #	238-3808
Plan Pick-Up Person	bruce
Cert Mail #	435-8786

Plans for pickup

Cancelled or Re-Scheduled inspections made with ≤24-hrs notice are subject to a \$409.04 fee according to the 2019-2020 Oakland City Master Fee Schedule.

CITY OF OAKLAND



OAKLAND FIRE DEPARTMENT
FIRE PREVENTION BUREAU

250 Frank H. Ogawa Plaza • Suite 3341 • Oakland, California 94612-2033

Reviewed by: Grant Iwamoto P.E.
Phone (510) 238-6675
Email: giwamoto@oaklandca.gov

(510) 238-3854
FAX (510) 238-6739
TDD(510) 238- 3254

Comments

1110-1114 Peralta St
Oakland, CA

2019-71827
PLN19246/TPM110
Date: 02.03.2020

APPROVED

This is a review for OFD code issue only. If the project is to be approved by the advisory agency, please see attach the following conditions of approval:

1. Project Description: Scope of work involves the condominium conversion of an existing Single-Family Residence (SFR) and two-unit residential building. Tentative Parcel Map (TPM11028) to allow for airspace subdivision into individual residential units.

RE: Automatic reply: PLN19246 Tentative Parcel Map Condo Conversion Approval

From: Klein, Heather (hklein@oaklandca.gov)

To: bruce.loughridge@sbcglobal.net; RMerkamp@oaklandca.gov

Cc: BMulry@oaklandcityattorney.org; triallaw@cruzio.com; donald@lawofficedonaldschwartz.com; wendtjanice@gmail.com

Date: Wednesday, February 3, 2021, 06:08 PM PST

Bruce,

Thank you for your submittal. Unfortunately, these documents are no different and provide no further compelling information than what you already submitted to the Bureau of Planning. Furthermore, to date you did not indicate whether you were going to withdraw your application and try to find conversion rights pursuant to the new Ordinance or whether you wanted to move forward with a denial. Unfortunately, those were and remain the only options available to you at this point now that the regulations have changed.

As I stated before, even if the application was “deemed complete”, it was not and could not be “deemed approved.”

Your application was not in compliance with the Condominium Conversion rules regarding tenant notifications and the timing by which those were to be completed prior to your submittal of the application (60 days). We have no ability to disregard the tenant notification process even if the application is “deemed complete” because City staff did not provide you with an incomplete letter within 30 days.

City staff have not offered to have a meeting with you. The correspondence you noted below that referenced a “meeting” was not intended for you but for City staff and the City Attorney. You were included accidentally, and we ask that you disregard the correspondence since it is attorney-client privileged. We have indicated our position to you in writing several times, as have you for us. As such, a meeting would not be productive for either side. We simply cannot ignore the process and the fact that you did not satisfy the tenant notification requirements under the prior Condo Conversion Ordinance.

In order to move forward with a decision on this issue, City staff have no alternative but to notice the project for denial. City staff will be mailing the notice out Friday, February 5th. The public comment period is 10 days after mailing and ends on February 15th, after which staff will issue a formal denial letter unless substantial evidence is submitted on the record to support reversing City Staff’s preliminary denial determination . You will be entitled to file an appeal within 10 days of the final decision letter, and present your case to the Planning Commission.

Alternatively, if you would like to explore ways to satisfy the tenant notification and conversion rights requirements under the newly adopted Ordinance and after you resubmit your application, City Staff and the City Attorney’s office could work with you and your advisors on navigating the process. If you elect to work on an application resubmittal, please let us know as soon as possible.

Sincerely,

Heather Klein, Planner IV | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 |Oakland, CA 94612 | Phone: (510)238-3659| Fax: (510) 238-6538 | Email: hklein@oaklandca.gov | Website: <https://www.oaklandca.gov/departments/planning-and-building>

1110-1114 Peralta

From: Klein, Heather (hklein@oaklandca.gov)

To: wendtjanice@gmail.com; bruce.loughridge@sbcglobal.net

Cc: RMerkamp@oaklandca.gov; Mmorris2@oaklandca.gov; BMulry@oaklandcityattorney.org

Date: Friday, February 21, 2020, 11:51 AM PST

All,

As you may be aware the update to the Condominium Conversion Ordinance was passed by City Council on Tuesday. It goes into effect on February 25th since the Ordinance only received 5 votes instead of the full six.

Unfortunately your project could not / cannot be deemed complete as it did not have the required tenant notification details provided prior to application submittal or a recent title report. As such, the new Ordinance will apply to this project, and we cannot process it without the Condominium Conversion Rights being first identified and verified, and then applied to this project via separate Determination Letters.

At this point you have two options. One is to withdraw the project and resubmit after you have a formal determination and agreement regarding condo conversion rights. Robert has indicated that he would provide a full refund. I've attached the refund request form. Should you choose this option, please complete it and submit it to the permit counter cashier with the accompanying documents for processing.

The other option is to have staff put the project out for denial. In this case, you would not receive any refund.

Please let me know how you would like to proceed.

Heather Klein, Planner IV | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510)238-3659 | Fax: (510) 238-6538 | Email: hklein@oaklandca.gov | Website: <https://www.oaklandca.gov/departments/planning-and-building>



Refund Request.pdf
296.7kB



Community and
Economic
Development Agency

A Guide to

Condominium Conversions

in the City of Oakland

A GUIDE TO CONDOMINIUM CONVERSIONS IN THE CITY OF OAKLAND

What constitutes a “conversion”?

- a change in the type of ownership from residential rental realty to a stock cooperative, a condominium, or community apartment project
- applies only to buildings for which a certificate of occupancy has been issued for a multifamily building (new construction that is not yet occupied is exempt from these requirements)

The condominium conversion regulations consist of five main components:

1. Tenant notification and assistance (tenant rights)
2. Replacement rental units, called “conversion rights”
3. Tentative and Final Map preparation and City review
4. Noise insulation and building code upgrades
5. Property inspection and report

1. TENANT RIGHTS

Tenant notification (16.36.020 – 040)

- 60 days prior to filing a tentative parcel map, a subdivider must provide all existing and prospective tenants with:
 - notice of intent to convert,
 - description of the conversion process,
 - notice of tenant rights,
 - copy of the subdivider’s “preliminary tenant assistance program”
- If units are vacant, applicant must provide a notarized letter stating when the units were vacant (must be at least 60 days prior to application).
- If the subdivider fails to give notice to a prospective tenant who then becomes a tenant and was entitled to such notice, he or she shall pay to the tenant:
 - actual moving expenses incurred while moving from the subject property, not to exceed \$500
 - first month’s rent on tenant’s new unit, but not to exceed \$500
- The City must provide tenants with notice of any public hearings held on the tentative map, as well as copies of reports and recommendations concerning tentative parcel map approval, decisions, etc. In order to do this, the subdivider must provide to the City the names and addresses of all tenants.
- Tenant notification requirements may be waived by Director of City Planning if the building proposed for conversion is not tenant-occupied at the time of tentative parcel map application (16.36.060B).

Tenant rights (16.36.050(A)):

- Tenants are guaranteed the following minimum rights (these must be included in the “notice of tenant rights”):
 - tenants may terminate their lease or rental agreement without penalty within 30 days of receipt of “notice of intent to convert”
 - no rent increase is permitted until at least 12 months after subdivider files the tentative map application
 - no remodeling of the interior of tenants’ units may occur until at least 30 days after issuance of the final subdivision report, or after the start of the sales program
 - tenants have the exclusive right to contract for the purchase of their unit, or any other available unit in the building, upon the same or more favorable terms and conditions that such units will be initially offered to the general public – this right runs for at least 90 days from the issuance of the final subdivision report
 - tenants have a right of occupancy of at least 180 days from the issuance of final subdivision report, or the start of the sales program

Rights of tenants of units containing a tenant 62 years of age or older (16.36.050(A)(6)):

- Tenants who are 62 years of age or older are guaranteed the following additional rights (these must be included in the “notice of tenants rights”):
 - option of a lifetime lease on his or her unit, or, at tenant’s option, on any other available unit in the building
 - limitations on base monthly rent and % increase (based on rent price one year prior to filing of the tentative parcel map, with increases tied to the consumer price index (CPI) for the Bay Area)
 - tenants cannot be evicted except for just cause
 - except as listed above, the terms and conditions of the lifetime lease shall be the same as those contained in the tenants current lease or rental agreement.

Tenant assistance program (16.36.050(B)):

- The subdivider must develop a tenant assistance program that includes:
 - incentives and inducements that would increase the potential for, and ability of, tenants to become owners in the conversion
 - actions and procedures to enable hard-to-relocate tenants to remain as tenants
 - relocation and moving assistance and information to be provided to each tenant and all the steps the subdivider will take to ensure the successful relocation of each tenant
 - specific steps that will be taken to assist elderly, disabled, and other tenants who may encounter difficulty in finding new quarters

Other provisions (16.36.070(C)):

- A subdivider may not vacate units in a building proposed for conversion in order to avoid providing payments and other benefits to tenants as described in the tenant assistance program.

2. CONVERSION RIGHTS – REPLACEMENT RENTAL UNITS

Where and when the requirements apply (16.36.070 (A) and (G)):

- In the “conversion impact area” (see attached map), the conversion of any number of units requires “conversion rights” equal in number to the units proposed for conversion:
 - in the “primary impact area,” those units must be generated within the primary impact area
 - in the “secondary” impact area, those units can be generated from either the primary or secondary area
- In the remainder of the city, the conversion of five or more units requires “conversion rights” equal in number to those proposed for conversion and may be generated anywhere in the city.

How “conversion rights” may be generated (16.36.070(B), (C), and (D)):

- Conversion rights for a condominium conversion may be created in any of the following ways:
 - new rental construction
 - increasing the number of units in an existing residential rental building
 - converting a non-residential building to residential rental units
 - major rehabilitation of a residential rental building that has been vacant for at least one year (rehabilitation is considered “major” if it equals at least 20% of the total value of building after rehabilitation). The conversion rights may also be applied to the building being rehabilitated (i.e. rehabilitating a vacant 10-unit apartment building into 5 condominium units and 5 rental units – the 5 rental units qualify as conversion rights for the 5 condominiums)
 - construction of a condominium, community apartment, or stock cooperative project if the owner of such project “makes an agreement in writing with the city that for a period of not less than seven years, the owner will offer the units in the project to the public as conventional rental units subject to a lease that shall contain no commitment for later purchase of the units.”

Time limit (16.36.070(E)):

- Tentative map approval of the condominium conversion must take place no later than **seven years** from the issuance of a certificate of occupancy on the projects generating the conversion rights (i.e. new rental construction can qualify for conversion rights only if it was built within the last seven years).

3. TENTATIVE & FINAL MAP PREPARATION AND CITY REVIEW

Tentative map (16.36.060):

- Condominium conversions require the conduct of a survey and the preparation of a tentative and final map by a licensed land surveyor.
 - Condominium conversions for four or fewer residential units require an application for a Tentative Parcel Map with the Planning & Zoning Department. The Planning & Zoning Department will hold a 10-day public comment period, with notices being sent to all properties within 300-feet of the proposed condominium conversion. Upon approval by the Planning & Zoning Department, a final Parcel Map must be submitted to the Building Services Department for engineering review, prior to being filed with the Alameda County Recorder.

- Condominium conversions for five or more residential units require an application for a Tentative Tract Map with the Planning & Zoning Department. A Planning Commission public hearing will be held, with notices being sent to all properties within 300-feet of the proposed condominium conversion. Upon approval by the Planning & Zoning Department, a final Tract Map must be submitted to the Building Services Department for engineering review and approval by the City Council, prior to being filed with the Alameda County Recorder.

Information to be filed with final map (16.36.090):

- The following items must be filed along with the final Parcel Map or Tract Map with the Alameda County Recorder:
 - a copy of the tenant assistance program described above
 - for projects involving 5 or more units: a copy of the final subdivision public report issued by the state Department of Real Estate
 - for projects involving 4 or fewer units: the written notice by the subdivider of the start of the sales program
 - a certificate of occupancy for the building(s) being converted that was issued by the Building Services Department prior to the application date for the Tentative Parcel Map or Tentative Tract Map
 - a copy of the property inspection reports described in section #5 below.
 - for projects involving conversion rights: evidence that the subdivider owns conversion rights equal in number to the units to be converted

4. NOISE INSULATION AND BUILDING CODE UPGRADES

Noise insulation (16.36.130):

- Residential rental units converted into condominiums cannot be offered for sale until they conform to the noise insulation standards contained within Title 25 of the California Administrative Code. This may require physical modification of the building. Contact the Building Services Department for further information regarding this requirement.

Building Code upgrades:

- Additional building code upgrades requiring physical modification of the building may be required. These can include fire wall separation, protection of window openings near property lines, and independent utility meters. Contact the Building Services Department for further information regarding these requirements.

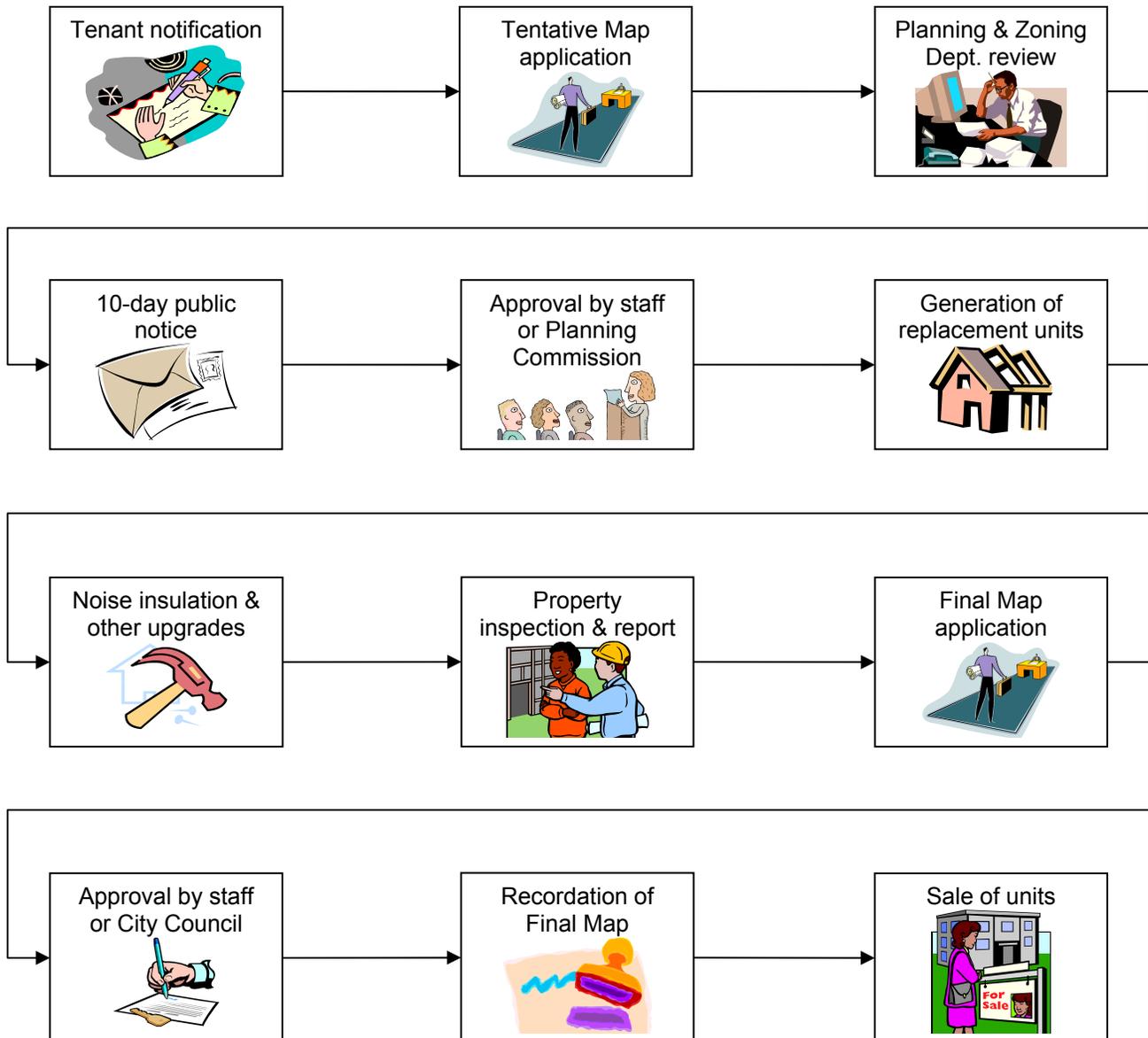
5. PROPERTY INSPECTION AND REPORT

Information to be given to prospective buyers (16.36.120):

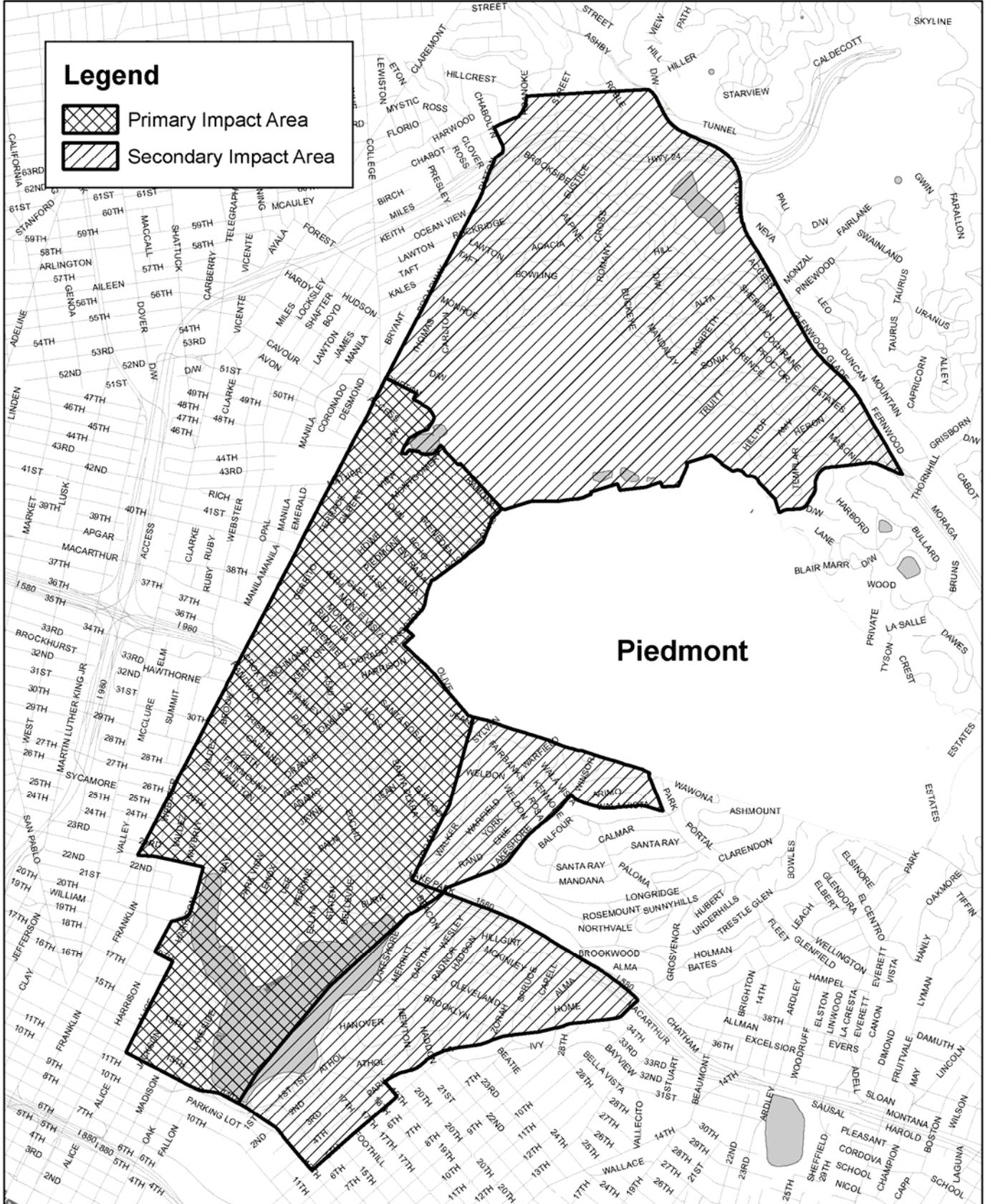
- All prospective buyers of condominium conversion units shall be given a 72-hour period following an agreement to purchase, during which time they may withdraw from the agreement to purchase, without penalty or cost. Notice of this 72-hour period shall be given in writing to all prospective buyers, along with the following property inspection reports: *(see next page)*

- a property report prepared and signed by an appropriately licensed contractor or engineer that shall describe the condition and useful life of the roof and foundations, and the mechanical, electrical, plumbing, and structural elements of all existing structures on the property; and an estimate of future property maintenance costs
- a structural pest report prepared and signed by a licensed pest control operator
- a report describing the building with regard to whether utilities are separately metered; location of water shutoff valves; availability of protected storage space in addition to closet space ordinarily contained within a unit; and laundry facilities, if any
- a statement, signed by a person experienced in the field of acoustical testing and engineering, certifying that the converted unit conforms to the noise insulation standards contained within Title 25 of the California Administrative Code

CONDOMINIUM CONVERSION FLOW CHART



CONDOMINIUM CONVERSION IMPACT AREA



Piedmont

Chapter 16.57 VESTING TENTATIVE MAPS

Sections:

[16.57.010 General provisions.](#)

[16.57.020 Procedures.](#)

[16.57.030 Development rights.](#)

16.57.010 General provisions.

A. Citation and Authority. The ordinance codified in this chapter is enacted pursuant to the authority granted by Chapter 4.5 (commencing with Section 66498.1) of Division 2 of Title 7 of the Government Code of the state of California (hereinafter referred to as the vesting tentative map statute), and may be cited as the “vesting tentative map ordinance.”

B. Purpose and Intent. It is the purpose of this chapter to establish procedures necessary for the implementation of the vesting tentative map statute, and to supplement the provisions of the Subdivision Map Act and the subdivision ordinance. Except as otherwise set forth in the provisions of this chapter, the provisions of the subdivision ordinance shall apply to the vesting tentative map ordinance.

C. Consistency. No land shall be subdivided and developed pursuant to a vesting tentative map for any purpose which is inconsistent with the general plan and any applicable specific plan or not permitted by the zoning ordinance or other applicable provisions of the municipal code.

D. Definitions.

1. A “vesting tentative map” shall mean a “tentative map” for a residential subdivision, as defined in the city subdivision ordinance, that shall have printed conspicuously on its face the words “vesting tentative map” at the time it is filed in accordance with FMC [16.57.020\(A\)](#), and is thereafter processed in accordance with the provisions hereof.

2. All other definitions set forth in the city subdivision ordinance are applicable.

E. Application.

1. This chapter shall apply to residential, commercial, and industrial developments. Whenever a provision of the Subdivision Map Act, as implemented and supplemented by the city subdivision ordinance, requires the filing of a tentative map or tentative parcel map for a residential, commercial, or industrial development, a vesting tentative map may instead be filed, in accordance with the provisions hereof.

2. If a subdivider does not seek the rights conferred by the vesting tentative map statute, the filing of a vesting tentative map shall not be a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction. (Ord. 90-552 § 2).

16.57.020 Procedures.

A. Filing and Processing. A vesting tentative map shall be filed in the same form and have the same contents, accompanying data and reports and shall be processed in the same manner as set forth in the city subdivision ordinance for a tentative map except as hereinafter provided:

1. At the time a vesting tentative map is filed it shall have printed conspicuously on its face the words “vesting tentative map.”

2. At the time a vesting tentative map is filed, a subdivider shall also supply the following information:

- a. Height, size, and location of building for multifamily developments only;
- b. Sewer, water, storm drain and road details;
- c. Information on the uses to which the buildings will be put;
- d. Detailed grading plans;
- e. Geological studies;
- f. Flood control information;
- g. Architectural plans for multifamily developments only.

B. Fees. Upon filing a vesting tentative map, the subdivider shall pay the fees required by FMC [16.08.090](#), Map processing fee, for the filing and processing of a tentative map.

C. Expiration. The approval or conditional approval of a vesting tentative map shall expire at the end of the same time period, and shall be subject to the same extensions, established by the subdivision ordinance for the expiration of the approval or conditional approval of a tentative map. (Ord. 90-552 § 2).

16.57.030 Development rights.

A. Vesting on Approval of Vesting Tentative Map.

1. The approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Section [66474.2](#) of the Government Code.

However, if Section [66474.2](#) of the Government Code is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.

2. Notwithstanding subsection (A)(1) of this section, a permit approval, extension, or entitlement may be made conditional or denied if any of the following are determined:

a. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both;

b. The condition or denial is required, in order to comply with state or federal law.

3. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in FMC [16.57.020\(C\)](#). If the final map is approved, these rights shall last for the following periods of time:

a. An initial time period of one year. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this initial time period shall begin for each phase when the final map for that phase is recorded;

b. The initial time period set forth in subsection (A)(3)(a) of this section shall be automatically extended by any time used for processing a committee application for a grading permit or for design or architectural review, if such processing exceeds 30 days, from the date a complete application is filed;

c. A subdivider may apply for a one-year extension at any time before the initial time period set forth in subsection (A)(3)(a) of this section expires. If the extension is denied, the subdivider may appeal that denial to the city council within 15 days;

d. If the subdivider submits a complete application for a building permit during the periods of time specified in subsections (A)(3)(a) through (c) of this section the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.

B. Development Inconsistent with Zoning – Conditional Approval.

1. Whenever a subdivider files a vesting tentative map for a subdivision whose intended development is inconsistent with the zoning ordinance in existence at that time, that inconsistency shall be noted on the map. The city may deny such a vesting tentative map or approve it conditioned on the subdivider, or his or her designee, obtaining the necessary change in the zoning ordinance to eliminate the inconsistency. If the change in the zoning ordinance is obtained, the approved or conditionally approved vesting tentative map shall, notwithstanding subsection (A) of this section, confer the vested right to proceed with the development in substantial compliance with the change in the zoning ordinance and the map, as approved.

2. The rights conferred by this section shall be for the time periods set forth in subsection (A)(3) of this section.

C. Applications Inconsistent with Current Policies. Notwithstanding any provision of this chapter, a property owner or his or her designee may seek approvals or permits for development which depart from the ordinances, policies, and standards described in this section, and local agencies may grant these approvals or issue these permits to the extent that the departures are authorized under applicable law. (Ord. 90-552 § 2).

2020 RENT LIMITS
MAXIMUM RENTS ALLOWED FOR CITY-ASSISTED HOUSING DEVELOPMENTS
OAKLAND, CALIFORNIA

Effective Date: HOME Income & Rent Limits - 7/1/2020;
Sec 8 FMRs - 10/1/2019; TCAC - 4/1/2020; CA HCD - 5/6/2019; NSP - 6/28/2019

RENT LIMITATIONS	SRO ¹	0 Bdrm. ²	1 Bdrm.	2 Bdrm.	3 Bdrm.	4 Bdrm.	5 Bdrm.
30% of 20% of area median income	\$343	\$457	\$489	\$587	\$678	\$757	\$835
30% of 25% of area median income	\$428	\$571	\$612	\$734	\$848	\$946	\$1,044
30% of 30% of area median income	\$514	\$685	\$734	\$881	\$1,018	\$1,135	\$1,253
30% of 35% of area median income	\$599	\$799	\$799	\$856	\$1,187	\$1,324	\$1,462
30% of 50% of area median income	\$857	\$1,142	\$1,142	\$1,223	\$1,696	\$1,892	\$2,088
30% of 60% of area median income	\$1,028	\$1,371	\$1,371	\$1,371	\$2,036	\$2,271	\$2,506
30% of 80% of area median income	\$1,371	\$1,828	\$1,958	\$2,350	\$2,715	\$3,028	\$3,341
30% of 100% of area median income	\$1,713	\$2,284	\$2,446	\$2,936	\$3,392	\$3,784	\$4,176
30% of 110% of area median income	\$1,885	\$2,514	\$2,692	\$3,231	\$3,733	\$4,164	\$4,595
HOME Low Rents³	n/a	\$1,142	\$1,223	\$1,468	\$1,696	\$1,892	\$2,088
HOME High Rents³	n/a	\$1,465	\$1,571	\$1,888	\$2,172	\$2,404	\$2,634
Section 8 Fair Market Rent		\$1,488	\$1,808	\$2,239	\$3,042	\$3,720	\$4,278

(1) SRO units are single room units without both a kitchen and a bathroom.

(2) 0 Bedroom units have both kitchen and bathroom (efficiency and studio units)

(3) HOME units must comply with applicable HOME Low or High rents. Apply the most restrictive rent when different.

Rent increases on City of Oakland restricted affordable housing units are subject to City approval based on the current annual rent increase policy.

Rents must be reduced by an allowance for tenant-paid utilities.

Sponsors may use the utility allowances under the federal Section 8 program as published by the Oakland Housing Authority, or sponsors may present documentation substantiating other figures.

To calculate Utility Allowances, see the Oakland Housing Authority's Utility Allowance chart, available at www.oakha.org. Housing developments with loan closings after 8/23/2013 must use the HUD utility model to calculate the utility allowance.

2020 RENT LIMITS - INCLUSIONARY UNITS
MAXIMUM RENTS ALLOWED FOR INCLUSIONARY AFFORDABLE HOUSING ⁽¹⁾
OAKLAND, CALIFORNIA

RENT LIMITATIONS	0 Bdrm.²	1 Bdrm.	2 Bdrm.	3 Bdrm.	4 Bdrm.	5 Bdrm.
30% of 30% of area median income	\$686	\$783	\$881	\$979	\$1,058	\$1,136
30% of 50% of area median income	\$1,143	\$1,305	\$1,469	\$1,631	\$1,763	\$1,893
30% of 80% of area median income	\$1,828	\$2,089	\$2,350	\$2,610	\$2,820	\$3,029
30% of 100% of area median income	\$2,285	\$2,610	\$2,938	\$3,263	\$3,525	\$3,785
30% of 110% of area median income	\$2,514	\$2,871	\$3,231	\$3,589	\$3,878	\$4,164

(1) This applies to projects providing on-site affordable housing in lieu of payment of impact fees, and not subject to any pertinent federal statutes. Please refer to the City of Oakland Impact Fee Administrative Regulations and Manual, available here: <https://cao-94612.s3.amazonaws.com/documents/oak067718.pdf>

Rents must be reduced by an allowance for tenant-paid utilities.

Sponsors may use the utility allowances under the federal Section 8 program as published by the Oakland Housing Authority, or sponsors may present documentation substantiating other figures.

Rent Limits for inclusionary units differ from the City's standard rent limits due to different adjustments for estimated household size, per the City of Oakland Impact Fee Administrative Regulations and Manual, and the guidelines set forth by California Health and Safety Code Section 50052.5(h):

	Estimated Household Size					
	0 br	1 br	2 br	3 br	4 br	5 br
Inclusionary Units	1	2	3	4	5	6
Standard City-assisted properties	1	1.5	3	4.5	6	7.5

THE PERMIT STREAMLINING ACT AND OTHER DEVELOPMENT TIME LIMITS

For years, the time limits within which government agencies were required to approve or deny development projects were set forth in a confusing patchwork of statutory schemes that were seemingly irreconcilable. Beginning in the 1990s, however, the Legislature began enacting a series of measures to coordinate the time limits imposed by the Permit Streamlining Act (Government Code § 65920 *et seq.*), the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 *et seq.*), and the Subdivision Map Act (Government Code § 66410 *et seq.*). These Acts will be discussed in turn.

I. The Permit Streamlining Act

The Permit Streamlining Act was enacted in 1977 in order to expedite the processing of permits for development projects. Government Code § 65921.

The Permit Streamlining Act achieves this goal by (1) setting forth various time limits within which state and local government agencies must either approve or disapprove permits and (2) providing that these time limits may be extended once (and only once) by agreement between the parties.

Although hardly a paper tiger, the Permit Streamlining Act is less efficacious than it appears at first blush. As explained immediately below, a permit may not be deemed approved until the agency is provided with notice of the applicant's intent to invoke the Act, and an opportunity to hold a public hearing to decide whether to approve or deny the project. Further, a permit may not be deemed approved until the agency has complied with CEQA. Finally, the Permit Streamlining Act does not apply to legislative land use decisions or to ministerial permits.

A. Deemed Approval

If a local agency fails to approve or disapprove the permit within the time limits specified below, the permit is subject to being "deemed approved." Government Code § 65956(b). A deemed-approved permit confers the same privileges and entitlements as a regularly issued permit. *Ciani v. San Diego Trust & Savings Commission*, 233 Cal. App. 3d 1604, 1613, 285 Cal. Rptr. 699, 705 (1991).

If a local legislative body votes to deny a project within the time limits of the Permit Streamlining Act, but directs staff to return with a resolution on a date that falls outside of the Permit Streamlining Act's time limits, the application is timely denied and does not result in a deemed-approved project. The Permit Streamlining Act does not require that a denial be absolutely final in order to be timely. *El Dorado Palm Springs v. City of Palm Springs*, 96 Cal. App. 4th 1153, 118 Cal. Rptr. 2d 15 (2002).

B. Starting the Permit Streamlining Act's Clock

The Permit Streamlining Act clock does not start ticking until the applicant submits a completed permit application. The agency has 30 days after an application is submitted in which to inform the applicant of whether the application is complete. Government Code § 65943; 14 California Code of Regulations §§ 15060(a), 15101. If the agency does not so inform the applicant within that 30-day period, the application will be "deemed complete" if the application included the statement that it is an application for a development project (Government Code § 65943) even if the application is deficient. *Orsi v. City of Salinas*, 219 Cal. App. 3d 1576, 268 Cal. Rptr. 912 (1990).

A new 30-day period begins with each re-submission of an application. Government Code § 65943.

At one time, some agencies had required that applicants waive, or agree to extend, these time limits. That practice is now prohibited. Government Code § 65940.5; Public Resources Code §§ 21100.2, 21151.5.

Agencies are required to make lists available to the public that specify in detail the information required for an application. Government Code § 65940. Although these lists may be revised, such revisions generally apply prospectively only and not to pending applications. Government Code § 65942. Agencies may not require applicants to submit at the initial application stage all of the information required by the agency to take final action on the project. Government Code § 65944.

C. The Permit Streamlining Act Does Not Apply to All Permit Applications

The Permit Streamlining Act applies only to "development projects" as that term is defined in Government Code § 65928.¹

The Permit Streamlining Act does not apply to the following:

- Legislative land use decisions, such as amendments to the zoning ordinance or general plan. *Land Waste Management v. Contra Costa County*, 222 Cal. App. 3d 950, 271 Cal. Rptr. 909 (1990); *Landi v. Monterey County*, 139 Cal. App. 3d 934, 189 Cal. Rptr. 55 (1983).

¹ Government Code § 65928 provides:

"Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction but not a permit to operate. "Development project" does not include any ministerial projects proposed to be carried out or approved by public agencies.

- ❑ The approval or disapproval of final subdivision maps. Government Code § 65927.
- ❑ Permits for ministerial projects (Government Code § 65928), i.e., projects which do not involve the exercise of governmental discretion.
- ❑ Administrative appeals. Government Code § 65922(b).

D. Limits on Time Extensions

As noted above, a number of the Permit Streamlining Act's time limits may be extended once for a period of up to 90 days upon the mutual consent of the agency and the applicant. Government Code § 65957. In *Bickel v. City of Piedmont*, 16 Cal. 4th 1040, 68 Cal. Rptr. 2d 758 (1997), the California Supreme Court held that applicants may further waive the Permit Streamlining Act's time limits if the waiver is knowing, intelligent, and voluntary.

Section 65957 was amended effective January 1, 1999, to abrogate *Bickel*. Accordingly, no extension, continuance or waiver of the Permit Streamlining Act's time limits is allowed beyond § 65957's one-time, 90-day extension.

E. Time Limits for Responsible Agencies

The time limits discussed above assume that the agency is the "lead agency" – i.e., the agency principally responsible for carrying out or approving the project. Public Resources Code § 21067; Government Code § 65929.

Different rules apply if the agency is a "responsible agency." A responsible agency is any agency other than the lead agency which is responsible for carrying out or approving the project. Public Resources Code § 21069; Government Code § 65933.

Responsible agencies are required to approve or disapprove a development project that has been approved by the lead agency within 180 days from the later of (1) the date on which the lead agency approved the project or (2) the date on which the application for the project is accepted as complete by the responsible agency. Government Code § 65952.

F. Invoking the Permit Streamlining Act

Most persons affected by the Permit Streamlining Act – real estate professionals, government officials, community activists – assume that the Permit Streamlining Act is self-executing. It is not. It is true that the Permit Streamlining Act decrees that if the agency fails to approve or disapprove a project within the Act's time limits, the permit "shall" be deemed approved. The Permit Streamlining Act is careful to add, however, that such deemed-approved status may be conferred only if the "public notice required by law has occurred." Government Code § 65956(b). The purpose of this notice

requirement is to provide the agency with a final opportunity to hold a public hearing and make a decision on the project, thereby avoiding the harshness of a deemed-approved permit.

The applicant may provide the public notice required by law by giving seven days' advance notice to the agency of its intent to provide public notice. The public notice may not be provided earlier than 60 days from the expiration of the time limits set forth in Government Code § 65950 (or for responsible agencies, the time limits set forth in Government Code § 65952). If the applicant provides such notice, the time limits are extended to 60 days after such notice is provided. Government Code § 65956(b).

Alternatively, the applicant can seek the issuance of a writ of ordinary (traditional) mandamus (Code of Civil Procedure § 1085), directing the agency to provide the public notice required by law or provide the public hearing, or both. The mandamus action must be filed at least 60 days prior to the expiration of the time limits set forth in Government Code § 65950 (or for actions against responsible agencies, the time limits set forth in Government Code § 65952). Government Code § 65956(a).

There is no requirement that the public notice required by law be included in the normal public notices provided by the agency for project approvals. *Mahon v. San Mateo County*, 139 Cal. App. 4th 812, 43 Cal. Rptr. 3d 235 (2006).

G. Staying Within the Permit Streamlining Act's Time Frames May Defeat Unreasonable Delay Arguments

An unintended consequence of the Permit Streamlining Act is that it tends to act as a safe harbor for agencies that stay within its time frames. In *Toigo v. Town of Ross*, 70 Cal. App. 4th 309, 82 Cal. Rptr. 2d 649 (1999), the argument that the Town unreasonably delayed taking action on an application failed in part because the Town took action to deny the project within the Permit Streamlining Act's time frames.

H. Coastal Development Permits

A local agency's approval or denial of a coastal development permit may be appealed to the Coastal Commission. Appeals must be filed within 10 working days from the Commission's receipt of the notice of the local agency's decision. Public Resources Code § 30603(c).

If a permit is deemed approved by virtue of the Permit Streamlining Act, the appeal period will not commence to run as of the date of the deemed approval unless the applicant provides notice to the Coastal Commission. *Ciani v. San Diego Trust & Savings Commission*, 233 Cal. App. 3d 1604, 285 Cal. Rptr. 699 (1991).

II. CEQA

A. Initial Study

Thirty days after an application for a private project is accepted as complete or deemed complete, the lead agency must complete its initial environmental study, which determines whether to require the preparation of an Environmental Impact Report (EIR) or Negative Declaration. Public Resources Code § 21080.2; 14 California Code of Regulations ("CEQA Guidelines") § 15102.

A lead agency's failure to make this determination within 30 days after an application is complete or deemed complete does not nullify the agency's determination to require further environmental review, as CEQA's time limits are directory, not mandatory; there is no sanction for an agency's failure to comply with the time limitations for preparing an initial environmental study. *Eller Media v. Community Redevelopment Agency*, 108 Cal. App. 4th 25, 133 Cal. Rptr. 2d 324 (2003).

The 30-day time limit for completing the initial environmental study may be extended by 15 days if the applicant consents. Public Resources Code § 21080.2; CEQA Guidelines § 15102.

B. Time Limits for Adopting Negative Declarations²

Negative Declarations must be adopted 180 days after the application is accepted as complete. Public Resources Code § 21151.5; CEQA Guidelines § 15107. Additional time to complete the Negative Declaration may be allowed by ordinance or resolution if justified by compelling circumstances and the applicant consents thereto. Public Resources Code § 21151.5. The Negative Declaration may be approved, denied or conditionally approved at the time that the development project is approved, denied or conditionally approved. CEQA Guidelines § 15107.

Sixty days after adoption of the Negative Declaration (or a determination that the project is exempt from CEQA), the lead agency must approve, disapprove or conditionally approve the project. Government Code § 65950. This period may be extended for up to 90 days with the applicant's consent. Government Code § 65957; CEQA Guidelines § 15111(c).

An unreasonable delay by the applicant in meeting requests necessary for the preparation of the Negative Declaration may serve to delay the approval period, or even result in project disapproval. CEQA Guidelines § 15109.

C. Time Limits for Certifying EIRs

Immediately after determining that an EIR is required, the lead agency must notify other government agencies with approval authority over the project by sending them a "Notice of Preparation." CEQA Guidelines §§ 15082, 15375. If the EIR will be prepared under

² The same rules governing Negative Declarations for timeline purposes apply to Mitigated Negative Declarations. Public Resources Code § 21064.5; CEQA Guidelines § 15070(b).

contract (CEQA Guidelines § 15084(a)), the agency is required to execute that contract within 45 days after the Notice of Preparation is issued. Applicants may agree to an extension. Public Resources Code § 21151.5.

An EIR for a private (i.e., non-government) project must be certified within one year from the date the application is accepted as complete. Public Resources Code § 21151.5; CEQA Guidelines 15108. An additional 90 days to certify the EIR may be allowed by ordinance or resolution if justified by compelling circumstances and the applicant consents. Public Resources Code § 21151.5; CEQA Guidelines § 15108.

Development projects must be approved, denied or conditionally approved within 180 days from date of EIR certification. Government Code § 65950. This period may be extended once upon consent of the applicant for up to 90 days. Government Code § 65957; CEQA Guidelines § 15111(c).

If, however, the decision to certify the EIR is not made within the one year after the application is accepted as complete, but is extended pursuant to Public Resources Code § 21151.5, the agency must decide whether to approve or disapprove the project within 90 days after EIR certification. Government Code § 65950.1. This period may be extended one time only for up to 90 days with the applicant's consent. Government Code § 65957.

D. Failing to Comply with CEQA's Time Limits: Deemed Approval?

What if a lead agency fails to adopt a Negative Declaration or certify an EIR, as applicable, within the time limits mandated by Public Resources Code § 21151.5? Can a project be deemed approved in the absence of these environmental approvals?

The answer is no. The Permit Streamlining Act's time limits may not be used to compel an agency to make a CEQA determination. CEQA's time limits are directory, not mandatory. *Eller Media v. Community Redevelopment Agency*, 108 Cal. App. 4th 25, 133 Cal. Rptr. 2d 324 (2003); see also *Riverwatch v. San Diego County (Palomar Aggregates)*, 76 Cal. App. 4th 1428, 91 Cal. Rptr. 2d 322 (1999).

A lead agency's failure to complete an initial environmental study within 30 days after an application is complete does not nullify the agency's determination to require further environmental review. *Eller Media v. Community Redevelopment Agency*, 108 Cal. App. 4th 25, 133 Cal. Rptr. 2d 324 (2003).

In *Sunset Drive Corp. v. City of Redlands*, 73 Cal. App. 4th 215, 86 Cal. Rptr. 2d 209 (1999), however the Court stated that the duty to prepare an EIR within one year is not directory, but a ministerial duty, enforceable by ordinary mandamus. A lead agency has no discretion to refuse to complete an EIR once it determines that an EIR is required. The Court refused to relieve the agency of the one-year requirement, notwithstanding that the applicant's consultant prepared the draft EIR, the consultant's work product was substandard, and the applicant refused to revise the draft EIR to the agency's

standards.

Sunset Drive explained that designating a procedural requirement as "directory" or "mandatory" does not refer to whether the requirement is permissive or obligatory, but merely denotes whether the failure to comply with that procedural step will invalidate the government action. If the action will be invalidated, the requirement is "mandatory." If not, it is "directory," according to the Court. See also *Plastic Pipe and Fittings Association v. California Building Standards Commission*, 124 Cal. App. 4th 1390, 22 Cal. Rptr. 3d 393 (2004); *Orsi v. City of Salinas*, 219 Cal. App. 3d 1576, 268 Cal. Rptr. 912 (1990).

III. Subdivision Map Act

A. Tentative Maps

A tentative map may not be deemed approved under the Permit Streamlining Act under any circumstances unless the map satisfies all applicable subdivision regulations. Government Code § 66452.4; *Pongputmong v. City of Santa Monica*, 15 Cal. App. 4th 99, 18 Cal. Rptr. 2d 550 (1993).

A tentative map may not be deemed approved under the Permit Streamlining Act unless due process requirements, such as notice and a hearing, are satisfied. *Horn v. Ventura County*, 24 Cal. 3d 605, 156 Cal. Rptr. 718 (1979); 81 *Ops. Cal. Atty. Gen.* 166 (No. 97-1209).

B. Subdivision Map Approvals for Which a Negative Declaration Is Required

If a development project which requires a Negative Declaration involves a tentative subdivision map, special rules apply.

Most cities and counties have a planning commission (or body with a similar title) to which the city council or board of supervisors delegates certain land use authority. Fifty days after adoption of the Negative Declaration, or a determination that the project is exempt from CEQA, one of two actions must be taken by the planning commission. If the planning commission has been delegated the authority to approve tentative subdivision maps (as is usually the case), the planning commission must approve, disapprove or conditionally approve the map within the 50-day period. Government Code §§ 65952.1, 66452.1(b).

But if the planning commission has been delegated the authority only to make recommendations regarding tentative subdivision maps, the planning commission must make its recommendation within 50 days after adoption of the Negative Declaration, or a determination that the project is exempt from CEQA. Government Code §§ 65952.1, 66452.1(a). Then, at its next regular meeting following receipt of the planning commission's recommendation, the City Council or Board of Supervisors, as applicable,

must fix a date in which to approve, disapprove or conditionally approve the map. That date must be within 30 days of the receipt of the planning commission's report. Government Code § 66452.2(a).

It is not clear whether the time limits governing tentative subdivision map approvals for which a Negative Declaration is required (or which are exempt from CEQA) may be extended for 90 days upon consent of the applicant. Compare Government Code § 65952.1(a) with § 65957.

An unreasonable delay by the applicant in meeting requests necessary for the preparation of the Negative Declaration may delay the approval period or result in project disapproval. CEQA Guidelines § 15109; *Riverwatch v. San Diego County (Palomar Aggregates)*, 76 Cal. App. 4th 1428, 91 Cal. Rptr. 2d 322 (1999).

C. Subdivision Map Approvals for Which an EIR Is Required

The time limits for tentative subdivision map approvals when an EIR is required are the same, mutatis mutandis, as when a Negative Declaration is required. Accordingly, 50 days after certification of the EIR, the planning commission must approve, disapprove or conditionally approve the map if it has such authority. Government Code §§ 65952.1, 66452.1(b). If the planning commission has the authority only to make subdivision map recommendations, the planning commission must make its recommendation within 50 days following EIR certification. Government Code §§ 65952.1, 66452.1(a). At the next regular meeting following the planning commission's recommendation, the City Council or Board of Supervisors, as applicable, must fix a date in which to approve, disapprove or conditionally approve the subdivision map. That date must be within 30 days of receipt of the planning commission's report. Government Code § 66452.2(a).

As with tentative subdivision map approvals for which a Negative Declaration is required, it is not clear whether the time limits governing tentative subdivision map approvals for which an EIR is required may be extended for 90 days upon consent of the applicant. Compare Government Code § 65952.1(a) with § 65957.



CITY OF OAKLAND
PLANNING & ZONING SERVICES DIVISION
250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031
Phone: 510-238-3911 Fax: 510-238-4730

PROJECT APPROVAL

September 4, 2007

Bruce Loughridge
1112 Peralta Street
Oakland, CA 94607

RE: **Application Case Number: TPM 9354**
Property location: 1110, 1112, 1114 Peralta Street
APN: 004-0089-011-00

Dear applicant:

Your application for a Tentative Parcel Map to convert three existing residential units into condominiums has been **APPROVED**. The application complies with the City of Oakland Lot Design Standards in Section 16.24.040 and Subdivision Regulations as set forth in the Tentative Map Findings in Section 16.08.030. **Attachment A** contains the findings required for the approval of the project. **Attachment B** lists the Conditions of Approval for the application. The approval of the application is effective ten (10) days after the date of this letter unless appealed as explained below.

The following table summarizes the proposed project:

Proposal:	To convert three existing residential units into three residential condominium units.
Planning Permits Required:	Tentative Parcel Map to convert three existing residential units into three residential condominium units.
General Plan:	Mixed Housing Type
Zoning:	R-36, Small Lot Residential Zone
Environmental Determination:	Exempt, Section 15301(k) of the State CEQA Guidelines: Division of existing multiple family or single-family residences into common interest ownership; and Section 15183 of the State CEQA Guidelines: Projects consistent with a community plan or zoning
Historic Status:	Potential Designated Historic Property, secondary importance Survey Rating: Eb-1*
Service Delivery District:	1
City Council District:	3
For further information:	Contact case planner Ulla-Britt Jonsson at (510) 238-3322 or ujonsson@oaklandnet.com .

An Appeal to the City Planning Commission of this Administrative Case decision may be submitted within ten (10) calendar days after the date of this letter, and by 4:00 p.m. An appeal shall be on a form provided by the Planning and Zoning Division of the Community and Economic Development Agency, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of the **Project Planner, Ulla-Britt Jonsson**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Administrator or wherein his/her decision is not supported by substantial evidence and must include payment of \$774.54 in accordance with the City of Oakland Master Fee Schedule. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure

to do so may preclude you from raising such issues during your appeal and/or in court.

If you challenge the Planning Commission's decision in court, you may be limited to issues raised at the hearing or in correspondence delivered to the Zoning Division, Community and Economic Development Agency, at, or prior to, the Appeal hearing. Any party seeking to challenge in court those decisions that are final and not administratively appealable to the City Council must do so within ninety (90) days of the date of the announcement of the Commission's final decision.

Upon request, a signed Notice of Exemption (NOE) document will be provided to you by the Planning and Zoning Division at 250 Frank H. Ogawa Plaza, Suite 2114, certifying that the project has been found to be exempt from California Environmental Quality Act (CEQA) review. Pursuant to Section 15062(d) of the CEQA Guidelines, recordation of the NOE is optional, but will reduce the statute of limitations on challenges to your project, based on environmental issues, to 35 days after the NOE is recorded with the County. In the absence of a recorded NOE, the statute of limitations for challenges extends to 180 days. If you wish to record a Notice of Exemption, please bring the original NOE document provided to you and five copies to the Alameda County Clerk's office at 1106 Madison Street, Oakland, CA 94612; record the NOE at a cost of \$50.00 made payable to the Alameda County Clerk; and then return one date-stamped copy of the recorded document to the Planning and Zoning Division, to the attention of Ulla-Britt Jonsson, Planner II.

If you have any questions, please contact the project case planner, **Ulla-Britt Jonsson, Planner II**, at (510) 238-3322 or by email at ujonsson@oaklandnet.com.

Sincerely,



Scott Miller
Zoning Manager
Community and Economic Development Agency

C: David Mog, Engineering Services Division
Ray Derania, Building Services Division
Phillip Basada, Fire Prevention Bureau

Attachment A: Conditions of Approval

Attachment B: Findings for Approval

Attachment C: Notice of Exemption

ATTACHMENT A

The findings required for granting approval of your application are found in Sections 16.24.040 and 16.08.030 of the Oakland Lot Design Standards and Subdivision Regulations, and the reasons your proposal satisfy these findings, are as follows:

SECTION 16.24.040- LOT DESIGN STANDARDS

- A. No lot shall be created without frontage on a public street, as defined by Section 16.04.030, except:
 - 1. Lots created in conjunction with approved private easements.
 - 2. A single lot with frontage on a public street by means of a vehicular access corridor provided that in all cases the corridor shall have a minimum width of twenty (20) feet and shall not exceed three hundred (300) feet in length. Provided further, the corridor shall be a portion of the lot it serves, except that its area (square footage) shall not be included in computing the minimum lot area requirements of the zoning district.
- B. The side lines of lots shall run at right angles or radially to the street upon which the lot fronts, except where impractical by reason of unusual topography.
- C. All applicable requirements of the zoning regulations shall be met.
- D. Lots shall be equal or larger in measure than the prevalent size of existing lots in the surrounding area except:
 - 1. Where the area is still considered acreage.
 - 2. Where a deliberate change in the character of the area has been initiated by the adoption of a specific plan, a change in zone, a development control map, or a planned unit development.
- E. Lots shall be designed in a manner to preserve and enhance natural out-croppings of rock, specimen trees or group of trees, creeks or other amenities.

The proposed development is for the conversion of three existing residential units to common-interest ownership. The proposed condominium conversion does not require the development of new parcels. The property does not contain natural amenities that will be altered by the proposal.

SECTION 16.08.030 – TENTATIVE MAP FINDINGS (Pursuant to California Government Code Section 66474, Chapter 4 of the Subdivision Map Act).

The Advisory Agency shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

- A. That the proposed map is not consistent with the applicable general and specific plans as specified in the State Government Code Section 65451.
- B. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- C. That the site is not physically suitable for the type of development.

- D. That the site is not physically suitable for the proposed density of development.
- E. That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- F. That the design of the subdivision or type of improvements is likely to cause serious public health or safety problems.
- G. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. (This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision).
- H. That the design of the subdivision does not provide to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

The proposed development complies with the Mixed Housing Residential Land Use Classification of the Oakland General Plan. The condominium conversion of three residential units allows the creation of separate residential ownership opportunity while retaining the physical characteristics of the building and overall site. The proposed development does not significantly affect the density in the immediate area because it maintains the equal number of residential units. The proposed project does not cause any significant environmental damage to fish or wildlife or related habitat because the property and surrounding properties are in an established residential neighborhood. The subject property is not known to contain any environmental hazards such as contaminated soils or other toxic substances that would disturb or create public health. The proposed development would be served by public water and sewer service, and would therefore not require the use of on-site sewage disposal or domestic water well.

**ATTACHMENT B
TPM 9354**

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

CONDITIONS OF APPROVAL:

1. Effective Date, Expiration, and Extensions

Ongoing.

The approval of the Tentative Parcel Map, dated **November 20, 2006** shall expire **two (2) calendar years** from the date of this letter, the effective date of its granting, unless the applicant files a Parcel Map with the Oakland City Engineer within two (2) years from the date of this letter. Failure to file a Parcel Map within these time limits shall nullify the previous approval or conditional approval of the Tentative Parcel Map. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Zoning Administrator may grant an extension of this permit, and up to two subsequent extensions upon receipt of a subsequent written request and payment of appropriate fees received no later than the expiration date of the previous extension.

2. Scope of Project Approval

Ongoing.

The project is approved pursuant to the Subdivision Regulations of the City's Municipal Code only and shall comply with all other applicable codes, requirements, regulations and guidelines, including but not limited to those imposed by the City's Engineering and Building Services Division and the City's Fire Marshal.

3. Changes to Approval

Ongoing.

Any changes to the approved plans that would amend the Tentative Parcel Map shall be submitted for review and approval to the Oakland Zoning Administrator prior to the recordation of the Parcel Map.

4. Modification of Conditions or Renovation

Ongoing.

The Oakland Planning Services Division reserves the right, after notice and public hearing, if required, to alter the Conditional of Approval or revoke this permit if it is found that the approved facility or use is violating any of the Conditions of Approval, any applicable codes, requirements, regulations or guidelines, or is causing a public nuisance.

5. Defense, Indemnification & Hold Harmless

Within ten (10) business days of the filing of a claim, action or proceeding that is subject to this provision, the applicant shall execute a Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes this condition of approval.

The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, Oakland Redevelopment Agency, Oakland City Planning Commission and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the

City of Oakland, the Planning and Zoning Division, Oakland City Planning Commission, the City of Oakland Redevelopment Agency or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

6. Joint Use and Maintenance of Easement for Shared Facilities.

Prior to the recordation of any final map.

The applicant shall provide a "Joint Use and Maintenance Agreement" or a "Covenant, Codes and Restrictions" document to the City Zoning Administrator for review and approval. The document shall provide for the easement or other rights of all property owners using the common driveway, parking, outdoor space and landscape areas, and the maintenance of said areas. Upon approval of said document it shall be recorded with the County Recorders Office with each and every deed applicable to the subject map.

7. Submittal of Final Map and Final Map Requirements

Within two years of the effective date of approval.

The applicant shall submit within 2 years of the approval of this permit, a Final Map to the Oakland Building Services Division. The Final Map submittal shall include: all easements for rights-of-way provided for public services or utilities; all property which is offered for dedication for public use; and all property that may be reserved by deed covenant for the common use of the property owners in the subdivision, in a form acceptable to the City Engineer and acceptance language by the City Engineer, along with all other supplementary maps or plans required as conditions of Tentative Map approval. The applicant shall record the Final Map and a written legal description of the reconfigured parcels as part of the deed with the Alameda County Recorder's Office. The applicant shall provide a proof of such recordation to the Building Services Division prior to issuance of any Building Permits. Failure to file a Final Parcel Map within these time limits shall nullify the previous approval or conditional approval of the Tentative Parcel Map.

8. Certification of Parcel Map.

Ongoing.

A Parcel Map may be certified by the Oakland City Engineer at the expiration of the 10-day appeal period from the date of this approval.

9. Engineering, Building and Fire Services Requirements.

Ongoing.

The project shall comply with all the requirements from the City Engineering and Building Services Division and the Fire Marshall.

10. Condominium Conversion.

Prior to the sale of any unit.

No unit in the building approved for conversion shall be sold until a certificate of occupancy has been issued by the City Building Official on the project, and no unit shall be offered for sale until the unit conforms to the noise insulation standards, as required in the Oakland Subdivision Regulations and specified by the Building Services Division or Fire Department. The maximum number of units for this property is three.

11. Covenants, Conditions and Restrictions & Homeowner's Association.

Prior to certificate of occupancy.

The Covenants, Conditions and Restrictions (CC&Rs) for the units shall be submitted to the Planning and Zoning Division for review. The CC&Rs shall provide for the establishment of a non-profit homeowners association for the maintenance and operation of all on-site sidewalks, pathways, common open space and all common landscaping, driveways, and other facilities, in accordance with approved plans. Membership in the association shall be made a condition of ownership. The developer shall be a member of such association until all units are sold. The maximum number of units for this property is three.

12. Maximum Number of Units

Under current zoning, on a lot over 4,000 square feet, two units would be allowed. However, a third unit has existed on the property since before 1958 and is grandfathered. The number of units approved for this property is therefore three.

RETURN TO:

City of Oakland
Community and Economic Development Agency
Zoning Division
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

NOTICE OF EXEMPTION

TO: Alameda County Clerk
1106 Madison Street
Oakland, CA 94612

Project Title: TPM9354

Project Applicant: Bruce Loughridge

Project Location: 1110,1112, 1114 Peralta Street, Oakland, CA

Project Description: Conversion of three residential units into three condominium units.

Exempt Status: (check one)

Statutory Exemptions

{Article 18: Section 21080; 15260}

- Ministerial {Sec.15268}
- Feasibility/Planning Study {Sec.15262}
- Emergency Project {Sec.15269}
- General Rule {Sec.15061 (b)(3)}
- Other: {Sec.15183}

Categorical Exemptions

{Article 19: Section 21084; 15300}

- Existing Facilities {Sec.15301}
- Replacement or Reconstruction {Sec.15302}
- Small Structures {Sec.15303}
- Minor Alterations {Sec.15304}
- Minor Subdivisions {Sec.15315}
- Infill Projects {Sec.15332}

Reasons why project is exempt: The project is consistent with the General Plan and Zoning, is within city limits, is less than 5 acres in an urban area, has no special studies species habitat, would not result in any significant impacts, and is served by utilities and services.

Lead Agency: City of Oakland, Community and Economic Development Agency, Zoning Division, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612

Department/Contact Person:

Phone:



9-4-07

Scott Miller, Zoning Manager

Date:

Pursuant to Section 711.4(d)(1) of the Fish and Game Code, statutory and categorical exemptions are also exempt from Department of Fish and Game filing fees.

*ENVIRONMENTAL DECLARATION
(CALIF. FISH AND GAME CODE SEC. 711.4)

NAME AND ADDRESS OF APPLICANT OR LEAD AGENCY : FOR COURT USE ONLY
 :
 LEAD AGENCY: :
 :
 COMMUNITY & ECONOMIC :
 DEVELOPMENT AGENCY/PLANNING: :
 250 Frank H. Ogawa Plaza :
 Room 2114 :
 Oakland, CA 94612 :
 :
 APPLICANT: Bruce Loughridge :
 :
 Contact: Bruce Loughridge : FILING NO.
 : _____

- | CLASSIFICATION OF ENVIRONMENTAL DOCUMENT: | | <u>CLERK'S
USE ONLY</u> |
|---|---|-----------------------------|
| 1. | NOTICE OF EXEMPTION/STATEMENT OF EXEMPTION | PLU 117 |
| <input checked="" type="checkbox"/> | A - STATUTORILY OR CATEGORICALLY EXEMPT
\$50.00 (Fifty Dollars) - CLERK'S FEE | |
| <input type="checkbox"/> | B - DE MINIMUS IMPACT -- CERTIFICATE OF FEE EXEMPTION REQUIRED
\$50.00 (Fifty Dollars) - CLERK'S FEE | PLU 117 |
| 2. | NOTICE OF DETERMINATION - FEE REQUIRED | |
| <input type="checkbox"/> | A - NEGATIVE DECLARATION
\$1,800.00 (One Thousand Eight Hundred Dollars)-
STATE FILING FEE
\$50.00 (Twenty-five Dollars) - CLERK'S FEE | PLU 116 |
| <input type="checkbox"/> | B - ENVIRONMENTAL IMPACT REPORT
\$2,500.00 --(Two Thousand Five Hundred Dollars) -- STATE
FILING FEE
\$50.00 (Fifty Dollars) - CLERK'S FEE | PLU 115 |
| <input type="checkbox"/> | C -- Certificate of Fee Exemption
& De Minimis Impact Fee
\$50.00 (Fifty Dollars) - CLERK'S FEE | PLU 117 |

*THIS FORM MUST BE COMPLETED AND SUBMITTED WITH ALL ENVIRONMENTAL DOCUMENTS FILED WITH THE ALAMEDA COUNTY CLERK'S OFFICE.
FIVE COPIES OF ALL NECESSARY DOCUMENTATION ARE REQUIRED FOR FILING PURPOSES.

APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING AN ENVIRONMENTAL DOCUMENT WITH THE ALAMEDA COUNTY CLERK'S OFFICE.

MAKE CHECK PAYABLE TO: ALAMEDA COUNTY CLERK

From: [Morris, Michele](#)
To: bruce.loughridge@sbcglobal.net
Cc: [Klein, Heather](#)
Subject: Comments on 1110-1114 Peralta St (PLN19246)
Date: Thursday, January 23, 2020 5:47:50 PM
Attachments: [Sample letter from H Klein_01232020.pdf](#)
[PLN19246_COA_1110-1114_PeraltaSt_10-17-19.pdf](#)
[Basic Application for Development Review - Rev 3-26-2019.pdf](#)

Hello Mr. Loughridge,

I apologize for the delay in my response to your proposed project. This email outlines the modifications and clarifications required so we can then move forward.

- The Notice of Intent to Convert to Condominiums letter is inadequate and must be revised, signed by each tenant and resubmitted. Please see the attached sample letter as an example.
- Once all the tenants have signed the revised letter, the 60 day period begins on the date of the last tenant signature.
- Complete page 10, Residential Tenant Protections, item 12 of the Basic Application (<https://www.oaklandca.gov/documents/basic-application-form>), and return it to me as soon as possible.
- Please submit a Preliminary Title Report or deed that are not more than 60 days old.
- From the City Survey Dept.: Which buildings on the parcel are to be converted to condominium units? Please specify in writing on the map.
 - Is the “guest house” proposed to be converted into a condominium?
- Please see the attached comments from the City’s Dept. of Transportation.

Thank you,

Michele T. Morris, Planner II | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612 | Phone: (510) 238-2235 | Email: mmorris2@oaklandca.gov | Website: [Planning & Building](#) | [ACA/Online Permit Center](#)

Attachment E

From: [Klein, Heather](#)
Cc: [Merkamp, Robert](#)
Bcc: bruce.loughridge@sbcglobal.net; john@jgutierrezlaw.com; steve@edringtonandassociates.com; [Stephen Bloom](#)
Subject: Condominium Conversion Ordinance
Date: Tuesday, January 28, 2020 4:21:00 PM
Attachments: [Agenda- 2-4-20.pdf](#)
[Agenda 1-21-20.pdf](#)

Dear Applicant,

The purpose of this email is to inform you that the City Council has proposed changes to the Condominium Conversion Ordinance. These changes will likely affect staff's ability to process your application for a condo conversion.

The City Council voted to adopt the Ordinance on first reading on January 21, 2020. Final adoption requires approval of a second reading by the City Council, which is on the consent calendar (item 7.6 on the Agenda 2-4-20 document) for the February 4, 2020 City Council Meeting. The meeting is in the City Council Chambers at City Hall (1 Frank Ogawa Plaza) and starts at 5:30pm.

If adopted on second reading, the Ordinance is effective immediately if 6 votes are obtained. Otherwise, the Ordinance is effective seven days later.

If you would like to find out more regarding the proposal, please see the attached agenda (item S13 on the Agenda 1-21-20 document), which includes to the proposed staff report and Ordinance materials. You can also contact your Councilmember's office. Bureau of Planning staff has yet to be fully briefed on the Ordinance and is not prepared to answer detailed questions.

Best,

Heather Klein, Planner IV | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114
| Oakland, CA 94612 | Phone: (510)238-3659 | Fax: (510) 238-6538 | Email: hklein@oaklandca.gov |
Website: <https://www.oaklandca.gov/departments/planning-and-building>

Attachment F

2020 FEB -6 PM 3: 24


OFFICE OF THE CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. 13585 C.M.S.

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 16.36, CONDOMINIUM CONVERSIONS, TO: (1) EXTEND THE CONVERSION RIGHTS REQUIREMENT TO TWO- TO FOUR-UNIT RESIDENTIAL BUILDINGS; (2) REQUIRE THAT A CONVERSION RIGHTS AGREEMENT BE RECORDED AT LATEST 60 DAYS AFTER THE BUILDING PERMIT FOR THE GENERATING RESIDENTIAL BUILDING IS ISSUED; (3) ENHANCE TENANT RIGHTS AND NOTICE REQUIREMENTS TO TENANTS; AND (4) MAKE OTHER MODIFICATIONS; AND TO DIRECT CITY ADMINISTRATOR OR DESIGNEE TO STUDY ALTERNATIVE METHODS OF (A) ENSURING ONE-FOR-ONE REPLACEMENT OF RENTAL UNITS IN THE CITY AS A RESULT OF CONDOMINIUM CONVERSIONS AND (B) INCREASING AFFORDABLE HOME OWNERSHIP AND REDUCING DISPLACEMENT OF RENTERS SUBJECT TO CONVERSION; AND ADOPT CEQA EXEMPTION FINDINGS

WHEREAS, the City of Oakland is experiencing a severe housing affordability crisis; and

WHEREAS, the Housing Element of the City's General Plan specifically includes policies to help prevent displacement of current Oakland residents and to limit the loss of rental housing units due to their conversion to condominiums; and

WHEREAS, the housing affordability crisis threatens the public health, safety and/or welfare of our citizenry; and

WHEREAS, 60 percent of Oakland residents are renters, many who would not be able to locate housing that is affordable within the City if displaced by rent increases (U.S. Census Bureau, ACS 2017 Table S1101); and

Attachment G

WHEREAS, in November 2019, the median rental price for a one-bedroom unit in Oakland was \$2,500 per month (\$30,000 per year), a 11.1 percent increase in costs over November 2018, and the median rental price for a two-bedroom unit in November 2019 was \$3,000 per month (\$36,000 per year), an 10.3 percent increase over costs in November 2018 (Zumper National Rent Report: November 2019); and

WHEREAS, Oakland's rental housing costs are the fourth highest in the nation, behind San Francisco, New York, and Boston (Zumper National Rent Report: November 2019); and

WHEREAS, in 2017, the estimated annual median household income for households that rented in Oakland was \$52,008, which would result in a household earning the annual median household income paying 58 percent of household income for a one-bedroom unit or 69 percent of household income for a two-bedroom unit (U.S. Census Bureau, ACS 2017, Table S2503); and

WHEREAS, the affordable rent for a family earning an annual income of \$52,008 is defined as only paying 30 percent of income on housing, which is approximately \$1,300 per month; and

WHEREAS, the median rent for all apartments rented in February of 2016 reached an all-time high of just over \$3,000 per month, according to research from Trulia; and

WHEREAS, 22.5 percent of Oakland's households are "housing insecure," defined as facing high housing costs, poor housing quality, unstable neighborhoods, overcrowding, or homelessness; and

WHEREAS, over 25,000 Oakland households are severely rent burdened, which is defined as spending 50 percent or more of monthly household income on rent (Oakland Consolidated Housing Needs Assessment 2015 Analysis of HUD Data, as reported in the City's March 2016 Oakland at Home report, pp. 10-11); and

WHEREAS, displacement through evictions and dramatic rent increases has a direct impact on the health, safety and/or welfare of Oakland's citizens by uprooting children from their schools, disrupting longstanding community networks that are integral to citizens' welfare, forcing low-income residents to pay unaffordable relocation costs, segregating low-income residents into less healthy, less safe and more overcrowded housing that is often further removed from vital public services and leaving residents with unhealthy levels of stress and anxiety as they attempt to cope with the threat of homelessness; and

WHEREAS, the conversion of rental housing to for-sale condominium units reduces the supply of rental housing available to Oakland residents, which drives rents still higher; and

WHEREAS, the City's current condominium conversion regulations (Oakland Municipal Code (O.M.C.) Chapter 16.36) permit the conversion of rental housing to for-sale condominium units, regardless of the number of units in the development; and

WHEREAS, the City's current condominium conversion regulations require owners to provide replacement rental units prior to the approval of an application to convert five or more rental units to for-sale condominium units, but does not require the same rental housing replacement requirements for the conversion of two-, three-, or four-unit rental housing developments except within areas designated as conversion impact areas pursuant to O.M.C. Section 16.36.060(G);; and

WHEREAS, without a rental housing replacement requirement, the conversion of two-, three-, or four-unit rental housing developments exacerbates the housing crisis by permitting an owner to convert rental units to ownership units, which may be less affordable to Oakland residents and can result in the displacement of Oakland residents from their homes and communities; and

WHEREAS, the City's current condominium conversion regulations allow conversion rights to be generated by buildings completed up to seven years prior to the proposed conversion, even though such buildings do not provide replacement for lost rental units; and

WHEREAS, the City's current condominium conversion regulations allow the units that conversion rights were sold for to still convert to condominiums seven years later causing further loss of rental housing; and

WHEREAS, loss of rental units and livable units overall occurs when building owners convert 5-unit buildings into 4 units to be able to take advantage of current condominium conversion law and convert rental units into condominiums; and

WHEREAS, the City wants to stimulate more construction of rental units by providing another avenue to finance projects that need extra funding from capitalizing on conversion rights; and

WHEREAS, the City seeks to amend the condominium conversion regulations to extend the requirement for replacement units to 2-4 unit buildings in all parts of the City, to remove the provision allowing the generation of conversion rights by newly constructed condominium units that are offered as rental units for seven or more years, to acknowledge the applicability of the Oakland Just Cause for Eviction Ordinance, enacted by voters in 2002 (O.M.C. section 8.22.300 et seq.), and corresponding regulations, and the Oakland Rent Adjustment Ordinance (O.M.C. section 8.22.010 et seq.) and corresponding regulations, and to afford greater rights and protections to existing tenants; and

WHEREAS, the City Council directs City Staff to study alternative methods of ensuring the one-for-one replacement of rental units in the City as a result of condominium conversions; and

WHEREAS, the City Council directs City Staff to report back on its findings regarding the other alternative methods to ensure one-for-one replacement of rental units;

WHEREAS, Article XI, Section 5 of the California Constitution provides that the City, as a home rule charter city, has the power to make and enforce all ordinances and regulations in respect to municipal affairs, and Article XI, Section 7, empowers the City to enact measures that protect the health, safety, and/or welfare of its residents; and

WHEREAS, the City desires to further the public health, safety and/or welfare by requiring the rental housing replacement requirement to the conversion of two-, three-, or four-unit rental housing developments; and

WHEREAS, Section 106 of the Oakland City Charter provides that the City has the right and power to make and enforce all laws and regulations in respect to municipal affairs; and

WHEREAS, the Subdivision Map Act provides that regulation and control of the design and improvement of subdivisions are vested in the legislative bodies of local agencies, and that the City shall, by ordinance, regulate and control subdivisions that require a tentative and final or parcel map; and

WHEREAS, this Ordinance meets constitutional standards, the Subdivision Map Act, the Oakland City Charter, the O.M.C., and the City's General Plan; and

WHEREAS, after a duly noticed public meeting on December 3, 2019, the Community and Economic Development Committee voted to recommend the proposal to the City Council; and

WHEREAS, the City Council held a duly noticed public meeting on _____, to consider the proposed amendments, and all interested parties were provided an ample opportunity to participate in said hearing and express their views; and

WHEREAS, this action is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), 15061(b)(3) (no significant effect on the environment), 15183 (projects consistent with a community plan, general plan, or zoning), and 15301 (existing facilities), each as a separate and independent basis, and when viewed collectively provide an overall basis for CEQA clearance; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council finds and determines the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City Council.

SECTION 2. Amendment of Chapter 16.36 of the Oakland Municipal Code.
Oakland Municipal Code Chapter 16.36 is hereby amended to read as follows (additions are shown as double underline and deletions are shown as ~~strikethrough~~):

Chapter 16.36 – CONDOMINIUM CONVERSIONS

16.36.005 - Applicability.

The regulations, requirements, and provisions of this Chapter shall apply to any application for condominium conversion in the City of Oakland.

Nothing in this Chapter shall be construed as waiving, reducing, or modifying any other requirements under any other law that may provide tenants with greater rights or protections, including but not limited to the Oakland Just Cause for Eviction Ordinance, (O.M.C. section 8.22.300 et seq.), and corresponding regulations, the Oakland Rent Adjustment Ordinance (O.M.C. section 8.22.010 et seq.) and corresponding regulations, and the Oakland Tenant Protection Ordinance (O.M.C. section 8.22.600 et seq.) and corresponding regulations.

16.36.010 - Conversion-Defined Definitions.

"Advisory Agency" means a designated official or an official body charged with the duty of making investigations and reports on the design and improvement of proposed divisions of real property, the imposing of requirements or conditions thereon, or having the authority by local ordinance to approve, conditionally approve or disapprove maps. (O.M.C. section 16.04.030(B) and California Government Code Section 66415.) Pursuant to O.M.C. section 16.04.050, the Planning Commission is designated as the "Advisory Agency" with the duty of making investigations and reports on the design and improvement of proposed subdivisions requiring approval of tentative and final maps under the Subdivision Map Act. Pursuant to O.M.C. section 16.24.030, the Director of City Planning (herein, the "Planning and Building Director") is designated as the Advisory Agency for the purpose of the approval, conditional approval, or disapproval of tentative parcel maps and parcel maps.

"Conversion" means a proposed change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, from residential rental realty to a stock cooperative project ~~containing five or more dwelling units~~, a condominium project, or a Community Apartment project, regardless of whether substantial improvements have been made to such structures. Whenever an occupancy permit has been issued by the City for a multifamily building containing two or more residential units, any attempt thereafter to make the project a condominium, community apartment, or stock cooperative shall constitute a conversion. Those multifamily residential buildings of two or more units having building permits but for which no initial certificate of occupancy has ever been issued and which have never been occupied shall be deemed excluded from the definition of "conversion." This Section shall not apply to a "limited-equity housing cooperative" as defined in Section 11003.4 of the Business and Professions Code.

"Disabled" has the same meaning as in O.M.C. section 8.22.410.

“Residential Rental Realty” means a parcel containing one or more Rental Units, including a parcel containing five or more units with a recorded condominium map but without evidence of a valid public report from the Department of Real Estate (DRE) by the effective date of this Ordinance.

“Rental Unit” means any unit in any real property, regardless of zoning status, including the land appurtenant thereto, that is rented or available for rent for residential use or occupancy (regardless of whether the unit is also used for other purposes).

“Sales Program” means the marketing of the units to the general public.

“Subdivider” means a person, firm, corporation, partnership or association who proposes to divide, divides or causes to be divided real property into a subdivision for himself or others.

“Tenant” has the same meaning as in O.M.C. section 8.22.340.

“Tenant Household” has the same meaning as in O.M.C. section 8.22.810.

16.36.020 - Preliminary Notice to existing tenants of intention to convert prior to filing an application for tentative map or tentative parcel map.

At least sixty (60) days prior to filing an application with the City for a tentative map or tentative parcel map for a conversion, the subdivider shall provide all tenants of the building to be converted with the following notice:

To the occupant(s) of

(Address)

The owner(s) of this building, at (address), plan(s) to file an application for a (tentative map or tentative parcel map) with the City to convert this building to a (condominium, community apartment or stock cooperative project). You shall be given notice of each hearing for which notice is required pursuant to Government Code Sections 66451.3 and 66452.5 of the ~~Government Code~~, and you have the right to appear and the right to be heard at any such hearing.

(signature of owner or owner's agent)

(date)

The following language shall be printed in at least 14 point bold face type: "This present notice is not a notice to terminate your tenancy; it is not a notice that you must now vacate the premises."

Accompanying this notice will be written information describing, in general, what steps and actions the subdivider and others, including governmental agencies, will or must take in order for the building to be converted. It will include information on how the tenant will be involved, informed, and assessed at each step in the process and on what rights the tenant has, whether mandated by state or local government or whether provided voluntarily by the subdivider. It will also include the date on which the subdivider will most likely file the tentative map or tentative parcel map as well as the approximate date on which the subdivider expects the final subdivision public report, if any, to be issued, or if no subdivision public report is required the approximate date on which the subdivider expects to start the sales program.

Also accompanying this notice will be the Notice of Tenant Rights and the subdivider's Preliminary Tenant Assistance Program, both as set forth in O.M.C. section 16.36.050, and the information concerning tenant notifications as set forth in O.M.C. section 16.36.040.

All persons who subsequently become tenants shall also be provided with the above notices.

For each application, all documents referred to in this section shall be approved by the ~~Director of City Planning~~ Planning and Building Director as to form, correctness, and completeness.

Notice shall be given by posting in a conspicuous place on the premises of the subject property involved in the application. The written Notice to tenants required by this section shall also be given by mail, and shall be deemed satisfied if it complies with the legal requirements for service by mail pursuant to Government Code Section 66452.18 and California Code of Civil Procedure Section 1013.

16.36.030 - Notice to prospective tenants of intention to convert.

Commencing at a date not less than sixty (60) days prior to the filing of a tentative map or tentative parcel map application, the subdivider shall give notice of such filing, in the form shown below, to each person applying after such date for rental of a unit in the building to be converted. This notice must be given to the prospective tenant prior to the acceptance of any rent or deposit from said prospective tenant and prior to the execution of any rental agreement.

The notice shall read as follows:

To the prospective occupant(s) of

(Address)

The owner(s) of this building, at (address), has filed or plans to file an application for a (tentative map or tentative parcel map) with the City to convert this building to a (condominium, community apartment, or stock cooperative project). No units may be sold in this building unless the conversion is approved by the City of Oakland and, if five (5) or more units are involved, until after a public report is issued by the Bureau Department of Real Estate. If you become a tenant of this building, you shall be given notice of each hearing for which notice is required pursuant to Government Code Sections 66451.3 and 66452.5, and you have the right to appear and the right to be heard at any such hearing.

If the building is converted to condominiums, you may not qualify for relocation assistance under condominium conversion law. You should still verify whether you may be eligible for other protections such as those under the Just Cause for Eviction Ordinance.

(signature of owner or owner's agent)

(date)

I have received this notice on:

(date)

(prospective tenant's signature)

Prospective tenants shall also receive all accompanying documents described in O.M.C. section 16.36.020 and all documents set forth in O.M.C. sections 16.36.040 and 16.36.050.

If the subdivider fails to give timely notice pursuant to this Section, he or she shall pay to each prospective ~~T~~tenant (1) who becomes a ~~T~~tenant and who was entitled to such notice; and (2) who does not purchase his or her unit pursuant to O.M.C. section 16.36.040~~32~~ and vacates, an amount equal to the amounts set forth below:

A. Tenants who vacate for Code Compliance repairs shall be paid relocation payments pursuant to O.M.C. chapter 15.60. Tenants who vacate due to owner or relative move-in shall be paid relocation payments pursuant to OMC section 8.22.850. Tenants who vacate due to an Ellis Act eviction shall be paid relocation payments pursuant to O.M.C. section 8.22.450.

B. Tenants who vacate for any other reason, unless evicted for Tenant fault, shall be paid relocation payments in amounts pursuant to OMC Section 8.22.820.

i. If the tenant voluntarily vacates the premises, the Owner shall make the payment directly to an eligible Tenant Household no later than ten (10) days before the expected vacation date. If less than ten (10) days' advance notice of vacation is given, then the payment by the Owner to the Tenant Household is due no later than the actual time of vacation.

ii. If the owner is requiring the tenant to vacate, the owner must pay the Tenant Household half of the relocation payment when the termination notice is given to the household and the remaining half when the tenant vacates the unit provided that the tenant agrees, in writing, not to contest an unlawful detainer based on the notice to terminate tenancy for the owner or relative moving in to the tenant's rental unit. If the tenant does not so agree, then the entirety of the relocation payment is not due unless the owner prevails in the unlawful detainer. If the owner prevails in the unlawful detainer, the relocation payment must be paid to the tenant prior to the owner seeking a writ of possession for the tenant to vacate the unit.

C. For the purpose of this paragraph, the Tenant is not evicted for Tenant fault if (1) the Tenant vacates within one hundred twenty (120) days after the effective date of a rent increase notice of more than ten (10) percent; and (2) the rent increase notice is issued within one (1) year after the issuance of the final subdivision public report on the conversion of a building with five (5) or more units or the start of the sales program in a building of four (4) units or less.

~~A. A Tenant who is also eligible for relocation under the City of Oakland's code compliance relocation program (O.M.C. Chapter 15.60), must elect for either relocation payments under this Section or O.M.C. Chapter 15.60 and may not receive relocation payments under both.~~

~~B. A Tenant who is also eligible for relocation assistance under Section 16.36.050 (Preliminary Tenant Assistance Program) must elect for either relocation payments under this Section or Section 16.36.050, and may not receive relocation payments under both.~~

16.36.031 - Notice to existing tenants of intention to convert.

The subdivider shall give written notice of the intent to convert at least one hundred eighty (180) days prior to the effective date of a notice of termination of tenancy, but not before the City has approved tentative parcel map for the conversion, to each tenant of the subject property in the form outlined below. The following language shall be printed in at least 14 point bold face type: "This present notice is not a notice to terminate your tenancy; it is not a notice that you must now vacate the premises."

To the occupant(s) of

(Address)

The owner(s) of this building, at (address), plan(s) to convert this building to a (condominium, community apartment or stock cooperative project). This is a notice of the owner's intention to convert the building to a (condominium, community apartment or stock cooperative project).

A tentative parcel map to convert the building to a (condominium, community apartment or stock cooperative project) was approved by the City on _____ . If the City approves a final parcel map, you may be required to vacate the premises, but that cannot happen for at least 180 days from the date this notice was served upon you.

Any future notice given to you to terminate your tenancy because of the conversion cannot be effective for at least 180 days from the date this notice was served upon you. This present notice is not a notice to terminate your tenancy; it is not a notice that you must now vacate the premises. If your unit is covered by the Just Cause for Eviction Ordinance, you may not have to move at all except for specific reasons such as if you did not pay your rent, violated the terms of your rental agreement, or if the owner is performing repairs or moving into the unit.

(signature of owner or owner's agent)

(date)

Tenants shall also receive all accompanying documents described in O.M.C. section 16.36.020 and all documents set forth in O.M.C. sections 16.36.040 and 16.36.050.

Notice shall be given by posting in a conspicuous place on the premises of the subject property involved in the application. Notice shall also be given by mail, and shall be deemed satisfied if it complies with the legal requirements for service by mail pursuant to Government Code Section 66452.18 and California Code of Civil Procedure Section 1013..

16.36.032 - Notice to existing tenants of right to contract for purchase.

- A. For conversions involving five (5) or more units, the subdivider shall give written notice within five (5) days after receipt of the subdivision public report to each tenant of his or her exclusive right for at least ninety (90) days after issuance of the subdivision public report to contract for the purchase of his or her respective unit or, alternatively, a non-exclusive right to contract for purchase of any other available unit in the building. The notice must be in the form outlined below.

To the occupant(s) of

A tentative parcel map to convert the building to a (condominium, community apartment or stock cooperative project) was approved by the City on _____, Commencing on _____, the date the sales program begins, you have the exclusive right for at least 90 days to contract for the purchase of your rental unit upon the same or more favorable terms that such units are initially offered to the general public, less a discount of at least ten percent (10%). You also have a non-exclusive right to contract for purchase of any other available unit in the building on the same or more favorable terms that such units are initially offered to the general public, less a discount of at least ten percent (10%). If more than one tenant with non-exclusive right to purchase wish to purchase the same unit, the owner(s) may choose which tenant may exercise the right to purchase.

If you choose not to exercise your exclusive right to purchase during the 90-day period, you also have the exclusive right to match any offer the owner accepts for your rental unit after the sale has opened to the public, less a discount of at least ten percent (10%). You also have a non-exclusive right to match an offer for any other available unit in the building on the same terms, less a discount of at least ten percent (10%). If more than one tenant with non-exclusive right to purchase wishes to purchase the same unit, the owner(s) may choose which tenant may exercise the right to purchase.

The owner(s) shall notify the tenant of owner's intent to accept a buyer's offer, and terms of offer, within five (5) calendar days of owner(s) receiving offer. Thereafter, the tenant has fourteen (14) calendar days to match buyer's offer less a discount of at least ten percent (10%) by entering into a purchase and sale agreement with owner(s).

(signature of owner or owner's agent)

(date)

- C. Notice shall be given by posting in a conspicuous place on the premises of the subject property involved in the application. Notice shall also be given by mail, and shall be deemed satisfied if it complies with the legal requirements for service by mail pursuant to Government Code Section 66452.20 and California Code of Civil Procedure 1013.

16.36.040 - Additional tenant notifications.

Each tenant shall be given notices containing the information as set forth below:

- A. The eCity shall provide tenants with the following notices:

1. Each tenant will be given at least ~~ten~~ seventeen (17) days' prior written notice of the date, time and place of any public hearing held by the Advisory Agency on the tentative map or tentative parcel map. Such notice shall also advise tenants of their right to appear and be heard.
2. ~~Each tenant will receive~~ A copy of any eCity report or recommendation concerning the tentative map or tentative parcel map will be available on the City of Oakland website at least ~~three~~ five (5) days prior to any meeting for which the map appears on the agenda.
3. Each tenant will be given at least ~~three~~ seventeen (17) days' prior written notice of the date, time and place of a hearing held to consider an appeal from an action of the Advisory Agency. Such notice shall also advise tenants of their right to appear and be heard.

Subdivider shall provide the eCity with a sufficient number of stamped envelopes addressed to tenants to allow the City to carry out the above responsibilities, such number to be determined by the ~~Director of City Planning~~ Planning and Building Director. Subdivider shall also provide the City with tenant names and addresses, including unit numbers, of all units, including those that are currently occupied, those where the tenant or subdivider has issued a notice of termination of tenancy, those that have been rented but are not yet occupied, and those that are currently vacant.

B. In addition to the preliminary notice to existing tenants prior to filing an application for a tentative map or tentative parcel map as set forth in O.M.C. section 16.36.020, the notice to existing tenants of intention to convert as set forth in O.M.C. section 16.36.031, and the notice to prospective tenants of intention to convert as set forth in O.M.C. section 16.36.030, the subdivider shall also be responsible for the following:

1. Each tenant will be given at least five days' prior written notice of the date, time and place of any meeting held on the tentative map or tentative parcel map other than those set forth in Subsections (A)(1) and (A)(3) of this section.
2. Each tenant will be notified individually and in writing of any action taken on the tentative map or tentative parcel map by the Advisory Agency, City Planning Commission, or City Council ~~within two~~ five (5) days of such action being taken.
3. Each tenant will be given written notification within ten days of approval of a final map or a parcel map.
4. Each tenant in buildings with five (5) or more units will be given at least ten days' prior written notice that an application for a subdivision public report will be submitted to the California Department of Real Estate. Such notice shall also state that tenants will be notified within five days of subdivider's receipt of the final subdivision public report and that copies will be available upon request; it will also state subdivider's

estimate of when the report will be issued and that the period for each tenant's right to purchase begins with the issuance of the final subdivision public report.

5. Each tenant in buildings with five or more units will be given written notification within five (5) days of subdivider's receipt of the final subdivision public report in accordance with O.M.C. section 16.36.110. If the conversion involves four or less units, in which case no public report is issued, each tenant will be given ~~ten~~ seventeen (17) days' prior written notice of the start of subdivider's sales program.
- C. The subdivider's recordation of the final map shall not constitute City approval of any work that was done without a permit or any other violation of any applicable code or ordinance, or preclude the City from requiring correction of violations identified subsequent to recordation of a final map, and shall not preclude the City from requiring additional corrective action if additional noncomplying conditions are discovered subsequent to the recordation of final map.

The ~~Director of City Planning~~ City Planning Director shall be given a copy of all of the above notices at the same time as the tenants receive them. The written notices required by this section shall be deemed satisfied if they comply with the legal requirements for service by mail.

16.36.045 – General Requirements for Notices

- A. All notices required in this Chapter O.M.C. shall be in at least 12 point type, and must include in bold face, the following language: For information about this notice please contact the Planning and Building Department at (provide current phone number and email address and physical location contact information for Planning and Building Department).
- B. If a rental agreement was or is being negotiated in Spanish, Chinese, Tagalog, Vietnamese, or Korean, all required written notices regarding conversion shall be issued in that language and in English.
- C. The Planning and Building Director shall be given a copy of all notices to tenants at the same time as the tenants receive them with accompanying proof of service complying with the legal requirements for service by mail pursuant to California Code of Civil Procedure Section 1013.

16.36.050 - Tenant rights and the Preliminary Tenant Assistance Program.

- A. With regard to any conversion as defined in O.M.C. section 16.36.010, each tenant shall have the following minimum rights which shall be set forth in the Notice of Tenant Rights in a form prescribed by the City. Absence of such a form does not release landlords of noticing requirements.
 1. After receipt of this notice, each tenant will be entitled to terminate his or her lease or rental agreement without any penalty upon notifying the subdivider in

writing thirty (30) days in advance of such termination; provided, however, that this requirement shall cease upon notice to the tenant of the abandonment of subdivider's efforts to convert the building.

2. No tenant's rent will be increased from the date of issuance of this notice until at least twelve (12) months after the date subdivider files the tentative map or tentative parcel map with the city; provided, however that this requirement shall cease upon abandonment of subdivider's efforts to convert the building or approval of the tentative map or tentative parcel map by the City, whichever occurs later. At the end of such period, and until one hundred eighty (180) days after the issuance of the final subdivision public report or start of the sales program, the subdivider may increase tenants' rent no more than once each year and in an amount that does not exceed the increase in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland Metropolitan Area: All Items (Bay Area CPI), unless the unit is covered by other rent increase restrictions such as the restriction in O.M.C. section 16.36.050(A)(6) or the Rent Adjustment Ordinance.
3. No remodeling of the interior of tenant-occupied units shall begin until at least thirty (30) days after issuance of the final subdivision public report or, if one is not issued, after the start of subdivider's sales program. (For purposes of this chapter, the start of subdivider's sales program shall be defined as the start of tenants' ninety (90) days first-right-of-refusal period set forth below.)
4. Each tenant shall have an exclusive right to contract for the purchase of his or her unit or, at the tenant's option, ~~any other available unit in the building upon the same or more favorable terms and conditions that such units will be initially offered to the general public, such right to run for at least ninety (90) days from the issuance of the final subdivision public report or, if one is not issued, a non-exclusive right to purchase any other available unit in the building upon the same or more favorable terms and conditions that such units are initially offered to the general public, less a discount of at least ten percent (10%), with such right to run for at least ninety (90) days from the issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sales program. If a tenant chooses not to exercise his or her exclusive right to purchase during the initial 90-day period, he or she shall also have the exclusive right to match any offer the owner accepts for his or her rental unit after the sale has opened to the public, less a discount of at least ten percent (10%). The tenant shall also have a non-exclusive right to match an offer for any other available unit in the building on the same terms, less a discount of at least ten percent (10%). If more than one tenant with a non-exclusive right to purchase wishes to purchase the same unit, the owner(s) may choose which tenant may exercise the right to purchase.~~

The owner(s) (subdivider(s)) shall notify the tenant of owner's intent to accept a buyer's offer, and terms of offer, within five (5) calendar days of owner(s) receiving offer. Thereafter, the tenant has fourteen (14) calendar days to match buyer's offer less a discount of at least ten percent (10%) by entering into a purchase and sale agreement with owner(s).

5. Each tenant shall have a right of occupancy of at least one hundred eighty (180) days from the date the notice to existing tenants of intention to convert, as set forth in O.M.C. section 16.36.020, is served on the tenant; one hundred eighty (180) days from the issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sale program; or until the expiration of Tenant's lease, whichever is longer, prior to termination of tenancy due to conversion.

6. Tenants in units containing a tenant who (1) is sixty-two (62) years or older prior to approval of the tentative map or tentative parcel map or (2) is disabled or becomes disabled at any time before final approval of the tentative map or tentative parcel map, shall be provided a lifetime lease on their unit or, at tenant's option, on any other available unit in the building.
 - a. The subdivider must provide a written offer for a lifetime lease to the eligible tenants in the building and record such offer against the building's title.
 - b. At the time the Tenant(s) accepts the lifetime lease offer, and even if such acceptance occurs after map approval, a binding agreement between the Tenant(s) and the subdivider or owner shall be executed and recorded against the building's title.
 - c. In addition, the subdivider must agree to maintain the unit as a rental unit on the same rental terms for at least 20 years from the time the lifetime lease is executed even if the tenant with the lifetime lease vacates the property or passes away.
 - d. A binding agreement between the City and the subdivider concerning the requirements of this subsection shall be recorded against the building's title. In recognition of the lifetime lease and 20 year rental requirement, the subdivider shall receive a one-for-one reduction in conversion rights as part of the binding agreement.
 - e. Such leases, to commence no later than the date of issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sale program, shall be subject to the following conditions:
 - i. Tenants shall have the option of cancelling the lease at any time upon thirty (30) days' written notice to the owner.
 - ii. Tenants cannot be evicted except for tenant fault (e.g. non-payment of rent, breach of the rental agreement).
 - iii. The term of the lease shall expire only upon the death or demise of the last such Tenant residing in the unit or at such time as the Tenant(s) in the

unit voluntarily vacates the unit after giving notice of such intent to cancel the lease. Right of occupancy shall be nontransferable, except that Tenants shall have the right to a live-in aide. The live-in aide is not eligible to remain in the unit once the Tenant is no longer living in the unit.

- iv. The first year's base monthly rent for the unit shall be set at no more than the rent existing on the unit one year prior to the filing of the application for a tentative map or tentative parcel map, increased by no more than seventy-five (75) percent of the percentage increase in the residential rent component of the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland Metropolitan Area: All Items (Bay Area CPI) from the date one year prior to the filing of the tentative map or tentative parcel map to the effective date of the lifetime lease.
- v. Subsequent rent adjustments, if any, may be made no sooner than one year from the effective date of the lifetime lease, shall be limited to no more than one per year, and the percentage increase in the Bay Area CPI for the most recent twelve (12) month period.
- vi. There shall be no decrease in dwelling unit maintenance or other services historically provided to such units and such Tenants.
- vii. The lease shall include the following language:
Tenant agrees that this Lease shall be subject and subordinate at all times to (i) all ground leases or underlying leases that may now exist or hereafter be executed affecting the Real Property or any portion thereof; (ii) the lien of any mortgage, deed of trust, assignment of rents and leases or other security instrument (and any advances thereunder) that may now exist or hereafter be executed in any amount for which the Real Property or any portion thereof, any ground leases or underlying leases or Landlord's interest or estate therein, is specified as security; and (iii) all modifications, renewals, supplements, consolidations and replacements thereof, provided in all cases the mortgagees or beneficiaries named in mortgages or deeds of trust hereafter executed or the assignee of any assignment of rents and leases hereafter executed shall recognize the interest and not disturb the possession, use and enjoyment of Tenant under this Lease, and, in the event of foreclosure or default, the lease will continue in full force and effect by the conditions imposed on each final parcel map or final map pursuant to O.M.C. Section 8.22.050, as long as Tenant is not in default under the terms and conditions of this Lease. Tenant agrees to execute and deliver, upon demand by Landlord and in the form requested by Landlord, any additional reasonable documents evidencing the priority or subordination of this Lease with respect to any such ground leases, underlying leases, mortgages, deeds of trust, assignment of rents and leases or other security instruments. Subject to the foregoing, Tenant

agrees that Tenant shall be bound by, and required to comply with, the provisions of any assignment of rents and leases with respect to the building.

f. ~~Notwithstanding the above, no rent increase shall exceed any rent increase guidelines adopted by the city.~~

viii. Except as provided hereinabove, terms and conditions of the lifetime lease shall be the same as those contained in tenant's current lease or rental agreement.

7. Nothing in the Notice of Tenant Rights shall be construed as waiving, reducing or modifying any greater rights a tenant may have under the Oakland Just Cause for Eviction Ordinance (O.M.C. section 8.22.300 et seq.) and corresponding regulations, the Oakland Rent Adjustment Ordinance (O.M.C. section 8.22.010 et seq.) and corresponding regulations, and the Oakland Tenant Protection Ordinance (O.M.C. section 8.22.600 et seq.) and corresponding regulations.

The Preliminary Tenant Assistance Program, as set forth in Subsection B of this Section, shall make provision for the above minimum rights on the terms set forth above or on terms more favorable to the tenant.

B. The subdivider's Preliminary Tenant Assistance Program (PTAP) shall consist of at least two parts: efforts to minimize tenant displacement, and tenant relocation assistance.

1. In the first part of the PTAP, subdivider shall describe those incentives and inducements that would increase the potential for, and ability of, tenants to become owners in the conversion. Subdivider shall also include actions and procedures to enable hard-to-relocate tenants to remain as tenants.

2. The second part of the PTAP shall include all relocation and moving assistance and information to be provided to each tenant and all steps the subdivider will take to ensure the successful relocation of each tenant in the event that conversion takes place and the tenant chooses not to purchase a unit or remain as a tenant.

a. Tenants who resided in the unit prior to the filing of the tentative map or tentative parcel map and who vacate for Code Compliance repairs shall be paid relocation payments at no less than the amounts pursuant to O.M.C. chapter 15.60. Tenants who resided in the unit prior to the filing of the tentative map or tentative parcel map application and who vacate due to owner or relative move-in or an Ellis Act eviction shall be paid relocation payments pursuant to O.M.C. section 8.22.850 or O.M.C. section 8.22.450.

b. Tenants who resided in the unit prior to the filing of the tentative map or tentative parcel map and vacate for any other reason, unless evicted for Tenant fault, shall be paid relocation payments at not less than the amounts pursuant to O.M.C. Section 8.22.820.

- i. If the tenant voluntarily vacates the premises, the Owner shall make the payment directly to an eligible Tenant Household no later than thirty (30) days before the expected vacation date. If less than thirty (30) days' advance notice of vacation is given, then the payment by the Owner to the Tenant Household is due no later than the actual time of vacation.
- ii. If the owner is requiring the tenant to vacate, the owner must pay the Tenant Household half of the relocation payment when the termination notice is given to the household and the remaining half when the tenant vacates the unit provided that the tenant agrees, in writing, not to contest an unlawful detainer based on the notice to terminate tenancy for the owner or relative moving in to the tenant's rental unit. If the tenant does not so agree, then the entirety of the relocation payment is not due unless the owner prevails in the unlawful detainer. If the owner prevails in the unlawful detainer, the relocation payment must be paid to the tenant prior to the owner seeking a writ of possession for the tenant to vacate the unit.
- c. For the purpose of this paragraph, the Tenant is not evicted for Tenant fault if (1) the Tenant vacates within one hundred twenty (120) days after the effective date of a rent increase notice of more than ten (10) percent; and (2) the rent increase notice is issued within one (1) year after the issuance of the final subdivision public report on the conversion of a building with five (5) or more units or the start of the sales program in a building of four (4) units or less.
- ~~d. A Tenant who is also eligible for relocation assistance under Section 16.36.030 must elect for either relocation payments under this Section or Section 16.36.030, and may not receive relocation payments under both.~~

In both parts of the PTAP, subdivider shall give particular attention to specific steps that will be taken to assist the elderly, disabled, and other tenants who may encounter difficulty in finding new quarters.

16.36.060 Tentative map and tentative parcel map requirements for conversions.

In addition to other matters required in this title Chapter, the subdivider shall submit to the Advisory Agency, along with the tentative map or tentative parcel map of a conversion, the Preliminary Tenant Assistance Program and one copy of each of the notices and other documents to be provided to all tenants and prospective tenants pursuant to Sections 16.36.020 through 16.36.050. Subdivider shall also certify on the tentative map or tentative parcel map the following:

- A. That all tenants have received all documents set forth in Sections 16.36.020, and 16.36.031-040; and that all prospective new tenants have received and will receive said documents, along with the notice set forth in O.M.C. section 16.36.030;

- B. That all tenants and ~~Director of City Planning~~Planning and Building Director will receive all notices as set forth in Subsection B of O.M.C. section 16.36.040 and that they will receive all information as required in O.M.C. section 16.36.080.
- C. That all Tenants who qualify for a lifetime lease pursuant to O.M.C. section 16.36.050.A.6 have been given a written offer to enter into a lifetime lease. Such written offer for a lifetime lease shall be executed by the subdivider and recorded prior to the time of final map or final parcel map approval.
- D. That a binding agreement between the City and the subdivider concerning the lifetime lease and twenty year rental requirements have been recorded against the property's title.
- E. That no unit in a building approved for conversion shall be offered for sale unless the property to be subdivided is in compliance with all current state and local laws and that any violations have been or will be corrected prior to recordation of the final map or parcel map. The state and local laws include, but are not limited to, the City's Zoning Ordinance, and all laws that govern the structural and fire safety of buildings and the structure and safety of their major systems, such as a building's plumbing, electrical and mechanical systems as set forth in California Health and Safety Code Section 17920.3.
- F. That a report to the City will be provided on the building's major systems, for review and approval by the Planning and Building Director, prior to recordation of the final map or parcel map.

The ~~Director of City Planning~~Planning and Building Director may require other information to be filed with the tentative map or tentative parcel map which, in the Planning and Building Director's opinion, will assist in determining whether the project is consistent with the purposes set forth in O.M.C. section 16.04.010 or will assist in making any of the findings as set forth in O.M.C. section 16.36.030. Any such determination by the ~~Director of City Planning~~Planning and Building Director may be appealed to the City Planning Commission in the manner set forth in Section 17.132.020 of the zoning regulations of the City.

The ~~Director of City Planning~~Planning and Building Director may waive the tenant notification requirements contained in O.M.C. sections 16.36.020, 16.36.031, and 16.36.040 where the building proposed for conversion is not tenant-occupied at the time of tentative map or tentative parcel map application. Where the building proposed for conversion is not tenant-occupied and the subdivider declares under penalty of perjury that the building is not tenant-occupied and no unit within the building will be rented prior to final or parcel map approval, the ~~Director of City Planning~~Planning and Building Director may waive the tenant assistance requirements set forth in O.M.C. sections 16.36.050 and 16.36.080.

16.36.070 - Action on the tentative map or tentative parcel map – conversion rights.

Action by the Advisory Agency shall be governed, in addition to that set forth in O.M.C. section 16.08.030, by the following:

A. Requirements for map approvals.

1. The Advisory Agency shall deny approval ~~may only approve~~ a tentative map for the conversion of five or more housing units or a tentative parcel map if unless it finds that every converted unit will be replaced with a rental unit added to the City's housing supply. Such replacement, if made in accordance with provisions of this Chapter, shall be found to avoid the negative impact the conversion would otherwise have had on the City's rental housing supply. Accordingly, a conversion of five or more housing units shall only be approved, subject to meeting all other requirements prescribed by State and City, if the subdivider agrees that, prior to final map approval or final parcel map approval, subdivider will, in a manner acceptable to the Advisory Agency, demonstrate that subdivider owns "conversion rights" equal in number to the units proposed for conversion. "Conversion rights" are generated by projects which add housing units to the City's rental supply, and one conversion right is equivalent to one housing unit within such a project. Conversion rights may be generated by project(s) either undertaken by the subdivider or by others from whom subdivider has obtained or acquired such "rights" in a legally binding manner by a recorded document to be approved by the Advisory Agency. No conversion rights shall be generated by project(s) or specific parts of project(s) which: (a) are intended to become the property of the Oakland Housing Authority, (b) receive financial assistance from the City or the Oakland Redevelopment Successor Agency, (c) are located on property that was purchased or leased from a public or quasi-public agency, or (d) are developed as condominium units or otherwise may be sold as individual units. Subdivider shall provide the Advisory Agency with information concerning the intended location and type of rental units that will generate the conversion rights of which subdivider intends to demonstrate ownership. Any newly approved market rate unit that otherwise qualifies may be used to generate conversion rights.
2. The Advisory Agency shall deny approval of a tentative map or tentative parcel map for a conversion if any tenant was evicted pursuant to O.M.C. 8.22.360.A.8-11 in the last five years prior to the date of the application, including if tenant was given written or oral notice that the owner intended to evict the tenant under any of these O.M.C. sections and the tenant left voluntarily or after an agreement with the owner, or if the subdivider or predecessor causes or attempts to cause a tenant to vacate by violating the Tenant Protection Ordinance (O.M.C. 8.22.600, et. seq.). The Advisory Agency may adopt regulations to implement this provision.
3. The Advisory Agency shall deny approval of a tentative map or tentative parcel map for a conversion if the conversion is from a building in which the owners

have a fully executed written agreement within five (5) years of the application date in which the owners each have an exclusive right of occupancy to individual units in the building to the exclusion of the owners of the other units (Tenancy-in-Common).

- B. Project(s) generating conversion rights may involve new rental construction (including accessory dwelling units), increasing the number of units in an existing residential rental building, or converting a nonresidential building to residential rental units; however, to generate conversion rights, each added unit must be reasonably comparable in number of bedrooms and amenities to each unit being converted and must not already be deed restricted from converting to a condominium.
- C. Conversion rights may also be generated by bringing back into the supply, through major rehabilitation, a residential rental building that has been continuously vacant and declared substandard or a public nuisance pursuant to O.M.C. section 15.080.350 et seq. for at least one three (3) years prior to commencement of work on the rehabilitation project. ~~The conversion rights so generated can be applied to the conversion of the building being rehabilitated.~~ Anyone attempting to generate conversion rights by rehabilitating a vacant residential rental building must demonstrate to the satisfaction of the Director of City Planning Planning and Building Director that the building was indeed vacant and declared substandard or a public nuisance for at least one three (3) years, that the work did indeed involve major rehabilitation, and that the building was not vacated for the purpose of generating conversion rights. For purposes of this Chapter, rehabilitation shall be deemed "major" if it the cost of construction equals or exceeds fifty percent (50%) twenty (20) percent of the total value of the building after rehabilitation of the average basic cost for new construction using tables issued by the Chief Building Inspector applicable to the time period when the substantial rehabilitation was completed.

Anyone who, through major rehabilitation, converts a residential rental building that has been continuously vacant and declared substandard or a public nuisance for at least three (3) years, shall not be required to provide conversion rights for the conversion of that building.

- D. ~~Conversion rights may also be generated by the construction of a condominium, community apartment, or stock cooperative project if the owner of such project, for which final map approval has been obtained, makes an agreement in writing with the city that for a period of not less than seven years, the owner will offer the units in the project to the public as conventional rental units subject to a lease that shall contain no commitment for later purchase of the unit, the form of said lease to be approved by the Director of City Planning. Subsequent sale of any unit prior to the expiration of the seven-year rental period shall be subject to the same terms and conditions stated in said written agreement.~~
- D. Conversion rights may be generated only from residential buildings with Rental Units where the conversion rights agreement transferring the conversion rights is entered into and recorded: (1) after the generating residential building receives planning entitlements and (2) no later than sixty (60) days after the building permit for the

generating residential building has been issued. The Bureau of Planning shall clearly set forth this requirement in the Condominium Conversion application.. The Bureau of Planning shall require through Conditions of Approval that a final conversion rights agreement that secures conversion rights is executed and recorded against the generating property and Certificate of Occupancy issued for the generating residential building Rental Units prior to final map approval for the condominium conversion project. If the approval involves a project with five or more units having a recorded condominium map, but without evidence of a valid public report from the Department of Real Estate (DRE), then the subdivider shall be exempt from the requirement to enter into an agreement securing the conversion rights.

- E. ~~Tentative map approval of the conversion must take place no later than seven years from the issuance of a certificate of occupancy on the project(s) generating the conversion rights. Project(s) for which building permits were issued prior to March 18, 1980 cannot generate conversion rights.~~ F. No units in the building approved for conversion shall be sold until a certificate of occupancy has been issued by the City Building Official on the project(s) generating the conversion rights. For buildings of five or more units, subdivider shall request the California Department of Real Estate in writing to not issue the final subdivision public report until said Department has received written notification by the subdivider to issue said report. Said notification must include written approval from the Director of City Planning Planning and Building Director, which approval shall not be given until all necessary certificates of occupancy have been issued.
- F. ~~G.~~ Notwithstanding the above, the Advisory Agency shall deny approval of a tentative map or tentative parcel map if it finds that the conversion is proposed to take place in the "conversion impact area," an area of the city whose rental housing supply has been negatively impacted by previous conversions. The conversion impact area shall contain two sections: the primary section consisting of Census Tracts 4034, 4035.01, 4035.02, 4036, 4037.01, 4037.02, 4039, 4040, and 4041.01, and 4041.02; and the secondary section consisting of Census Tracts 4038, 4042, 4043, 4052, and 4053 4053.01 and 4053.02.
- G. ~~H.~~ A conversion which would otherwise be denied due to its location within the conversion impact area shall be approved, subject to meeting all other requirements prescribed by State and City, if the subdivider agrees to replace (using the conversion rights method described above) each converted unit with a rental unit according to the following: For conversions to take place in the primary section of the conversion impact area, conversion rights must be generated within the primary section; for conversions to take place in the secondary section, conversion rights must be generated within the conversion impact area.
- H. ~~I.~~ Notwithstanding other provisions of this section, the Advisory Agency shall deny approval of a tentative or final map or a tentative or final parcel map if it finds that the subdivider vacated units in the building proposed for conversion in order to avoid providing payments and other benefits to tenants as required by O.M.C. section 16.36.050 or described in the tenant assistance program. It shall also deny approval

if it finds that the subdivider's preliminary tenant assistance program, as set forth in O.M.C. section 16.36.050, or any submission required by O.M.C. sections 16.36.020, 16.36.031, 16.36.040 or 16.36.060 is unacceptable or otherwise inconsistent with the purpose of this title as it concerns the City's housing goals and policies. It shall also deny approval if it finds that the subdivider has falsely claimed that the building proposed for conversion is vacant.

- I. A property owner of a two (2) to four (4) unit property is eligible for a one-time exemption from the conversion rights requirements of this Section for one of the units if the property owner: (1) has lived in the building for at least ten (10) years, (2) can demonstrate their uninterrupted residency, (3) has an annual income of 80 percent or less of Area Median Income ("AMI"), and (4) has never previously converted their property to a condominium.
- J. A subdivider is eligible for a one-for-one reduction from the conversion rights requirements of this Section for each unit:
1. That is occupied and purchased by a current tenant who has continuously occupied a rental unit in the building for at least three (3) years preceding the date of the notice of intention to convert;
 2. That upon conversion will be restricted to occupancy by and affordable to lower income households, as defined in Health and Safety Code Section 50079.5, at an affordable housing cost, as defined in Health and Safety Code Section 50052.5, in perpetuity. Such restrictions shall be evidenced by recorded covenants or restrictions running with the land; or
 3. In which a non-purchasing tenant who receives the benefit of a lifetime lease pursuant to O.M.C. section 16.36.050.A.6 and the unit is subject a deed restriction consistent with O.M.C. Section 16.36.050.A.6.c.

16.36.080 - Final tenant assistance program.

If the tentative map or tentative parcel map is approved, the subdivider shall prepare a Final Tenant Assistance Program (FTAP) in conformity with the Preliminary Tenant Assistance Program (PTAP), and any conditions of approval relating to the tenant assistance program. At a minimum, the FTAP shall provide tenants with all of the rights set forth in O.M.C. section 16.36.050. The FTAP shall be reviewed and, if it conforms to the PTAP and the requirements of this Chapter, may be approved by the Planning and Building Director. Within two days of receiving such approval, subdivider shall distribute a copy of the FTAP to each tenant and to the Director of City Planning-Planning and Building Director. If the Advisory Agency approves the map, the FTAP shall be accompanied by a written notice advising tenants of the action of the Advisory Agency and informing them of their right to appeal the decision to the City Council, if a tentative map is involved, or to the City Planning Commission, if a tentative parcel map is involved, within ~~fifteen (15)~~ ten (10) days of the date of the decision. Any party seeking to appeal a decision to the City Council or City Planning Commission shall pay the appeal fee as specified in the City's Master Fee Schedule.

16.36.090 – Information to be filed with final maps and parcel maps.

In addition to other matters required in this title Chapter, the following shall be filed with the final map or parcel map:

- A. A copy of the Final Tenant Assistance Program (FTAP) as described in O.M.C. section 16.36.080;
- B. A copy of the notice of subdivision public report or notice of start of sales program as set forth in O.M.C. section 16.36.110;
- C. One copy each of the following documents more fully described in Subsections A, B and C of O.M.C. section 16.36.120: written notice to be given to prospective buyers; property report; structural pest report; and report describing the building's utilities, storage space, and laundry facilities;
- D. For tentative map or tentative parcel map approvals involving conversion rights, evidence, in the manner specified by the Advisory Agency as set forth in O.M.C. section 16.36.070, that the subdivider owns conversion rights equal in number to the units to be converted.

No final map or parcel map shall be approved until the above requirements have been met.

16.36.100 - Information on final maps and parcel maps.

In addition to other matters required in this title, the information on the final map or parcel map shall show, under the owner's certificate, the following:

- A. For final maps only, a statement pursuant to Section 66427.1 of the State of California Subdivision Map Act;
- B. A statement certifying that copies of the property report, structural pest report, and utilities/storage space/laundry facilities report, all more fully described in O.M.C. section 16.36.120, were submitted along with subdivider's request for a certificate of occupancy inspection; and, if a final map, that these documents plus a copy of the notice to be given to prospective buyers, more fully described in O.M.C. section 16.36.120, have been or shall be filed with the California Department of Real Estate in the subdivider's application for public report; and, if a final map, that the subdivider has requested or shall request that the above-mentioned notice to be given to prospective buyers be included in the subdivision public report;
- C. A statement certifying that the Director of City Planning Planning and Building Director and each tenant in the building to be converted has received or will receive a notice of final map or parcel map approval and, for buildings with five or more units, a notice of subdivision public report application as set forth in Subsections (B)(3) and (B)(4) and (B)(5) of O.M.C. section 16.36.040;

- D. A statement certifying that the ~~Director of City Planning~~Planning and Building Director and each tenant in the building to be converted will receive the notice of subdivision public report or notice of start of sales program as set forth in O.M.C. section 16.36.110;
- E. For tentative map or tentative parcel map approvals involving conversion rights, a statement certifying, in conformity with O.M.C. section 16.36.070, that no unit in the conversion will be offered for sale until a certificate of occupancy ~~will have been~~ is issued on those project(s) generating conversion rights;
- F. For tentative map approvals involving conversion rights, a statement certifying, in conformity with O.M.C. section 16.36.070, that the California Department of Real Estate has been or will be requested not to issue the final subdivision public report until so notified in writing by the subdivider, such request to include written approval of the ~~Director of City Planning~~Planning and Building Director prior to the issuance of said report;
- G. For five or more unit buildings, a statement certifying, in conformity with section 16.36.130, that no unit in the conversion will be offered for sale until the unit conforms to the noise insulation standards promulgated in Title 25 of the California Administrative Code, Section 1092, or its successor;
- G. H. A statement certifying that informational reports will be submitted to the ~~Director of City Planning~~Planning and Building Director as required by and set forth in O.M.C. section 16.36.140.

No final map or parcel map shall be approved until the above requirements have been met.

16.36.110 - Notice of subdivision public report or notice of start of sales program.

Within five days of receipt of the final subdivision public report described in Section 11018 of the California Business and Professions Code, the subdivider of a building with five or more units shall notify, in writing, the ~~Director of City Planning~~Planning and Building Director and all tenants in the building to be converted of the date of issuance of said report. For buildings with four or less units, the subdivider shall give the ~~Director of City Planning~~Planning and Building Director and all tenants in the building to be converted ~~ten~~ seventeen (17) days' prior written notice of the start of the sales program. Said notices, to be accompanied by the subdivider's final tenant assistance program as set forth in O.M.C. section 16.36.080, shall also state the following:

- A. That, for buildings of five or more units, a copy of the final subdivision public report is available to each tenant upon request;
- B. That no remodeling of the interior of tenant-occupied units shall begin until at least thirty (30) days after issuance of said report or start of the sales program;

- C. That each tenant has an exclusive right to contract for the purchase of the tenant's respective unit, or, at the tenant's option, any other available unit in the building upon the same terms and conditions that such units will be initially offered to the general public, less a discount of at least ten percent (10%), or upon terms more favorable to the tenant ~~as indicated~~ if so provided for in the subdivider's final tenant assistance program attached to this notice, such right to run for a period of not less than ninety (90) days from the date of issuance of said report or the start of the sales program;
- D. That each tenant has a right of occupancy of at least one hundred eighty (180) days from the date the notice to existing tenants of intention to convert, as set forth in O.M.C. section 16.36.031, is served on the tenant; one hundred eighty (180) days from the issuance of said report the final subdivision public report or, if one is not issued, or from the start of subdivider's sale program; or until the expiration of tenant's lease, or as specified in the subdivider's final tenant assistance program attached to this notice, whichever is longer, prior to termination of tenancy due to conversion, and that upon termination of tenancy, each tenant shall be provided with relocation assistance as set forth in O.M.C. section 16.36.050. This provision shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including but not limited to the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1, and 1941.2 of the California Civil Code;
- E. That ~~the subdivider will provide for~~ each tenant not wishing ~~desiring~~ to purchase a unit or, for tenants eligible for a lifetime lease, not desiring to accept a lifetime lease, the subdivider will provide such tenant with up-to-date information of available apartments of comparable size, price, and location within the city and will take other steps as indicated in the subdivider's final tenant assistance program attached to this notice.

The written notices required by this section shall be deemed satisfied if they comply with the legal requirements for service by mail pursuant to California Code of Civil Procedure Section 1013.

16.36.120 - Information to be given to prospective buyers.

All prospective buyers of converted units shall be given written notices, stating the existence of a seventy-two (72) hour period following an agreement to purchase, during which period a prospective buyer may withdraw from the agreement to purchase without penalty or cost. The written notice shall also state the availability of the following:

- A. A property report prepared and signed by an appropriately licensed contractor or engineer. Said report shall:
1. Describe the condition and useful life of the roof and foundations, and the mechanical, electrical, plumbing, and structural elements of all existing structures on the property; and
 2. Estimate future property maintenance costs.

- B. A structural pest report prepared and signed by a licensed pest control operator, conforming to California Business and Professions Code, Section 8516;
- C. A report describing the building with regard to whether utilities are separately metered; location of water and gas shutoff valves; availability of protected storage space in addition to closet space ordinarily contained within a unit; parking spaces; and laundry facilities, if any;
- D. For five or more unit buildings, the applicant shall provide a statement, signed by a person experienced in the field of acoustical testing and engineering, certifying that the converted unit conforms to the noise insulation standards promulgated in Title 25 of the California Administrative Code, Section 1092, or its successor.
- E. A copy of the notice of rights provided to tenants occupying the unit to be purchased, as provided for in O.M.C. section 16.36.110, and copies of any agreements for continuing occupancy entered into pursuant to O.M.C. section 16.36.050.A.5.
- F. Information regarding the number of units in the property for which tenants have been provided the right to a lifetime lease pursuant to O.M.C. section 16.36.160.A.6.

16.36.130 - Noise insulation standards.

For five or more unit buildings, the applicant shall confirm that nNo unit in a building approved for conversion shall be offered for sale unless it conforms to the noise insulation standards promulgated in Title 25 of the California Administrative Code, Section 1092, or its successor

16.36.140 - Submission of informational reports.

Within thirty (30) days of the issuance of the final subdivision public report on the conversion of a building with five or more units or the start of the sales program in a building of four units or less, subdivider shall submit to the ~~Director of City Planning~~ Planning and Building Director informational reports pertaining to tenants of the conversion displaced since the filing of the tentative map or tentative parcel map, and to buyers of the units being converted. The information, as required, shall be submitted on forms to be provided by the Bureau of Planning ~~City Planning Department~~. These informational reports shall be submitted annually, and they shall continue to be submitted until all units in the conversion have been sold.

16.36.150 - Technical Bulletins and Administrative Regulations.

The City Administrator or designee is responsible for the administration of this Chapter, and is authorized to develop and require compliance with one or more technical bulletins and/or administrative regulations containing interpretations, clarifications, forms, and commentary to facilitate implementation of any requirements set forth in this Chapter.

SECTION 3. Tenancy-in-Common, Tenant Purchase, and Alternative or Supplemental Method to Conversion Rights System that Ensures One-For-One Replacement of Rental Units. The City Council directs City Administrator or designee to (a) study, to the extent feasible, the number of rental units converted to tenancies-in-common in the city, (b) track the number of units purchased by existing tenants pursuant to the provisions of this ordinance, and (c) study alternative methods of ensuring the replacement, on a one-for-one basis, of rental units in the City lost as a result of condominium conversions. The City Administrator may also study options to increase affordable home ownership and reduce displacement of renters subject to conversion. The City Council further directs City Staff to report back on its findings regarding this section.

SECTION 4. California Environmental Quality Act. The City Council independently finds and determines that this action is exempt from CEQA pursuant to CEQA Guidelines sections 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), 15061(b)(3) (no significant effect on the environment), 15183 (projects consistent with a community plan, general plan, or zoning), and 15301 (existing facilities), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

SECTION 5. Authority. This Ordinance is enacted to serve the public interest and is necessary to protect the health, safety, and/or welfare of the citizens of Oakland, and is enacted pursuant to Article XI, Sections 5 and 7 of the California Constitution, the Subdivision Map Act, Section 106 of the Oakland City Charter and the City's home rule powers, and the City's General Plan.

SECTION 6. Severability. The provisions of this Ordinance are severable, and if any article, section, subsection, sentence, clause, phrase, paragraph, provisions, or part of this Ordinance, or the application of this Ordinance to any person, is for any reason held to be invalid, preempted by state or federal law, or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of remaining portions of the Ordinance which shall remain in full force and effect.

SECTION 7. Ordinance Effective Date. Pursuant to Section 216 of the Charter of the City of Oakland, this Ordinance shall become effective immediately on final adoption if it receives six (6) or more affirmative votes on final adoption. Otherwise, it shall become effective upon the seventh day after final adoption.

SECTION 8. Applicability to Existing Projects. This Ordinance shall apply to all existing projects that have not obtained a vested right, as defined by California law, as of the effective date of this Ordinance. Notwithstanding the sentence immediately above, if a subdivider has received their tentative parcel map prior to the effective date of this Ordinance and is converting a two- to four-unit building, the subdivider shall not be required to secure conversion rights pursuant to this chapter provided the subdivider obtains their approved final map within 24 months of the effective date of this Ordinance.

SECTION 9. Conflict. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

SECTION 10. Notice of Exemption. The Environmental Review Officer, or designee, is directed to cause to be filed a Notice of Exemption with the appropriate agencies.

IN COUNCIL, OAKLAND, CALIFORNIA,

FEB 18 2020

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, ~~REYNOLDS~~ THAO AND PRESIDENT KAPLAN 6

NOES - 0

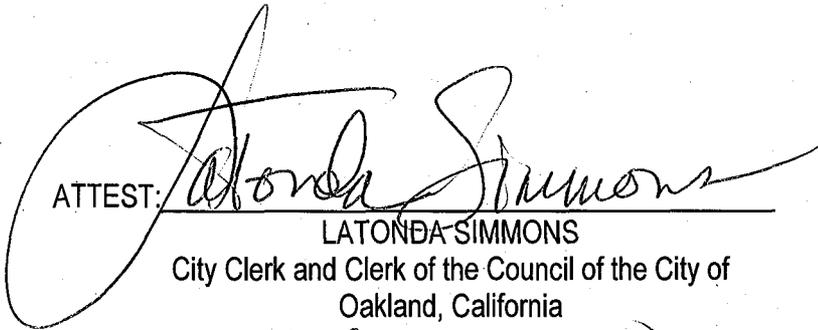
ABSENT - 1 Reid

ABSTENTION - 0

Excused - 1 Taylor
Introduction Date

FEB 04 2020

ATTEST:


LATONDA SIMMONS
City Clerk and Clerk of the Council of the City of
Oakland, California

Date of Attestation:

2-26-2020

NOTICE AND DIGEST

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 16.36, CONDOMINIUM CONVERSIONS, TO: (1) EXTEND THE CONVERSION RIGHTS REQUIREMENT TO TWO- TO FOUR-UNIT RESIDENTIAL BUILDINGS; (2) REQUIRE THAT A CONVERSION RIGHTS AGREEMENT BE RECORDED AT LATEST 60 DAYS AFTER THE BUILDING PERMIT FOR THE GENERATING RESIDENTIAL BUILDING IS ISSUED; (3) ENHANCE TENANT RIGHTS AND NOTICE REQUIREMENTS TO TENANTS; AND (4) MAKE OTHER MODIFICATIONS; AND TO DIRECT CITY ADMINISTRATOR OR DESIGNEE TO STUDY ALTERNATIVE METHODS OF (A) ENSURING ONE-FOR-ONE REPLACEMENT OF RENTAL UNITS IN THE CITY AS A RESULT OF CONDOMINIUM CONVERSIONS AND (B) INCREASING AFFORDABLE HOME OWNERSHIP AND REDUCING DISPLACEMENT OF RENTERS SUBJECT TO CONVERSION; AND ADOPT CEQA EXEMPTION FINDINGS

This ordinance amends the City of Oakland's existing condominium conversion regulations to require replacement rental housing for the conversion of two or more housing units, to remove the provision allowing the generation of conversion rights when the units are offered as rental units for seven or more years, to acknowledge the applicability of the Oakland Just Cause for Eviction Ordinance (O.M.C. section 8.22.300 et seq.), and corresponding regulations, and the Oakland Rent Adjustment Ordinance (O.M.C. section 8.22.010 et seq.) and corresponding regulations, and to afford greater rights and protections to existing tenants. This ordinance also directs the City Administrator or her designee to study alternative methods of: (a) ensuring one-for-one replacement of rental units in the City as a result of condominium conversions and (b) increasing affordable home ownership and reducing displacement of renters subject to conversions.



CITY OF OAKLAND

TENTATIVE PARCEL MAP

SUPPLEMENTAL SUBMITTAL REQUIREMENTS

TENTATIVE PARCEL MAP

(1 to 4 lots / condominium conversions, or construction of 1 or more new condominiums)

Supplemental Submittal Requirements:

1. Obtain the Parcel Map Number from the Mapping Division of the Alameda County Recorder's Office. Please call (510) 208-9857 to determine what information they need in order to assign a Parcel Map number. **Applications cannot be accepted without this information.**
2. Six (6) **full-size** copies of the proposed Tentative Parcel Map prepared by a California State licensed Land Surveyor or by a Civil Engineer with a license number below 33966 (licensed prior to January 1, 1982). Each copy must be folded to a size of no larger than 9" x 12". Maps must be no more than 3 years old from the time of submittal.
3. Two (2) **reduced** (8½" x 11" or 11" x 17") copies of the proposed Tentative Parcel Map.
4. Prevalent lot size information:
 - (a) a map of all parcels within or partially within 200' of the site perimeter (all using the same map scale).
 - (b) a sequential list of all the parcels within or partially within 200' of the site perimeter, in order of lot area (including a notation of the median lot area).
 - (c) a sequential list of all the parcels within or partially within 200' of the site perimeter, in order of lot width (including a notation of the median lot width).

Prevalent lot size information is not required for the following project types:

 - Creation of new condominiums
 - Condominium conversions
 - Mini-lot developments with also involve a Conditional Use Permit pursuant to Section 17.102.320 O.P.C.
 - Planned Unit Developments (PUD's)
 - Subdivisions between existing principal buildings which also involve a Conditional Use Permit to waive the lot area and lot width requirements pursuant to Sections 17.102.330 and 17.106.010(B) O.P.C.
 - Projects which also involve a rezoning, or the creation of a Specific Plan or Development Control Map.
5. For condominium conversions only: 60-day tenant notification as required by Sections 16.36.020-16.36.020 O.M.C.
6. For condominium conversions only: Copy of 3R report from Building Services documenting number of legal units.
7. For condominium conversions only: If units are vacant, a notarized letter stating when the units were vacant (must be at least 60 days).

Map Content:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | 1. Name and address of record property owner(s), the subdivider, and the licensed engineer or surveyor preparing the map. |
| <input type="checkbox"/> | 2. Wet stamp and signature of the Land Surveyor or Civil Engineer who prepared the survey. |
| <input type="checkbox"/> | 3. The Parcel Map number assigned by the real estate records of the Alameda County Recorder's Office. |
| <input type="checkbox"/> | 4. Contours with intervals of five (5) feet or less referred to City of Oakland datum, north arrow, date and scale. |
| <input type="checkbox"/> | 5. Original lot boundaries with lot numbers, as shown on earlier tracts or parcel maps (or names of record owners for unsubdivided land), within and adjacent to boundary of proposed land division. |
| <input type="checkbox"/> | 6. The location, width, improvement status, purpose, and names of all existing or platted streets (including distance to nearest intersecting street), easements, railroad rights-of-way, other public ways, and buildings within or adjacent to the proposed land division. |
| <input type="checkbox"/> | 7. Location of all political subdivision lines, corporation lines, water courses, and other physical features. |
| <input type="checkbox"/> | 8. Location, type, and trunk diameter of trees measuring at least 9-inch diameter (4" diameter if Coast Live Oaks) at a location 4½' above grade. |
| <input type="checkbox"/> | 9. The layout, numerical or alphabetic designation, dimensions, and square footage of all proposed lots, with the boundary lines accurate in scale. |
| <input type="checkbox"/> | 10. Proposed vehicular access (including driveway width and slope) and building site location for each parcel. |
| <input type="checkbox"/> | 11. Provisions for drainage, flood control, sewage disposal and water supply availability. |

These supplemental submittal requirements are in addition to the submittal requirements listed in the Basic Application for Development Review.

Attachment H

April 1, 2019

Joan Wendt
1112 Peralta St
Oakland, CA 94607

Dear Joan,

This is a notice of intent to convert your rental unit to a condominium effective within 60 days.

Tenant Rights (6.36.050A):

Tenants are guaranteed the following minimum rights (these must be included in the "notice of tenant rights"): - tenants may terminate their lease or rental agreement without penalty within 30 days of receipt of "notice of intent to convert" –

-no rent increase is permitted until at least 12 months after sub- divider files the tentative map application

- no remodeling of the interior of tenants' units may occur until at least 30 days after issuance of the final subdivision report, or after the start of the sales program

-tenants have the exclusive right to contract for the purchase of their unit, or any other available unit in the building, upon the same or more favorable terms and conditions that such units will be initially offered to the general public – these right runs for at least 90 days from the issuance of the final subdivision report –

-tenants have a right of occupancy of at least 180 days from the issuance of final subdivision report, or the start of the sales program.

Rights of tenants of units containing a tenant 62 years of age or older (16.36.050(A)(6)):

Tenants who are 62 years of age or older are guaranteed the following additional rights (these must be included in the "notice of tenants rights"):

- option of a lifetime lease on his or her unit, or, at tenant's option, on any other available unit in the building

- limitations on base monthly rent and % increase (based on rent price one year prior to filing of the tentative parcel map, with increases tied to the consumer price index (CPI) for the Bay Area)

- tenants cannot be evicted except for just cause - except as listed above, the terms and conditions of the lifetime lease shall be the same as those contained in the tenant's current lease or rental agreement.

Joan *16.36.050(A)(6)*
16.36.050(A)(6)

Tenant assistance program (16.36.050(B)): •

The subdivider must develop a tenant assistance program that includes: - incentives and inducements that would increase the potential for, and ability of, tenants to become owners in the conversion

- actions and procedures to enable hard-to-relocate tenants to remain as tenants
- relocation and moving assistance and information to be provided to each tenant and all the steps the subdivider will take to ensure the successful relocation of each tenant
- specific steps that will be taken to assist elderly, disabled, and other tenants who may encounter difficulty in finding new quarters

Other provisions (16.36.070(C)): • A subdivider may not vacate units in a building proposed for conversion in order to avoid the costs of conversion

Thank you.



P2 Oakland CA LLC

Bruce Loughridge, Managing Member

4/6/19

Joan Wenot 4/11/19
Received By Joan Wenot

Rp 2/2
JMW

12. RESIDENTIAL TENANT PROTECTIONS

The City of Oakland has laws to protect residential tenants, including the 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). These laws may apply to development projects under certain circumstances.

	Yes	No
A. Will the project affect existing residential units on the site, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units? > If "Yes," go to Question B. > If "No," you do not need to complete the remainder of this section.	<input type="checkbox"/>	<input type="checkbox"/>
B. Are there existing residential tenants in the affected residential units, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units; or did residential tenants occupy the affected residential units within the past 12 months? > If "Yes," go to Question C. > If "No," you do not need to complete the remainder of this section.	<input type="checkbox"/>	<input type="checkbox"/>
C. Will existing residential tenants in the affected residential units, including Live/Work Units, Work/Live Units, Joint Living and Working Quarters, or unpermitted units, be temporarily or permanently evicted or relocated due to the project, or were residential tenants previously occupying the affected units within the past 12 months temporarily or permanently evicted or relocated due to the project? > If "Yes," provide the information below about these units and complete the remainder of this section. 1) Number of Affected Units: _____ 2) Number of Affected Tenants: _____ > If "No," you do not need to complete the remainder of this section.	<input type="checkbox"/>	<input type="checkbox"/>

D. Project Information (to be completed if Questions A-C above are marked "Yes"):

- 1) Property Address: _____
- 2) Assessor's Parcel Number: _____
- 3) Applicant's Name: _____
- 4) Applicant's Address: _____
- 5) Applicant's Phone: _____
- 6) Applicant's Email: _____

Existing and former tenants on the site may be entitled to protections and benefits, including 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 the 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.

To be completed by staff:

Case Number(s): _____ Case Planner's Name: _____ Date: _____

Note to Case Planner: If Questions A, B, or C are marked "Yes," please route a copy of this page to the Housing and Community Development Department.

City of Oakland Department of Transportation

Transportation and Right-of-Way Management Division, Engineering Services

If Project is approved by the Advisory Agency, attach the Engineering Services "Conditions of Approval" provided below.

Planning/Zoning Number(s) <u>PLN19172</u>				Engineering Staff Contact <u>Ellen Ellsworth, Assistant Engineer II</u>			
Project Address <u>1110 and 1114 Peralta Street</u>				Project Description <u>Condominium Conversion, Single Family & 2-Units.</u>			
Tentative Map No. <u>TPM11028</u>		No. of New Lots		<u>1</u>	No. Condominiums	<u>3</u>	<input type="checkbox"/> Mixed Use
<input type="checkbox"/> No Map	<input type="checkbox"/> Parcel Map Waiver	<input type="checkbox"/> Merger	<input type="checkbox"/> Lot Line Adjustment LLA	No. Existing Lots LLA		No. New Lots LLA	
<u>GENERAL REQUIREMENTS</u>				<u>SPECIFIC PROJECT CONDITIONS OF APPROVAL</u>			
<u>SIDEWALKS, CURB AND GUTTERS</u> 1. Existing sidewalks fronting subject property must be compliant with ADA standards. 2. Uplifted, uneven, damaged sidewalks shall be repaired with no more than ¼ inch lift and no more than 2% cross slope. 3. Sidewalk clear width of 5.5 feet minimum is required and must not be less than 50-inches between obstacles, poles, trees, hydrants, pinch points for ADA access. 4. Existing sidewalks, curbs/gutter/driveway approaches damaged, broken or if non-standard shall be repaired. 5. A Curb, Gutter and Sidewalk (CGS) permit is required to repair or construct sidewalk. 6. Infrastructure and improvements to be privately maintained within the right of way and any non-standard features MAY be accepted with an Encroachment Permit. 7. City may revoke encroachment permit at its sole discretion and may charge property owner(s) for use of the right-of-way.				Conditions may apply at the time of any construction permit applications.			
<u>STREET PAVING AND STRIPING</u> 8. Street and roadway area(s) fronting the development must be resurfaced up to one traffic lane in width 13 ft. or to the centerline of the street, after completion of construction and as required by the Inspector. 9. Evaluation of the street's Pavement Condition Index at time plans are submitted for permit review shall determine any restoration requirements. 10. Existing striping fronting the property and up to 1 block length shall be restored to the satisfaction of the Inspector. Thermoplastic shall be required unless specified otherwise in the plans approved for construction. 11. "Moratorium Streets" are resurfaced or newly constructed streets within the past 5-year period. No trenching or excavation is permitted on any Moratorium Street without the written authorization of the Public Works Director.				Conditions may apply at the time of any construction permit applications.			
<u>DRIVEWAYS</u> 12. Driveway approach, length, width, driveway separation, clearances from poles and utilities, type of curb, driveway angle, shall be approved by Bureau of Planning in advance of any review by Engineering Services. 13. Any existing driveway that will no longer be required to serve the property shall be replaced with new sidewalk curb and gutter, with curb striping as required by Inspector.				Conditions may apply at the time of any construction permit applications.			
<u>CURB RAMPS</u> 14. New curb ramps shall meet the latest State of California standards when plans are submitted for review.				N/A.			

CITY OF OAKLAND Department of Transportation
Engineering Services “Conditions of Approval”

<p>15. Curb ramps shall be directional unless approved otherwise in writing by the City Engineer.</p> <p>16. New curb ramps are required at intersections fronting the project site and when the use or occupancy necessitates installation or replacement of curb ramps. Additional curb ramps required by the City Engineer shall be installed by the project sponsor.</p> <p>17. Where a new curb ramp is required for the project the curb ramp located on the opposite side of the roadway, across a marked or un-marked crosswalk, shall also be installed or upgraded to be ADA compliant by the project sponsor.</p>	
<p><u>STREET GEOMETRY AND STRIPING DESIGN</u></p> <p>18. New striping, curb painting, bulb-outs, changes to existing dimensions, impact to traffic resulting from development, traffic pattern, circulation, signals, traffic count, street/lane change shall be reviewed and approved by the City’s Traffic Engineer.</p> <p>19. Any alteration to geometry of roadway/sidewalk, markings, traffic control signs and devices shall be reviewed and approved by the City’s Traffic Engineer.</p> <p>20. Traffic and parking sign posts shall be coated with anti-graffiti coating.</p> <p>21. Traffic Control Plans (TCP) for temporary traffic control measures shall be submitted separately for review and approval by City’s Traffic Engineer prior to permit issuance and when the TCP is adjusted and updated during construction.</p>	N/A.
<p><u>SANITARY SEWER</u></p> <p>22. Sanitary sewer impact analysis is required when new development results in a net increase of volume of wastewater flow to the City’s sanitary sewer system. Sewer flow calculations prepared by developer’s engineer must include existing and proposed flows. Developer shall submit analysis with completed application for review. Mitigation fees shall be paid prior to issuance of a Building or PX permit whichever occurs first.</p> <p>23. A “PSL” certificate, Sewer Lateral Permit, and EBMUD Inspection are required for all projects where construction costs are one-hundred thousand dollars (\$100K +) or more.</p> <p>24. A Sewer Lateral permit (SL) is required for any new sewer lateral or rehabilitation of existing lateral. Abandonment of a sewer lateral requires a separate permit.</p> <p>25. Sewer profiles shall be included on the plans approved for construction. If existing utilities are within twelve inches (12”) of proposed sewer, engineer shall have existing utility potholed and resolve conflict before approval of plans.</p>	Conditions apply. Obtain EBMUD PSL certificate and City of Oakland SL permit as necessary, and provide Certificate with the Parcel Map application.
<p><u>STORM DRAINS</u></p> <p>26. Connection of storm drain to sewer line is prohibited. Any unauthorized connection shall be separated from the sanitary sewer.</p> <p>27. Drainage plans shall be submitted for review and approval. Plans shall follow City standard details and design standards. Blind connections or tap connections are prohibited for storm drains.</p>	Conditions may apply at the time of any construction permit applications.

<p>28. Hydrology and Hydraulic Calculations, shall meet City’s Storm Drainage Design Standards.</p> <p>29. Reduction in Peak Flow by 25% or to the extent possible is required.</p>	
<p><u>STORM WATER TREATMENT</u></p> <p>30. Requirements for permanent and temporary storm water pollution prevention, Alameda County Clean Water Program (C.3), shall be included in the Building improvement plans for on-site work. Any approved storm drain from on-site development shall be tied to an inlet structure at the back of curb designating public and private ownership.</p> <p>31. Permanent storm water treatment (BMP’s) to service the development shall be privately maintained and included in the O&M Agreement for the project.</p> <p>32. Roof runoff must be directed through an approved treatment device prior to entering the City’s storm drainage system.</p> <p>33. Right-of-way shall not be used for storm water treatment features.</p>	<p>Conditions may apply at the time of any construction permit applications.</p>
<p><u>STREET TREES AND LANDSCAPING (PRIVATE)</u></p> <p>34. Trees and irrigation for the proposed development shall be owned and maintained by the property owner(s).</p> <p>35. Landscape and irrigation plans shall be submitted with the civil plans for work (PX permit) for review and approval by the City’s Arborist.</p> <p>36. Landscape, irrigation plans and tree species shall meet City standards for Street Tree Planting.</p> <p>37. Tree shall be spaced twenty feet (20’) on center and shall not obstruct street lights. Tree wells shall be 3 ft. x 3ft. or 4 ft. x 4 ft. (minimum) for mature tree height of 25 to 40 feet.</p> <p>38. Tree Grates, Root Barrier and Staking Details for new trees shall be included in the approved plans. Tree Grates must be ADA compliant.</p>	<p>A minor encroachment permit for the existing 3 street trees to remain is required prior to recording the Parcel Map. See below and general requirements #42 and #43 for encroachments.</p>
<p><u>EASEMENTS AND ENCROACHMENTS</u></p> <p>39. All property lines, existing and proposed easements, shall be clearly shown on the plans for construction (PX permit).</p> <p>40. Easement dedication or vacation requires separate application and permit (PPE permit) if not included on a Final Tract Map or Parcel Map.</p> <p>41. Major Encroachment permits require City Council resolution and Indenture Agreement with County Recorder’s Number shown on the Final or Parcel Map.</p> <p>42. Permanent building elements encroaching into the right-of-way normally require a Major Encroachment (ENMJ permit) Other approved encroachments may be part of Minor Encroachment (ENMI permit).</p> <p>43. City may revoke encroachment permit at its sole discretion and may charge property owner(s) for use of the right-of-way.</p>	<p>Applicant shall apply for a minor encroachment permit for the existing concrete wall and existing 3 street trees to remain within the right-of-way. The indenture agreement shall be recorded prior to approval of the Parcel Map.</p>
<p><u>SITE PLAN</u></p> <p>44. A Site Plan shall be provided with permit plan set and include: north arrow, scale, property boundaries, topography, vegetation, proposed/existing structures,</p>	<p>Conditions may apply at the time of any construction permit applications.</p>

CITY OF OAKLAND Department of Transportation
Engineering Services “Conditions of Approval”

<p>utilities, easements, roadways, monuments, wells, and any important key elements.</p>	
<p><u>STREET LIGHTS AND UTILITIES (PW ELECTRICAL)</u> 45. A photometric plan and analysis of existing and proposed street lights is required for all projects requiring a PX permit and as determined by the City Engineer. Design shall meet City Outdoor Lighting Standards. http://www2.oaklandnet.com/oakca1/groups/pwa/documents/policy/oak026007.pdf. 46. Upon review and approval of the photometrics analysis, the project sponsor shall design and include additional streetlights as required by the City and shall also provide 10% spare streetlight fixtures for City’s Electrical Maintenance Operations. 47. Pedestrian signal and push buttons for intersection crossings shall be included in the plans for construction when required by the Traffic Engineer. 48. Utility undergrounding shall be clearly identified on all construction permitted plans as approved by the Project Planner, Oakland Fire Department, Public Works Department and Dept. of Transportation. 49. Pull boxes shall be locking. 50. Existing, reinstalled and new Streetlights, Parking Meters and Kiosks shall be included on the plans approved for construction. Separate fees and approvals by Public Works Maintenance is required to remove or install Streetlights, Parking Meters and Kiosk.</p>	<p>N/A.</p>
<p><u>SPECIAL ZONES: CDMG Designation (LS/LQ), A-P Zone, Flood Zone, Creek/water course, GAAD, etc.</u> 51. Design, approvals, outside agency permits, and construction methods shall meet all applicable Federal, State, and City’s Municipal Code requirements for properties located in hazard zone and flood zone. 52. Peer Review of Soils, Geotechnical, Hydrology, Hydraulic, and Structural Reports, engineering plans, grading, remediation, final map may be required. 53. CDMG Designation and potential for liquefaction(LQ) and/or landslide(LS) shall be clearly identified on individual lots of the Tentative Map, Parcel Map of final Tract Map.</p>	<p>The property is located within a liquefaction hazard zone severity 4. General requirement #53 applies.</p>
<p><u>TENTATIVE MAP, PARCEL MAP, TRACT MAP</u> 54. Fire Access, Emergency Vehicle Access, Shared Access (Agreement or CC&R’s), Utility Easements shall be clearly shown and identified on Maps. 55. Setbacks from the property lines, buffer areas, easements, buildings and separation required between structures and buildings shall be identified on Tentative Map. 56. After approval by Planning and Zoning of a Tentative Map a separate application to Engineering Services is required for review and approval of the Parcel or Tract Map by the City Surveyor and City Engineer. 57. Tract Map and Subdivision Improvement Agreement (SIA) requires City Council Approval. 58. Survey Monuments Protection, Surety/Bond may be required prior to approval of Parcel or Final Map.</p>	<p>Conditions apply. Parcel Map Application Fees must be paid at the time the Parcel Map application is submitted to DOT, 4th Floor Permit Counter.</p>

CITY OF OAKLAND Department of Transportation
Engineering Services “Conditions of Approval”

<p>CONSTRUCTION</p> <p>59. All work within the City’s right-of-way or easement requires a valid permit.</p> <p>60. Shoring Plans, Retaining Walls, Streetlight and Traffic Signal Pole Foundations and other structures require a separate Building Permit from the Building Department.</p> <p>61. An Obstruction Permit (OB) may be required prior to issuance of a Grading, Building, PX, CGS or another related permit. OB permits are required for temporary or permanent removal of metered and non-metered parking spaces, sidewalk closure(s), staging of materials, construction dewatering equipment, blocking, placement of storage units, equipment within the right-of-way.</p> <p>62. An approved Traffic Control Plan (TCP) may be required prior to issuance of an OB permit, PX permit or any work requiring Traffic Control Measures within the City’s right-of-way.</p>	<p>Prior to beginning any construction within the right-of-way applicant shall obtain all necessary permits.</p>
<p>OTHER</p> <p>63. Projects with “<i>Special</i>” considerations, for example; may require utility undergrounding of overhead utilities, improvements off-site (i.e. new traffic signal), ownership of land/project sponsor TCSE Economics & Workforce Development, a City Capital Project, or may be part of a larger “Master Planned Development” with Development Agreement and/or phased Final Maps.</p>	<p>None noted.</p>

PER CITY RECORDS AND INFORMATION RECEIVED FOR REVIEW ITEMS NOTED BELOW MAY AFFECT THE DESIGN, REVIEW AND APPROVAL, PERMITTING, MAP APPROVAL PROCESSES. *(The City assumes No Responsibility for the Accuracy and/or Completeness thereof.)*

Preliminary Title Report		Vacation / Dedication	
Flood Zone		Easement	
Creek Permit / Water Course		Existing Utilities / Overhead	
Land / Boundary Survey		BART	
Lot Dimension(s)		CALTRANS	
Sidewalk Clearance (i.e. 5.5 ft.)		EBMUD	
Sidewalk Curb Ramps		PG&E	
Encroachment		UPRR	
CDMG Designation	LQ Severity 4.	City of Oakland Ownership	
Land Stability		City of Berkley	
Street Lighting		City of Emeryville	
Traffic Circulation / Bicycle Lane		City of Piedmont	
Traffic Signal		Other	

*Additional information is provided below:

Planning/Zoning Number	Map Number (if applicable)	DATE
PLN19172	TPM11028	10/17/19

From: [Malboubi, Negine](#)
To: [Morris, Michele](#)
Cc: [Hébert, Raymond](#)
Subject: PLN19246/TPM11028 - 1110 -1114 Peralta Street- Incomplete
Date: Friday, November 22, 2019 6:14:06 PM

Hello Michele!

Hope all is well. The Survey Department deems PLN19246/TPM11028 - 1110 -1114 Peralta Street as **Incomplete** due to the following:

The project description is not clear. Which buildings on the parcel are to be converted to condominium units? Please specify in writing on the map.

Thank you,

Negine Malboubi
Survey Technician
City of Oakland | Oakland DOT | APWA Accredited
250 Frank Ogawa Plaza, Ste. 4314 | Oakland, CA 94612
(510) 238-3647

Attachment K

From: [Klein, Heather](#)
To: [Bruce Loughridge](#); [Merkamp, Robert](#)
Cc: [Heather, Brian](#); [Atty Don Schwartz](#); [Janice Wendt](#)
Subject: RE: Automatic reply: PLN19246 Tentative Parcel Map Condo Conversion Approval
Date: Monday, February 8, 2021 10:41:48 AM

Bruce,
I understand your frustration but I'm only implementing the requirements of the Ordinance which you are subject to as you did not obtain a vested right prior to its adoption (the only exception for existing projects), and the Ordinance went into effect immediately. The old rules simply do not apply to your project.

Making your tenant an owner is not a way to generate conversion rights. Section 16.36.070(j)(1) allows a one-for-one reduction from the conversion rights if "the unit is occupied and purchased by a current tenant who has continuously occupied a rental unit in the building for at least three (3) years preceding the date of the notice of intention to convert." This means the tenant is offered an exclusive right to their unit not a % of the property as a whole as was submitted with the Grant Deed.

Per the Ordinance you cannot get a conversion right for yourself as you do not meet Section 16.36.070 (j)(4) of the Ordinance.

Finally, just because you units are "vacant" does not mean they are not "rental units" under the new Ordinance.

Thus, conversion rights are still needed for you to convert to condominiums. Since you have not provided valid conversion rights for all three units per the Ordinance, we are moving forward with the denial.

Respectfully,
Heather

From: Bruce Loughridge <bruce.loughridge@sbcglobal.net>

Sent: Saturday, February 6, 2021 9:20 PM

To: Klein, Heather <HKlein@oaklandca.gov>; Klein, Heather <HKlein@oaklandca.gov>; Merkamp, Robert <RMerkamp@oaklandca.gov>

Cc: Mulry, Brian <BMulry@oaklandcityattorney.org>; Atty Don Schwartz <triallaw@cruzio.com>; Atty Don Schwartz <donald@lawofficedonaldschwartz.com>; Janice Wendt <wendtjanice@gmail.com>

Subject: RE: Automatic reply: PLN19246 Tentative Parcel Map Condo Conversion Approval

This property is owner occupied, we simply wish to divide/separate the parcel/ownership. I wouldn't be going through this hardship if you did what you were suppose to do in the beginning. Joan & myself are seniors, why are you making things so difficult?

[Sent from AT&T Yahoo Mail on Android](#)

On Sat, Feb 6, 2021 at 12:45 PM, Klein, Heather <HKlein@oaklandca.gov> wrote:

Bruce,

Thank you for this. The new Condo Conversion Ordinance, which you are subject to, requires specific information be submitted related to tenant purchase which you have not provided including but not limited to the exclusive right to their unit and the timeframe that they lived there. In addition, you have not provided conversion rights for the other two units. See the attached new legislation.

As such we are still moving forward with the notice for denial. The notice (attached) was mailed yesterday starting the comment period to the property and owners within 300'.

Best,

Heather

From: Bruce Loughridge <bruce.loughridge@sbcglobal.net>

Sent: Thursday, February 4, 2021 10:56 PM

To: Klein, Heather <HKlein@oaklandca.gov>; Klein, Heather <HKlein@oaklandca.gov>; Merkamp, Robert <RMerkamp@oaklandca.gov>

Cc: Mulry, Brian <BMulry@oaklandcityattorney.org>; Atty Don Schwartz <triallaw@cruzio.com>; Atty Don Schwartz <donald@lawofficedonaldschwartz.com>; Janice Wendt <wendtjanice@gmail.com>

Subject: RE: Automatic reply: PLN19246 Tentative Parcel Map Condo Conversion Approval

Heather, I've Deeded 1/3 Interest of 1110 - 1112 - 1114 Peralta St to Joan Wendt, my former tenant. Therefore Tenant Notification is not required.

Chicago Title Company

EXHIBIT A LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF OAKLAND, IN THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERN LINE OF PERALTA STREET, DISTANT THEREON SOUTHERLY 190 FEET FROM THE INTERSECTION THEREOF WITH THE SOUTHERN LINE OF 12TH STREET; RUNNING THENCE EASTERLY AT RIGHT ANGLES TO SAID LINE OF PERALTA STREET 89 FEET; THENCE AT RIGHT ANGLES SOUTHERLY 19 FEET; THENCE AT RIGHT ANGLES EASTERLY 11 FEET, 4 1/2 INCHES; THENCE AT RIGHT ANGLES SOUTHERLY 19 FEET, 1 1/2 INCHES; THENCE SOUTHERLY 27 FEET TO A POINT 103 FEET EASTERLY ON A LINE MEASURED AT RIGHT ANGLES TO SAID LINE OF PERALTA STREET FROM A POINT ON SAID LINE OF PERALTA STREET 65 FEET SOUTHERLY FROM THE POINT OF BEGINNING; THENCE WESTERLY ALONG SAID LINE 103 FEET TO SAID LINE OF PERALTA STREET; THENCE NORTHERLY ALONG SAID LINE OF PERALTA STREET, 65 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF BLOCK NO. 556, AS SAID BLOCK IS SHOWN ON BOARDMAN'S MAP OF OAKLAND AND VICINITY, ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY.

APN: 004-0089-011-00

Attachment L

[Handwritten signature] 2/4/21

RECORDING REQUESTED BY

WHEN RECORDED MAIL TO
AND MAIL TAX STATEMENTS TO

NAME **Bruce Loughridge**

ADDRESS

CITY **1112 Peralta St
Oakland, CA 94607**
STATE & ZIP

GRANT DEED

TITLE ORDER NO. _____ ESCROW NO. _____ APN NO. **004-0089-011-00**

THE UNDERSIGNED GRANTOR(s) DECLARE(s)

DOCUMENTARY TRANSFER TAX is \$ _____ CITY TAX \$ _____
 computed on full value of property conveyed, or computed on full value less value of liens or encumbrances remaining at time of sale.
 Unincorporated area: City of **Oakland**, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Bruce Loughridge, an unmarried man

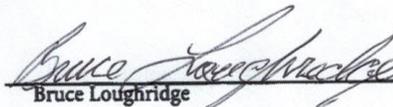
hereby GRANT(s) to

Bruce Loughridge, an unmarried man as to 2/3 interest, and Joan M. Wendt, an unmarried woman as to 1/3 interest

the following described real property in the County of Alameda
1110, 1112, 1114 Peralta St., Oakland, CA 94607

State of California:

Dated February 4, 2021


Bruce Loughridge

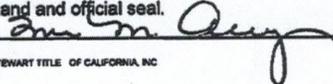
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy, or validity of that document.

State of California
County of Alameda

On February 4, 2021 before me, Sharon M. Alvey, Notary Public (here insert name and title of the officer), personally appeared Bruce Loughridge, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)

DOCUMENT PROVIDED BY STEWART TITLE OF CALIFORNIA, INC



Sent from AT&T Yahoo Mail on Android

On Thu, Feb 4, 2021 at 1:04 PM, Klein, Heather

<HKlein@oaklandca.gov> wrote:

Bruce,

I've discussed your request with the Zoning Manager, and we are not going to postpone the notice.

We do have the tenant notice you provided previously and, as was stated before, this was not adequate to meet the notification requirements.

You have had since January to provide a compelling argument and consult with an attorney. To date we have not received any additional information to warrant a re-review of the project. However, you are welcome, like all members of the public, to submit comments. We do consider all comments received during the comment period and do not often issue a decision letter right afterward. If you submit convincing information, we will re-consider our current position.

Best,

Heather Klein, Planner IV | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510)238-3659 | Fax: (510) 238-6538 | Email: hklein@oaklandca.gov | Website: <https://www.oaklandca.gov/departments/planning-and-building>

From: Bruce Loughridge <bruce.loughridge@sbcglobal.net>

Sent: Thursday, February 4, 2021 12:31 PM

To: Klein, Heather <HKlein@oaklandca.gov>; Klein, Heather <HKlein@oaklandca.gov>; Merkamp, Robert <RMerkamp@oaklandca.gov>

Cc: Mulny, Brian <BMulny@oaklandcityattorney.org>; Atty Don Schwartz <trillaw@crozio.com>; Atty Don Schwartz <donald@lawofficedonaldschwartz.com>; Janice Wendt <wendtjanice@gmail.com>

Subject: RE: Automatic reply: PLN19246 Tentative Parcel Map Condo Conversion Approval

Before you pull the plug, I would like to review the options with my attorney. I would like to extend your Fri the 5th deadline to next Weds the 10th

[Sent from AT&T Yahoo Mail on Android](#)

On Wed, Feb 3, 2021 at 6:08 PM, Klein, Heather

<hklein@oaklandca.gov> wrote:

Bruce,

Thank you for your submittal. Unfortunately, these documents are no different and provide no further compelling information than what you already submitted to the Bureau of Planning. Furthermore, to date you did not indicate whether you were going to withdraw your application and try to find conversion rights pursuant to the new Ordinance or whether you wanted to move forward with a denial. Unfortunately, those were and remain the only options available to you at this point now that the regulations have changed.

As I stated before, even if the application was "deemed complete", it was not and could not be "deemed approved."

Your application was not in compliance with the Condominium Conversion rules regarding tenant notifications and the timing by which those were to be completed prior to your submittal of the application (60 days). We have no ability to disregard the tenant notification process even if the application is "deemed complete" because City staff did not provide you with an incomplete letter within 30 days.

City staff have not offered to have a meeting with you. The correspondence you noted below that referenced a "meeting" was not intended for you but for City staff and the City Attorney. You were included accidentally, and we ask that you disregard the correspondence since it is attorney-client privileged. We have indicated our position to you in writing several times, as have you for us. As such, a meeting would not be productive for either side. We simply cannot ignore the process and the fact that you did not satisfy the tenant notification requirements under the prior Condo Conversion Ordinance.

In order to move forward with a decision on this issue, City staff have no alternative but to notice the project for denial. City staff will be mailing the notice out Friday, February 5th. The public comment period is 10 days after mailing and ends on February 15th, after which staff will issue a formal denial letter unless substantial evidence is submitted on the record to support reversing City Staff's preliminary denial determination. You will be entitled to file an appeal within 10 days of the final decision letter, and present your case to the Planning Commission.

Alternatively, if you would like to explore ways to satisfy the tenant notification and conversion rights requirements under the newly adopted Ordinance and after you resubmit your application, City Staff and the City Attorney's office could work with you and your advisors on navigating the process. If you elect to work on an application resubmittal, please let us know as soon as possible.

Sincerely,

Heather Klein, Planner IV | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114 | Oakland, CA 94612 | Phone: (510)238-3659 | Fax: (510) 238-6538 | Email: hklein@oaklandca.gov | Website: <https://www.oaklandca.gov/departments/planning-and-building>

From: Bruce Loughridge <bruce.loughridge@sbcbglobal.net>
Sent: Tuesday, February 2, 2021 1:52 PM
To: Merkamp, Robert <Rmerkamp@oaklandca.gov>; Klein, Heather <hklein@oaklandca.gov>
Cc: Mulry, Brian <BMulry@oaklandcityattorney.org>; Atty Don Schwartz <trialaw@cruzio.com>; Atty Don Schwartz <donald@lawofficedonaldschwartz.com>; Janice Wendt <wendjjanice@gmail.com>
Subject: Fw: Automatic reply: PLN19246 Tentative Parcel Map Condo Conversion Approval

Dear Robert and Heather,

Please note that I sent this reply before the 1/23/21 deadline.

Also, no one set up a meeting with me to discuss the options as indicated in your email dated 1/12/21.

Since I replied promptly in good faith I am puzzled as to why an expedient reply was not sent to me addressing the issues about the TMP condo conversion.

Please let me know when we can meet as per your email.

Thank you,
Bruce Loughridge

----- Forwarded Message -----

From: Bruce Loughridge <bruce.loughridge@sbcbglobal.net>
To: Robert Merkamp <rmerkamp@oaklandca.gov>
Cc: trialaw@cruzio.com <trialaw@cruzio.com>; Klein, Heather <hklein@oaklandca.gov>; Mulry, Brian <bmulry@oaklandcityattorney.org>; donald@lawofficedonaldschwartz.com <donald@lawofficedonaldschwartz.com>; Janice Wendt <wendjjanice@gmail.com>
Sent: Friday, January 15, 2021, 06:56:49 PM PST
Subject: Re: Automatic reply: PLN19246 Tentative Parcel Map Condo Conversion Approval

Re: PLN19246

Dear Robert Merkamp,

The TPM approval

1110 / 1112 / 1114 Peralta Street PLN19246

Intake date 09/30/2019, the application was deemed as complete and payment was made

Assigned 10/09/19 to mm (Michele Morris)

See copy of Processing Status found on the City of Oakland Online access Planning department, Record Info.

Due to the fact that I no contact from the City of Oakland Planning department about my TPM for PLN19246, I initiated an inquiry to permits@oaklandca.gov on January 16, 2020. Michelle Morris replied on 01/23/2020, 115 days after the TPM application was submitted.

The Permit Streamlining Act as referenced by the City Attorney, Brian Mulry on February 18, 2020, at the City Council Meeting, indicated that it is deemed approved 30 days after submission, not 115 days.

Oakland Fire Department work order on February 2nd indicated that the TPM was approved and ready for payment and pick up. The payment was completed on 02/05/2020. See attached documents.

I apologize for indicating that the TPM was taken out of order. It was due to extraordinarily slow response time.

Best regards,

Bruce Loughridge

On Tuesday, January 12, 2021, 04:15:47 PM PST, Klein, Heather <hklein@oaklandca.gov> wrote:

Brian and Robert I hope he has something other than this as I do not believe these are compelling and I believe Brian agrees. We has until 1/23 to pick one of those options. I'm going to set up a meeting with us a week or so earlier so that we can get straight on what to do with noticing of projects we are going to deny.

From: Merkamp, Robert <Rmerkamp@oaklandca.gov>
Sent: Tuesday, January 12, 2021 4:10 PM
To: Bruce Loughridge <bruce.loughridge@sbcbglobal.net>
Cc: Klein, Heather <hklein@oaklandca.gov>
Subject: Re: Automatic reply: PLN19246 Tentative Parcel Map Condo Conversion Approval

Mr. Loughridge,

Thanks for your email. You're welcome to email me as you like and if you feel you have some compelling arguments to make, you may make them, but please bear in mind that Ms. Klein gave you a deadline to respond to our request for your decision as to whether to withdraw or be denied. I don't know what the date is but I'm sure you have the email and I'm not setting that deadline aside.

Respectfully,

Robert D. Merkamp, Zoning Manager | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2214 | Oakland, CA 94612 | Phone: (510) 238-6283 | Fax: (510) 238-4730 | Email: rmerkamp@oaklandca.gov | Website: www.oaklandca.gov/departments/planning-and-building

From: Bruce Loughridge <bruce.loughridge@sbcglobal.net>
Sent: Monday, January 11, 2021 5:17 PM
To: Merkamp, Robert <Rmerkamp@oaklandca.gov>; Merkamp, Robert <Rmerkamp@oaklandca.gov>
Cc: Klein, Heather <hklein@oaklandca.gov>
Subject: Re: Automatic reply: PLN19246 Tentative Parcel Map Condo Conversion Approval

The vesting was a general to all of the individuals caught up in the change. The tenant notification was not an issue until several months after the intake. The law the city attorney addressed had to do with the city's time to address my application. The application was not addressed in a timely manner. The taking applications out of order was addressed by Kaplan, Lynette Macelheney. Did you watch the ktop session? Again, the vesting had nothing to do with a timely response or applications taken out of order. Technically Mz Wendy's notification goes back to my 1st expired application. She's been notified over & over. She's been waiting for her chance to purchase her unit out right, separate from the bldg. She feels she has a ownership claim.

I will formally address my TPM application by next week. I believe I'm not addressing the issues properly so you can understand my position.

[Sent from AT&T Yahoo Mail on Android](#)

On Mon, Jan 11, 2021 at 2:40 PM, Merkamp, Robert

<Rmerkamp@oaklandca.gov> wrote:

Mr. Loughridge,

Thanks for your email. I don't really know what you'd like me to review. I think every point you raised at the hearing has already been responded to by Ms. Klein.

Your argument that the City Attorney said this was Deemed Complete and therefore approved is not accurate. Mr. Mulry advised the City Council that applicants in your place needed to file a Vesting Tentative Map application in order to be vested against any changes in the law. Apparently, you did not file for a Vesting Tentative Map application. If you had, the application would have been vested from the point of the application being deemed complete. Mr. Mulry also stated that he could ascertain your "anecdotal" situation, and the City Administrator and him agreed to look further into your matter. After reviewing further, Mr. Mulry determined that you did not comply with O.M.C. requirements for Tenant Notifications. This was also detailed in Ms. Klein's e-mail response to you.

Finally, you raise the notion that you are somehow being blackmailed by the City. That is a false characterization of our conversations and we take serious issue with the characterization. The truth of the matter is that you are in an unfortunate situation whereby, because of your illegal and inadequate tenant notification that you created and filed, we could not act on your application and therefore it was caught up in the City Council-led process to change the condominium conversion process. Moreover, you never filed for a vesting tentative parcel map so as to vest against subsequent changes in the law. All we are doing now is providing you with your options and right now those are as Ms. Klein provided to you.

We await your response on which you choose. Otherwise, we will simply issue the denial based on the fact that your Tenant Notifications were contrary to the requirements set forth in the O.M.C. at the time the notifications were required.

Respectfully,

Robert D. Merkamp, Zoning Manager | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2214 | Oakland, CA 94612 | Phone: (510) 238-6283 | Fax: (510) 238-4730 | Email: rmerkamp@oaklandca.gov | Website: www.oaklandca.gov/departments/planning-and-building

From: Bruce Loughridge <bruce.loughridge@sbcglobal.net>
Sent: Tuesday, January 5, 2021 10:41 PM
To: Merkamp, Robert <Rmerkamp@oaklandca.gov>
Subject: Re: Automatic reply: PLN19246 Tentative Parcel Map Condo Conversion Approval

According to the City Council dated, Feb 18th, 2020

- 1.The Planning Dept, City Administrator was to look into my issues.
2. According to the City Atlys office. The Permit Streaming Law grants my TPM

Review the Feb. 18th Meeting for clarity on my issues

I do feel as if I'm being blackmailed into withdrawing my application. I feel it's not ethical for the city to not comply with the issues addressed at that meeting. Please review the meeting. Thank You

[Sent from AT&T Yahoo Mail on Android](#)

On Tue, Jan 5, 2021 at 10:54 AM, Merkamp, Robert

<Rmerkamp@oaklandca.gov> wrote:

Hello Mr. Loughridge,

I don't understand your question and I am unaware you were waiting for a response from me. I've noted the email exchange you've had with Heather Klein and I'm in complete concurrence with her response to you. She presented you two options I believe, back in February of 2020 and I agree with her that those are the choices before you. Please let us know which of them you choose.

Respectfully,

Robert D. Merkamp, Zoning Manager | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2214 | Oakland, CA 94612 | Phone: (510) 238-6283 | Fax: (510) 238-4730 | Email: rmerkamp@oaklandca.gov | Website: www.oaklandca.gov/departments/planning-and-building

From: Bruce Loughridge <bruce.loughridge@sbcglobal.net>
Sent: Monday, January 4, 2021 3:27 PM
To: Merkamp, Robert <Rmerkamp@oaklandca.gov>
Subject: Re: Automatic reply: PLN19246 Tentative Parcel Map Condo Conversion Approval

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Were you able to review eMails

[Sent from AT&T Yahoo Mail on Android](#)

On Wed, Dec 23, 2020 at 1:37 PM, Merkamp, Robert

<Rmerkamp@oaklandca.gov> wrote:

Hello,



I'll be out of the office until Monday January 4th. I will review your email at that time. Happy holidays!

Robert