

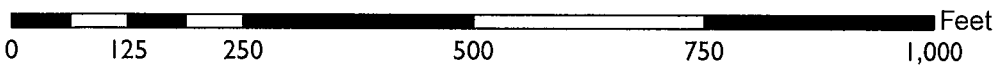
Location:	Siena Hill (off of Keller Avenue, between Greenridge Drive and Rilea Way) (APN: 040A-3848-001-00 through 040A-3848-032-00)
Proposal:	Extension of the planning entitlements to allow for the 32 attached, single-family dwellings on 32 lots, 103 off-street parking spaces, and a private road. Phase 1, which includes 10 of the 32 units, the associated parking spaces and the private road, has already been constructed.
Applicant:	Keven Kwok
Phone Number:	(510)258-8502
Owner:	Oakland Siena, LLC
Case File Number:	PUD02-217
Planning Permits Required:	Extension of the Planned Unit Development Permit; Minor Variances for height and minimum separation of retaining walls, maximum percentage of front yard paving, and length of buildings alongside lot lines; and Design Review.
General Plan:	Previously: Detached Unit Residential; Currently: Mixed Housing Type Residential
Zoning:	Previously: R-50 Medium Density Residential Zone Currently: RM-3, Mixed Housing Type -3 Zone
Environmental Determination:	A Final Environmental Impact Report was certified on March 2, 2005 (Case File ER02-0012).
Historic Status:	N/A
Service Delivery District:	4
City Council district:	6
Status:	Planning Commission approval on March 2, 2005 (Case Files: PUD02-217; PUDF05-081; TTM7396). Construction of 10 units, associated parking and private road in 2009. Entitlements extended through December 31, 2016.
Staff Recommendation:	Decision based on staff report
Finality of Decision:	Appealable to City Council within 10 days
For further information:	Contact case planner Heather Klein at 510 238-3659 or by e-mail at hklein@oaklandnet.com .

SUMMARY

The applicant for the residential project at Siena Hill has requested an extension (*Attachment A*) of the entitlements originally approved by the Planning Commission in 2005 (*Attachment B*). The Project applicant has taken advantage of all ministerial options for extensions; however, Condition of Approval #2 allows the Project applicant to request further entitlement extensions from the Planning Commission if an application is submitted prior to the expiration date. The Project applicant filed for an extension on December 23, 2015 and the Planning Commission approved a one-year extension on February 17, 2016 (*Attachment C*). The entitlements will now expire on December 31, 2016. The applicant is requesting that the Planning Commission, again grant a one year extension of the project entitlements per revised Condition of Approval #2a.

With the uncertainty regarding the Oakland Area Geologic Hazard Abatement District (GHAD) acceptance of the Siena Hill project and a reduction in the assessments concluded via City Council resolution, the applicant can now start to seek funding from potential investors. In

CITY OF OAKLAND PLANNING COMMISSION



Case File: PUD02217
Applicant: Keven Kwok
Address: Siena Hill (off of Keller Ave between
Greenridge Drive and Rilea Way)
Zone: Previously R-50; currently RM-3

addition, revised drawings with minor design changes for Phase 2 and 3 have been prepared and ready for submission to the City

The Project will provide new housing and infill development on vacant parcels. The project is a continuation of a larger phased development which has been partially completed. The project is still in conformance with the City's zoning and General Plan goals and policies and staff recommends that the entitlements be extended for an additional year.

BACKGROUND

Several actions have been approved for this project including the following:

- Planning Commission approval of a Preliminary Planned Unit Development Permit, a Final Development Permit for Phase 1, and a Vesting Tentative Tract Map for the construction of 32 attached single-family homes on March 2, 2005.
- Planning Commission approval of a two-year extension in 2008 until June 18, 2010.
- Building permits finalized for 10 buildings in 2009.
- Pre-application submittal in October 2015 for the remaining 22 units and minor design changes.
- Planning Commission approval on February 17, 2016 extending the planning entitlements per Condition of Approval #2 until December 31, 2016 and amending Condition of Approval #2 (now #2a) to allow additional extensions from the Planning Commission per the Bureau of Planning's standard extension language.
- City Council approval of a Resolution amending the Oakland Area Plan of Control to include the Siena Hill development and reduce the Geologic Hazard Abatement District (GHAD) assessments on July 19, 2016
- Owners withdraw of the 2013 planning application to amend the Conditions of Approval to remove the Geologic Hazard Abatement District GHAD-related conditions on May 13, 2016.

PROJECT DESCRIPTION

Extension Request

Condition of Approval #2 does not limit the number of times an applicant may request an extension from the Planning Commission. In conformance with adopted Condition of Approval #2, the applicant submitted an application on November 21, 2016, again, requesting an extension of the entitlements from the Planning Commission. As noted above in the *Background* section, the approved permit for this application is still active. Unless the Planning Commission approves another time extension request, the approved permit will expire, and the Project applicant will need to apply for a new development permit in accordance with the new Planning Code.

Approved Project Use and Design

The proposed project consists of 32 attached, single-family townhomes that step down the slope to Keller Avenue. At the time of the original decision, the Planning Commission supported the proposed residential uses and "Italian hill town" character of the development.

ZONING AND GENERAL PLAN ANALYSIS

As discussed in the previous Planning Commission staff report requesting an extension (*Attachment C*), the project is consistent with the new General Plan land use designation and related zoning district.

DISCUSSION

On May 3, 2016, the City adopted impact fees for affordable housing, transportation, and capital improvements (Ordinances 13365 and 1366). Development impact fees are a commonly used method of collecting a proportional share of funds from new development for infrastructure improvements and other public facilities to offset the impact of new development. The Planning Commission's previous extension approval required the imposition of impact fees to the project unless a vested right is obtained.


CONCLUSION AND RECOMMENDATIONS

As noted above, the Project is still in conformance with the General Plan's goals and policies and Planning Code. Staff believes that a one-year extension would allow the applicant to successfully complete the approved, desirable project. At the same time, an additional year would ensure that the site does not remain underutilized for an excessive amount of time. Condition of Approval #2a permits the applicant to request additional extensions from the Planning Commission if needed to complete the Project.

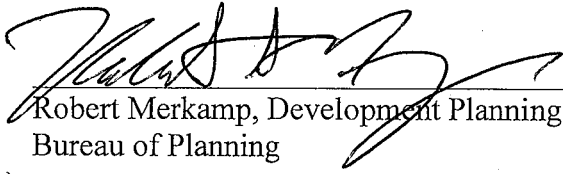
Therefore, staff recommends that the Planning Commission:

1. Approve a one-year extension of Project approvals until December 31, 2017, subject to the previously approved Findings and Conditions of Approval and the additional Condition of Approval regarding the imposition of impact fees.

Prepared by:


Heather Klein, Planner IV

Reviewed by:



Robert Merkamp, Development Planning Manager
Bureau of Planning

Approved for forwarding to the Planning Commission:



Darin Ranelletti, Interim Director
Planning and Building Department

ATTACHMENTS:

- A. Applicant's extension letter of request, dated October 13, 2016
- B. Staff Report (Excerpt), dated June 18, 2008
- C. Staff Report (Excerpt), dated February 17, 2016

FINDINGS FOR APPROVAL

See Attachment B: Staff Report

ADDITIONAL CONDITION OF APPROVAL

The following condition of approval shall be added to the adopted conditions of approval for case file PUD02-217 upon extension of applicable entitlements beyond December 31, 2016:

The Project approved under Case File PUD02-217 is subject to, and Applicant shall agree to pay, the development impact fees that were adopted by the City Council per Ordinances 13365 and 1366 unless a vested right is obtained.

Oakland Siena LLC
4481 Belmont Way
Castro Valley, CA 94546

November 21, 2016

City of Oakland
Attn: Heather Klein
250 Frank H Ogawa Plaza, Suite 2114
Oakland, CA 94612

Re: Siena Hill Entitlement Extension

Dear Heather:

This letter is a request for entitlement extension for Phase 2 and 3 of the Siena Hill project.

We are requesting an extension due to the following reasons:

There has been uncertainty with the Oakland Area Geological Hazard Abatement District (GHAD) and the assessment on the Siena Hill properties. Earlier this year, it was decided to amend the plan of control to reduce the existing assessment and keep the project in the Oakland Area GHAD. The public hearing was held on July 19, 2016 and the assessment was eventually lowered for the 2016-2017 fiscal year property tax statements. The uncertainty of the GHAD should be now behind us going forward in our negotiations with investors.

Phases 2 and 3 are currently going through minor design revisions. A pre-application for the remaining phases was submitted in October 2015. Completion of revised drawings and a final submittal of Phase 2 re-design is complete and ready for submission.

Construction of phases 2 and 3 did not start immediately in 2008, when Oakland Siena LLC purchased the properties, due to financial reasons. Market price did not justify starting construction at the time. The design changes are also driven to increase selling price. Ownership is currently seeking funding for phase 2 construction activities.

The projected phasing schedule is as follows:

Phase 2 Final Submittal – Q1 2017

Phase 2 Construction – Q3 2017 – 2019

Phase 3 Final Submittal – Q1 2019

Phase 3 Construction – Q3 2019 – 2021

Sincerely,

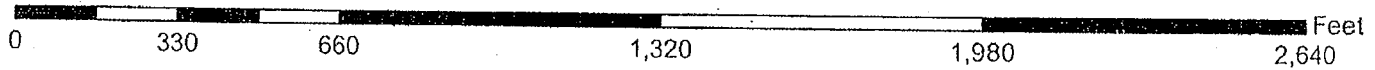


Keven Kwok
President
Oakland Siena LLC

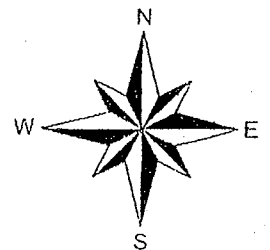
ATTACHMENT A

Location:	Siena Hill (off of Keller Avenue, between Greenridge Drive and Rilea Way)
	APN: 040A-3457-033-01
Proposal:	The applicant is requesting an additional two year extension from the City Planning Commission for:
	a)The entitlement for the Preliminary Planned Unit Development (PUD) Permit (Case File PUD02-217) to allow construction of 32 attached single-family dwellings on 32 lots, 103 off-street parking spaces, and a private road; and
	b)The expiration requirements for the submittal and approval of a Final Planned Unit Development (FPUD) Permit for the second and third phases of the development of the remaining 22 homes.
Applicant/Phone Number:	Edward Patmont / (925) 946-0583
Owner:	Hillside Homes Group Inc.
Case File Number:	PUD02-217, PUDF05-081
Planning Permits Required:	Extension of the entitlements for PUD (Case File PUD02-217).
	Extension of the expiration requirements for the submittal and approval of a FPUD for the second and third phases.
	<i>Per Condition of Approval #2a for Case File PUD02-217, the Zoning Administrator may grant a one-year extension, with additional extensions subject to approval by the City Planning Commission .</i>
	<i>Per Condition of Approval #2b, the applicant had two years from the approval date of the PUD to apply for the FPUD for the second phase of the development. Furthermore, the applicant has two years from the issuance of a certificate of occupancy for the second phase to obtain the FPUD approval for the third phase. Upon written request the Zoning Administrator may grant a one year extension of the deadline with additional extensions subject to approval by the City Planning Commission.</i>
	<i>Staff granted a one year extension on May 2, 2007.</i>
General Plan:	Detached Unit Residential
Zoning:	R-50 Medium Density Residential
Environmental Determination:	A Final Environmental Impact Report was certified on March 2, 2005. Staff has determined that the no new no substantial changes have occurred and no new impacts that were identified for the project (Case File PUD02-217).
Historic Status:	Non-historic property (NHP); survey rating N/A
Service Delivery District:	IV-Fruitvale
City Council District:	6
Action to be Taken:	Decision based on staff report
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner Heather Klein at 510 238-3659 or by e-mail at hklein@oaklandnet.com.

CITY OF OAKLAND PLANNING COMMISSION



Case File: PUD02-217
Applicant: Edward Patmont
Address: Siena Hill (Keller, btwn Greenridge and Rilea)
Zone: R-50



PROJECT DESCRIPTION

On March 2, 2005, the Planning Commission approved a Preliminary Planned Unit Development (Case File PUD02-217) Permit and a Final Planned Unit Development (Case File PUDF05-081) Permit for the first phase of a project proposing to construct 32 attached single-family dwellings on 32 lots, 103 off-street parking spaces, and a private road. At that time a Tentative Tract Map was also approved. See Attachment A for the staff report.

According to Condition #2a, the planning approval is valid for one year (March 2, 2006) unless actual construction of the first phase of the project has begun under necessary permits by this date. However, the Planning Director may grant a one-year extension of this date, with additional extensions subject to approval by the City Planning Commission. The applicant applied for a Building Permit for the first phase within the requisite timeframe and the first phase (10 units) has been completed.

According to Condition #2b, the applicant shall obtain a Final PUD approval for the second phase within two years of the effective date of the PUD approval (March 2, 2005) or the PUD approval shall be invalidated. Failure of the applicant to obtain a Final PUD approval for the third phase within two years of a certificate of occupancy being issued for the second phase shall invalidate the PUD approval. The Planning Director may grant a one year extension of the deadline, with additional extensions subject to approval by the City Planning Commission. The Planning Director granted a one year extension on May 2, 2007 until March 2, 2008.

If the Planning Commission does not approve an extension for the submittal and approval of the FPUDs for the second and third phases, per Condition of Approval 2b, the applicant would need to return to the Planning Commission for a new PUD for the remaining portions of the development.

The applicant submitted a letter requesting a two year extension (see Attachment B) in order to complete the application and submittal process for the second and third phases. Staff believes that a two-year extension is valid due to the overall housing market situation; the number of completed residential units that need to be absorbed; and the cost of construction. In addition, staff believes that an extension is supportable since the land use policies and objectives for the site and the neighborhood have not changed and the project supports these visions and goals. Furthermore, the applicant in filing and recording a parcel map for the whole development, as well as constructing the first phase, has vested his rights to the lots.

ENVIRONMENTAL DETERMINATION AND ENVIRONMENTAL FINDINGS

As stated above, the Planning Commission certified a final environmental impact report on March 2, 2005. After an EIR has been prepared and certified for a project, later project approvals or changes must be evaluated to determine whether the circumstances requiring preparation of a subsequent or supplemental EIR are present, as specified in Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163. Absent one or more of the circumstances requiring a subsequent or supplemental EIR, no further CEQA actions are required.

Significant, Unavoidable Impacts Identified in the Previously Certified 2005 EIR:

The project would not result in any significant and unavoidable impacts.

Significant Impacts Which May be Mitigated to a Less Than Significant Level:

The EIR identified several significant impacts that could be mitigated to less-than-significant levels on air quality, biological resources, cultural resources, hydrology, geology and soils, noise, traffic and transportation, utilities. These are summarized as follows and were included as conditions of approval or incorporated as part of the application that is before the Commission for the extension:

Impact AQ-2 and AQ-5: (page 85 through 88 of the DEIR) Construction activities would contribute to an increase in levels of ROG, NOx and/or PM10 and expose sensitive receptors to increased concentrations of PM10 during construction. (Mitigation: The project sponsor shall be required to implement a dust abatement program in accordance with the Bay Area Air Quality Management District's (BAAQMD) best management practices to reduce construction dust impacts on neighboring residents to less than significant levels.)

Impact BIO-1: (page 102 through 104 of the DEIR) Grading and construction activities on the site would have the potential to harm special status species or habitat for special status species. (Mitigation: The project sponsor shall be required to retain a qualified biologist to conduct pre-construction surveys. These surveys will be conducted between March and May to confirm the absence of the 12 special-status plant species listed in Table 4 of the DEIR. If any special-status plant species are found, a qualified biologist shall develop and implement a Mitigation Plan (MP). The MP will be prepared in consultation with the California Department of Fish and Game and shall be approved by the City prior to any ground disturbing activities. The MP could include the complete or partial avoidance of any special-status plant population and/or options for mitigation.)

Impact BIO-3: (page 105 through 106 of the DEIR) Although no native live oak saplings on the site would be removed as part of the project, they could be harmed by construction. (Mitigation: The project sponsor will consult with a qualified arborist and the Public Works Agency, Tree Division to develop and implement a tree protection plan to protect these trees during grading and construction. If mortality is unavoidable the project sponsor shall apply for a tree removal permit.)

Impact BIO-4: (page 106 through 107 of the DEIR) The proposed project would necessitate the removal of one redwood in the median of Keller Avenue which is protected under the City's Tree Protection/Removal Ordinance. (Mitigation: The project applicant shall be required to apply for a tree removal permit for the redwood tree as required by the ordinance. The proposed tree removal permit must be reviewed and approved by the Public Works Agency, Tree Division.)

Impact BIO-5: (page 107 through 109 of the DEIR) Grading activities would create suitable growing conditions for further establishment of invasive French broom on the site, which would limit habitat values unless carefully controlled. (Mitigation: The project sponsor shall be required to retain a qualified landscape architect to develop a final landscape plan. The landscape plan will include a program to eliminate this species and prevent its reestablishment on the site. The landscape plan will also incorporate a native, drought-tolerant, and fire-resistant plant palette.)

Impact CUL-1a, CUL-1b and CUL-1c: (page 116 through 118 of the DEIR) Although no evidence of cultural or human remains has been discovered on the site, it is possible that construction activities could disturb undiscovered buried cultural resources or human remains. (Mitigation: The project sponsor shall be required to halt work immediately if artifacts or fossils are encountered and retain a qualified archeologist or paleontologist. These consultants shall evaluate the find, assess their significance, and offer proposals for further investigation or mitigate any adverse impacts resulting from the proposed project. The project sponsor shall be required to halt work immediately if human remains are found and contact the County Coroner and the appropriate representative of the Native American Heritage Commission.)

Impact GEO-1: (page 126 through 127 of the DEIR) The proposed project site is within a seismically-active region, and the proposed project will likely be subject to strong seismic ground shaking during its design life. (Mitigation: Structures shall be designed in compliance with current building codes related to seismic safety.)

Impact GEO-2: (page 127 through 128 of the DEIR) As soils on the site become saturated in an earthquake event, the slopes become less stable. (Mitigation: The grading plan for the proposed project shall limit slope grades to a maximum of 2 to 1 horizontal to vertical ration with retaining walls to support this slope.)

Impact GEO-3: (page 128 through 129 of the DEIR) Soils on the site above the fill layer are at risk of erosion. (Mitigation: An erosion control plan to minimize wind and water erosion during the construction period shall be prepared, as is standard during the grading and building permit approval process. The erosion control plan shall incorporate appropriate measures in accordance with the mitigation measures outlined in HYDRO-1, HYDRO-2a and HYDRO-2b.)

Impact GEO-4: (page 129 of the DEIR) The proposed project would be placed on slightly to moderately expansive soil and non-expansive bedrock and steep slopes. (Mitigation: Foundations shall be drilled piers and grade beams.)

Impact HYDRO-1: (page 139 through 141 of the DEIR) Increased erosion caused by the grading of the project site during construction could result in degradation of downstream waterways. (Mitigation: The project sponsor shall be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) prior to construction activities, as required by the statewide General Permit for Construction Activities. Implementation of the plan shall start with the commencement of construction and shall continue through the completion of the project. Upon completion of the project, the sponsor must submit a Notice of Termination of the Regional Water Quality Control Board (RWQCB) to indicate construction is complete.)

Impact HYDRO-2: (page 141 through 142 of the DEIR) Increased erosion caused by the increase in impervious surfaces and changes to drainage patterns after construction of the project could result in the degradation of the downstream waterways. (Mitigation: The proposed project must be developed in accordance with the Phase II National Pollutant Discharge Elimination System (NPDES) permit program. Under the program, the applicant shall comply with the Phase II NPDES General Construction Activities Stormwater Permit Regulations established by the CWA.

Impact HYDRO-3: (page 143 through 145 of the DEIR) If storm water from the project site is not adequately contained by the on-site drainage system, and exceeds existing subbasin or conveyance system capacity, a significant impact would result. (Mitigation: Prior to final approval of the project, the applicant shall submit final hydrology/hydraulic calculations based on the final drainage and design plan. These calculations shall be reviewed and approved by the City Engineer. These calculations shall demonstrate that the existing drainage infrastructure along Keller Avenue and Greenridge Drive are capable of handling the flows from the proposed development.)

Impact HYDRO-4: (page 146 through 147 of the DEIR) The proposed project could result in water-quality impacts including an increase in NPS pollutants and on- or off-site erosion and/or siltation. (Mitigation: Filter mechanisms shall be installed at all drop inlets receiving run-off from the project site.)

Impact NOISE-3: (page 169 through 173 of the DEIR) Construction noise would impact nearby existing residential land uses. It is likely that construction noise would exceed the City's quantitative standards for long-term construction noise at nearby residences during most phases of construction. (Mitigation: The project sponsor shall require its construction contractor to limit the time of construction activities, to implement noise control techniques as required by the City Council, to prepare site-specific noise attenuation measures, and to submit measures to respond to and track complaints about construction noise.)

Impact NOISE-4: (page 174 through 175 of the DEIR) Future noise from I-580 and Keller Ave will exceed the State's "normally acceptable" noise level goal of CNEL of 60dBA at the residential buildings along these roadways. The noise level will also exceed the State Building Code threshold of DNL of 60 dBA for new construction. (Mitigation: The project shall be constructed using sound-rated building techniques and materials in order to achieve an acceptable indoor noise level.)

Impact TRAF-1: (page 174 through 175 of the DEIR) With the addition of project-related traffic, the Keller Avenue/Mountain Boulevard intersection, currently controlled by four-stop-way signs, would operate at LOS E. (Mitigation: The project applicant shall pay a proportional share towards installation of the previously approved set of improvements at the intersection of Mountain Boulevard and Keller Avenue to improve the level of service ration to the City of Oakland standard of LOS D. Such payment shall be based on the approved cost estimate and a formula as derived from the Leona Quarry Traffic Improvement Program and Traffic Improvement Fee (TIP/TIF).)

Impact TRAF-2: (page 204 through 206 of the DEIR) Truck traffic during construction of the proposed project could have a significant impact on local roadways. (Mitigation: Prior to construction activity, the project applicant shall submit a construction management plan for review and approval by the City's Traffic Engineering Division.)

Impact UTIL-2: (page 212 through 213 of the DEIR) Existing inlets at Keller Avenue and Greenridge Drive may not have adequate capacity to accommodate runoff from the proposed project site from a 100-year storm event. This could create localized flooding in the area immediately surrounding the existing inlets. (Mitigation: The proposed project shall provide additional drop inlets along the new Siena Drive.)

Impact UTIL-3: (page 212 through 213 of the DEIR) The existing pipe capacity in subbasin 1 would be inadequate to convey flows from the 100-year storm event under both existing and proposed conditions. (Mitigation: Potential impacts to subbasin 1 would be mitigated to a less-than-significant level by the implementation of Mitigation Measure HYDRO-3.)

Staff has reviewed the project and found that that the findings pursuant to CEQA Section 15162 and 15163 can also made for the discretionary decision approving the extension. These findings are located at the end of the report.

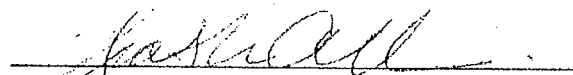
CONCLUSION AND RECOMMENDATIONS

In summary, the project developed an underutilized parcel and first phase (10 units) of a three phase project has been built. The intent is to complete an attractive residential community that will enhance the surrounding residential neighborhood. Staff believes that the project is still appropriate for the site and for the neighborhood and still meets the primary goal of providing new high quality housing units on an infill site. Furthermore, the project is clearly in conformance with many General Plan goals and policies including orienting units toward the street, providing adequate parking, and creating an attractive streetscape.

Staff recommends that the Planning Commission:

1. Adopt Environmental Determination Findings pursuant to CEQA Section 21166 and CEQA Guidelines Section 15162 and 15163 that none of the circumstances requiring preparation of a subsequent or supplemental EIR are present and that no further environmental review is required; and,
2. Approve the extension of the project approvals until March 2, 2010 for Case File PUD02-217, PUDF05-081 subject to the previously approved conditions with amendments to the scope of the approval and the expiration date.

Prepared by:

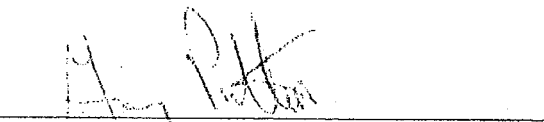


Heather Klein
Planner III, Major Projects

Approved for forwarding to the
City Planning Commission:



Dan Lindheim
Director
Community and Economic Development Agency



Gary Patton
Major Projects Manager
Deputy Director of Development

ATTACHMENTS:

- A. March 2, 2005 Staff Report for the project.
- B. Letter from the applicant requesting the extension.

The certified 2005 EIR (both draft and final) have been separately provided to the Planning Commission and are available at City of Oakland, Community and Economic Development Agency, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612.

Findings pursuant to CEQA Section 21166 and CEQA Guidelines Sections 15162 and 15163

The Final EIR for Siena Hill Project was properly certified by the City of Oakland as the Lead Agency on March 2, 2005. The previously certified EIR is available to the public at the Planning and Zoning Division office.

The current proposal for an extension has been reviewed in light of certified EIR. The Planning Commission hereby finds that none of the circumstances requiring preparation of a subsequent or supplemental EIR (as specified in CEQA Section 21166 and CEQA Guidelines 15162 and 15163) are present. Specifically, the Planning Commission finds:

1 and 2) An extension of the approved project would not require any revisions to the previously certified FEIR. The 2005 EIR did not identify any significant and unavoidable impacts on the environment. The EIR did identify several impacts and mitigation measures, which can be incorporated to lessen or eliminate impacts from the project. These impacts included special status plant habitat; removal of trees; establishment of French broom (an invasive species); disturbance of archeological, paleontological, and human remains; building construction, ground shaking slope stability, maximum slopes, and drilled pier and beam foundations; erosion and water quality; containment of on-site drainage; air quality during construction, temporary construction noise; interior noise; intersection level of service; traffic during construction; and capacity of drain inlets and pipes from storms. The EIR identified less than significant impacts related to aesthetics, air quality, biology, land use, noise, and utilities.

No new significant impacts will result from the project and no impacts previously identified as significant will be made more severe. The applicant has already completed the first phase of a project meant to be constructed in multiple phases. Many of the mitigation measures listed above have been completed and do not apply to the second and third phases. Of those that still apply, the same mitigation measures are applicable and are assumed to mitigate the same effects for the first phase for the construction as for the implementation of the second and third phases. The City and the applicant have not uncovered any evidence at the contrary. Furthermore, the proposed project is exactly the same as the project approved pursuant to adopted Environmental Determination Findings back in 2005.

3. There have been no substantial changes that have occurred with respect to the circumstances under which the project is undertaken that will require major revisions to the EIR. The EIR analyzed a 32 lot subdivision in three phases and was approved pursuant to adopted Environmental Determination Findings in 2005. Therefore, it can be determined that the EIR analyzed the same project as what is proposed to be extended. The project was found not to have an impact on aesthetics before and none of the circumstances have changed. The project completed the biological surveys and no special status plants were found. In addition, the applicant has already received approval of the tree permits to remove the redwood tree and retain the oaks. Since major grading is complete for the project as whole, staff would not expect any additional biological impacts, archeological, paleontological, and human remains, and hydrological impacts. The project implemented the Geologic Hazard Abatement District and the property owners of the first phases are currently paying into the fund. The buildings were constructed according to code and with drilled piers and beams. Staff would expect the same level of construction for the second and third phases with the City Building officials inspecting the work. There would be temporary construction impacts on air quality but this would be less than significant with continuation of the dust abatement program. Construction of phase one was closer to the existing uphill residents than phases two and three. Staff would expect the specific noise study to

Findings

apply to the other phases. The City Council has passed the South Hills TIP/TIF. The applicant would be required to pay into this fund at the completion of the later phases. Construction traffic could still be an impact but the major grading and road is finished and staging could take place on site. The applicant has completed the hydrological calculations. Additional upgrades to the utility system is not required. The land use, public service, and population setting have not changed.

4. No new information of substantial importance (as specified in the CEQA Guidelines section 15162 (a) (3)) that was not known or could not reasonably have been known at the time the EIR was certified shows any evidence that (1) the project will have one or more significant effects not discussed in the EIR; (b) significant effects previously examined will be substantially more severe than shown in the EIR; (c) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project but are declined by the project proponent; or (d) mitigation measures or alternatives that are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects of the project but are declined by the project proponent. No new information has been presented that would require a subsequent EIR to be prepared.

CUSTODIAN OF RECORDS

Pursuant to Section (e) the agency shall specify the location and custodian of the documents. Pursuant to Public Resources Code §15091, the Oakland Community and Economic Development Agency, Planning Division, is the custodian of the documents and other material which constitute the record of proceedings upon which this decision is based, and such documents and other material are located at 250 Frank Ogawa Plaza, Oakland, CA.

Findings

CONDITIONS OF APPROVAL

1. Extension of previous conditions of approval and mitigation.

a. Ongoing.

The project shall meet all the conditions, mitigation measures, and any other requirements that accompanied the March 2, 2005 project approval and the June 1, 2005 Tentative Parcel Map approval by the Planning Commission.

2. Effective Date, Expiration, and Extensions

a. Ongoing.

This extension shall expire on June 18, 2010, unless actual construction or alteration, or actual commencement of the authorized activities (phases 2 and 3) in the case of a permit not involving construction or alteration, has begun under necessary permits by this date. Upon written request and payment of appropriate fees submitted no later than the expiration date, the City Planning Commission may grant an additional one-year extension of this date.

Conditions of Approval

Location:	Siena Hill (off of Keller Avenue, between Greenridge Drive and Rilea Way); APN: 040A-3457-033-01 (See Map on the reverse)
Proposal:	The applicant proposes construction of 32 attached single-family dwellings on 32 lots, 103 off-street parking spaces, and a private road. The project would also include the removal of a portion of the median strip on Keller in order to create a left turn lane onto proposed Siena Drive.
Project Sponsor:	Edward Patmont / (925) 946-0583
Owners:	Hillside Homes Group Inc.
Planning Permits Required:	Planned Unit Development (Preliminary Development Plan and Final Development Plan); Minor Variances for height and minimum separation of retaining walls, maximum percentage of front yard paving, and length of building along side lot lines; Design Review; and a Subdivision Map.
General Plan:	Detached Unit Residential
Zoning:	R-50 Medium Density Residential
Environmental Determination:	Final EIR published on February 18, 2005
Historic Status:	The project site is vacant.
Service Delivery District:	IV-Fruitvale
City Council District:	6
Date Filed:	May 24, 2002
Staff Recommendation	Decision based on staff report
Finality of Decision:	Appealable to City Council within 10 days
For further information:	Contact case planner Heather Klein at 510 238-3659 or by e-mail at hklein@oaklandnet.com.

SUMMARY

The purpose of this report is to provide a summary of the potential environmental impacts of the proposed project, as identified in the Environmental Impact Report, provide analysis of the project and recommend approval. The project site is located on a vacant parcel off of Keller Avenue, between Greenridge Drive and Rilea Way. The applicant proposes the construction of 32 attached single-family dwellings on 32 lots, 103 off-street parking spaces, and a private road. The project would also include the removal of a portion of the median strip on Keller Avenue in order to create a left turn lane onto proposed Siena Drive.

A Draft EIR was published on November 22, 2004 and the public review and comment period ended on January 5, 2005. A Final EIR, responding to the comments received on the Draft EIR, was published on February 18, 2005.

Staff recommends approval of the project subject to the conditions, requirements, and findings contained in this staff report.

Insert location map

PROJECT SITE AND SURROUNDING AREA

The 3.86 acre project site is located on the east side of Keller Avenue, between Greenridge Drive and Rilea Way. The surrounding neighborhood includes a variety of land uses and activities. Located to the north are multi-family housing and undeveloped hillsides. Multi-family housing is to the east; single-family homes, convenience stores, auto facilities, and churches are located to the west. Farther west is Interstate 580. To the south of the project site, below Keller Avenue are single-family homes; further south is the former Oak Knoll Naval Hospital.

PROJECT DESCRIPTION

The proposed project consists of 32 attached single-family homes on 32 parcels. The project would include the removal of a portion of the median strip along Keller Avenue in order to create a left turn lane. The homes would be accessed via a private, one-way road, entering off of Keller Avenue and exiting onto Greenridge Drive. The development would also include 103 off-street parking spaces. Each unit would be provided 3 parking spaces, 1 space in the garage, 1 space in the driveway, and 1 space between a landscaped buffer and the driveway. Seven guest spaces are located throughout the development. In addition, the applicant proposes to request that the City create 22 new on-street parking spaces along Keller Avenue. This action must be taken by City Council. Two pedestrian stairways through the project would provide access to Keller Avenue and the new on-street parking spaces if this was approved.

Plans show 18 downslope homes and 14 upslope homes, with one home per lot. The homes would range in size from 1,800 to 1,960 S.F. on an average lot size of 5,300 S.F. The front setbacks range from 0-20'. Each home has one 0' setback along the side property line, while the other side setback ranges from 6-275'. The rear yards range from 15'-95'.

The buildings are designed in an Italian hillside architectural style. The building materials include stucco in warm terracotta, ochre, and beige colors with clay tile roofs. The building clusters are used as catalysts for variety in the facades. These facade treatments include tower elements, trellises, wrought-iron balconies and railings, and wood window trim. The buildings will step down the slope to Keller, which will reduce the mass and bulk of the buildings while keeping with the "Italian hill town" theme of the project.

The project proposes extensive hardscape and softscape elements throughout the development. Hardscape elements include a monument sign, private stairs, decorative paving, fencing, and retaining walls. A 5' wide landscape buffer is proposed in front of a 5' tall wall for the length of the project site along Keller Avenue. In addition, 2 pedestrian stairways from Keller link to a walkway that runs behind each downhill home. A walkway also runs along the rear of the upslope homes and connects to Siena Drive by two stairways at the east and west end. Open space is provided through front, side, and rear yards, as well as decks and balconies. The landscaping plans show native trees, shrubs, vines, and groundcovers.

The project is proposing low-level street and pedestrian-scale light fixtures along the proposed Siena Drive. The outdoor lighting is subject to review by the Planning Department and the Public Works Agency, Electrical Services in accordance with the City's outdoor lighting standards. These fixtures will include timing devices that would limit the amount of time the lighting would be in use and would be downcast to prevent glare and reduce light pollution.

GENERAL PLAN ANALYSIS

The General Plan designation for the project site is Detached Unit Residential (DU). The General Plan states the *intent* of the DU designation is "intended to create, maintain, and enhance residential areas characterized by detached single unit structures." The *desired character* of "future development within this classification should remain residential in character with appropriate allowances for schools and other small-scale civic institutions."

Although the project is proposing attached single family homes with a 0' setback along one side lot line, staff determined early on that this type of project is consistent with General Plan policies and the DU designation. The DU designation states that the maximum allowable density is 11 units per gross acre, which equates to 14.6 units per net acre. Accordingly, a maximum of 43 units would be permitted on the 3.86 acre project site. The proposed 32-unit project is well under the maximum density by 11 units. The applicant has worked with staff during the past 3 years to propose a density fitting the project's topographic and access constraints. Also, the project is representative of the typical form and character of single family development within this classification. The average lot size for the project is 5,300 S.F. and consistent with the typical lot size for the DU designation which ranges from 4,000 to 8,000 S.F. The project is proposing a front, rear, and side yard setback; amount of open space; building footprint, and floor area that is consistent with the single family detached structures.

In addition, several policies in the General Plan encourage cluster development as shown on the project plans. Land Use and Transportation Element (LUTE) Policy N7.6 states that development on subdivided parcels should be allowed where the site and building design minimize environmental impacts, building intensity and activity can be accommodated by available and planned infrastructure, and site and building designs are compatible with neighborhood character. Open Space, Conservation, and Recreation Element Policy OS-1.3 states that creative architecture and site planning which minimizes grading should be encouraged.

By clustering development, an integrated site plan with a lower residential density and reduced visual and grading impacts is achieved. The applicant is requesting a Planned Unit Development (PUD) per the zoning regulations for the project. A PUD is intended to encourage the appropriate development of parcels large enough to allow comprehensive site planning. This approval provides flexibility in the regulations or exceptions to promote an integrated development and create an attractive living environment. One of the exceptions requested for this project is the waiver of one side yard setback. For these reasons the proposed project is consistent with the General Plan objectives and the intent and character of the Detached Unit designation. In short, this project should be viewed as a clustered single-family development with a 0' lot line on one side. Each cluster, although only separated by inches, is composed of two completely independent units, thereby consistent with the Detached Unit Residential designation and objective of an integrated site plan.

The proposed project is within the allowable residential density and the uses are consistent with the General Plan designations. In addition, the project implements several General Plan Land Use and Transportation Element policies related to the construction of new, high quality housing units on infill sites (including Objective N3 and Policies N3.1, N3.2, N3.8, N3.10, N6.2, N7.1, N7.4, and N7.8). Therefore, the project is consistent with the intensity and uses allowed by the General Plan land use designations, as well as with several General Plan policies.

ZONING ANALYSIS

The zoning of the site is R-50 or Medium Density Residential. However, due to the residential density in the surrounding neighborhood and the site's environmental constraints staff has applied a "best fit" zone of R-30 One Family Residential to the site. The R-30 regulations are more restrictive than the R-50 and more consistent with the DU General Plan land use designation. The R-50 conditionally permits 1 unit per 1,500 S.F. for project sites over 10,000 S.F. while the R-30 allows 1 unit per lot with a minimum lot area of 5,000 S.F. The maximum allowable density under the R-30 zoning regulations for the 3.86 acre project site is 33 units. The 32 unit project is 1 unit under the allowable zoning density.

The proposed project will require the following planning approvals: a Planned Unit Development (PUD) (including both a Preliminary Development Plan (PDP) and Final Development Plans (FDP) for three phases); Design Review; Minor Variances for front yard paving, the minimum height and separation of retaining walls, and length of building along side lot lines; and a Tentative Tract Map. All applicable criteria for these entitlements have been analyzed and appropriate findings have been made as part of this staff report.

Zoning Regulation Comparison Table

Criteria	R-50	R-30 "Best Fit"	Proposed	Comment/ Degree of Variance
Lot Area	4,000 S.F.	5,000 S.F.	2,963 S.F. – 19,671 S.F.	Requirement waived with a PUD.*
Yard – Front	15'	20'	0-20'	Requirement waived with a PUD.*
Yard – Street Side of Corner Lot	4'	5'	115'-170'	Meets both R-50 and R-30 requirements.
Yard – Interior Side Lot Line	4'	5'	0'-275'	Requirement waived with a PUD.*
Yard – Rear	15'	20'	15'-95'	Requirement waived with a PUD.*
Height	30'	25' or 30' with a pitched roof	30	Meets both R-50 and R-30 requirements.
Open Space	200 S.F. / unit = 6,400 S.F.	200 S.F. group space / unit and 100 S.F. private space / unit = 9,600 S.F.	139,922 S.F. private open space***	Meets the R-50, R-30, and the PUD requirements. **
Parking	1 space / unit = 32 spaces	2 / spaces unit = 64 spaces	103 spaces total	Meets both the R-50 and R-30 requirements.
Density	Lots > 10,000 S.F.: 1 unit / 1,500 S.F.	1 single family dwelling per lot	1 single family dwelling per lot	Meets both the R-50 and R-30 requirements.

Table Notes:

* For qualifying Planned Unit Developments, yards and other dimensional requirements may be waived or modified for the purpose of promoting an integrated site plan.

** In the R-30 zone, 200 square feet of group usable open space per dwelling unit and 100 square feet of private usable open space shall be provided per unit.

*** Private usable open space may be substituted for required group space in the ratio prescribed in said chapter.

**** Does not include on-street guest parking along Keller Avenue.

Planned Unit Development (PUD).

A PUD is required in order to accommodate the phasing of the proposed residential project. The project sponsor has submitted both Preliminary Development Plan (PDP) application for the whole site and a Final Development Plan (FDP) application for the first phase. The first phase of construction would entail clearing for the entire site; all earthwork bench cuts; grading; construction of 4 upslope units, 6 downslope units, the proposed Siena Drive, and median work in Keller Avenue. Phase 1 would also entail utility mains for the entire project, some of the retaining walls for the later phases, the entire retaining wall along Keller Avenue, and landscaping for the first phase. The project sponsor anticipates that construction of Phase 1 will be completed in 12-13 months. The second phase of construction would entail grading and the construction of 6 upslope units and 6 downslope units, the pedestrian entrance along Keller and pedestrian stairs, half of the remaining retaining walls. Landscaping will also be included. The anticipated schedule for the second phase is for construction to begin by spring or summer of 2006 and to be completed in 13-14 months. Phase 3 will entail the construction of 4 upslope units and 6 downslope units, all remaining earthwork, retaining walls, and landscaping. Phase 3 will begin in spring of 2007 and will take 12-13 months. The applicant shall submit a Final PUD application for Phases 2 and 3, which are required to be consistent with the Preliminary PUD.

As part of the Planned Unit Development, several zoning regulations were waived pursuant to Section 17.122.100(G) of the Planning Code in order to create a comprehensive design and promote an integrated site plan. These regulations include lot area, lot width, and yard requirements as described in the table above.

Design Review

According to the R-50 and the R-30 zoning regulations Special Residential Design Review is required for residential projects with one or two units on a lot. The project design breaks up the building massing by stepping the buildings down the slope and incorporating different materials, styles, and colors. The proposed exterior building materials include stucco, clay tile roofs, metal and wood railings, and wood windows and garage doors. Proposed colors include a range of warm terracotta, ochre, and beige shades with accent colors.

The project design was reviewed by the Design Review Committee on April 14, 2004 and two community meetings. The project sponsor has revised the project design several times in order to address comments received throughout the review process. Design changes made include: altering the transitions between the different portions of the buildings, varying the roof projections on the units, and refining the architectural details for each structure for increased visual interest. Staff believes that the current design is attractive and appropriate for the area, which includes buildings with a variety of architectural detailing in keeping with the Italian hill town style.

Variances

Minor Variances are required for the height and minimum separation of retaining walls, maximum percentage of front yard paving, and length of building along side lot lines. Per Section 17.102.400(E) of the Planning Code, no retaining wall shall exceed six feet in height and the minimum separation distance between retaining walls shall be at least four feet between the exposed faces of each wall. Due to the steep slope of the site, the project would include construction of retaining walls. Many of these are over 6' in height, but none would be taller than 10'. In a couple of instances, the minimum separation between retaining walls is approximately 3'. These retaining walls are necessary for slope stability and would be incorporated into the foundations of the homes. Staff believes that a minor variance for the height and separation of the walls is necessary given the amount of grading needed to implement the project and the desire to keep the walls as low as possible. The walls will be of a material and finish that is consistent with the overall design of the project and the "hill town" theme. The wall height and separation will not pose a sight distance issue for vehicles and will be screened through extensive landscaping, including shrubs at the base and in between the walls and trailing plants along the top.

Per Section 17.102.400(A), paved surfaces within required street-fronting yards shall be limited to 50% maximum paved surface for all lots other than corner and through lots. Plans depict a colored concrete driveway and walkway, an eco-stone parking area, and a planting area within the front yard of each unit. This amounts to more than 50% of a paved front yard. Staff believes that a minor variance for the amount of front yard parking is warranted since Traffic Engineering and Fire Services have required that there be no off-street parking on the street due to the reduced road width. In response, the applicant has provided 3 parking spaces per unit, 1 space in the garage, 1 space in the driveway, and 1 space in a parking area between the planting area and the driveway. Seven guest spaces are located off-street throughout the development. This approach has increased the amount of front yard paving. Since the proposed project is requesting a PUD, each unit will have the same front yard design and therefore an integrated site plan is achieved. Staff has worked with the applicant to vary the paving materials of street, sidewalk, driveway, and parking area to provide visual interest and texture within the development. Furthermore, staff has worked with the applicant to come up with a pervious material for a portion of these surfaces to decrease water run-off on the project site.

Per Section 17.16.040 of the Planning Code, when the site area to be covered by the principal building exceeds a slope of 20% the building length facing a side lot line shall be limited to 35' if within 10' of the side lot line. The downslope units exceed the required building length by 23'. Staff believes that a variance for building length is warranted due to the varied projections and recesses shown on the side elevations. Staff has worked with the applicant to provide architectural details such as turrets, windows, chimneys and balconies that will provide visual interest. Furthermore extensive landscaping will screen the building length as surrounding residents drive along Keller Avenue.

Tentative Tract Map

A Tentative Tract Map and a Final Map are required in order to subdivide a parcel of land into 5 or more lots. The proposed project will create 32 lots and therefore will need a tentative and final map. The proposed tract map (TTM 7396) is not included in this approval. The applicant will need to return to the Planning Commission for approval of the Tentative Tract Map and to will need City Council approval of the Final Map.

ENVIRONMENTAL REVIEW

The project has undergone review to assess its potential environmental impacts. Based on the results of an Initial Study, a staff determination was made to prepare an Environmental Impact Report (EIR). Topics excluded from further review as part of the Initial Study checklist include: agricultural resources, hazardous materials issues, mineral resources, population and housing, public services, and recreation. A NOP was issued on January 21, 2004 and several comments were received on the scope of the EIR. The following issues were identified as of concern: slope stability and geotechnical concerns due to the existing steep slopes and the proposed amount of grading; the potential increase in groundwater run-off and flooding; visual impacts; and finally traffic and safety impacts of the project. The DEIR analysis focused on the project's potential impacts on aesthetics, air quality, biological resources, cultural resources, geology and soils, hydrology, land use and planning, noise, traffic and transportation, and utilities and service systems. The Draft EIR comment period began on November 22, 2004 and ended on January 5, 2005.

A Final EIR was prepared that responded to all the comments received on the Draft EIR. The Final EIR, published on February 18, 2005, was provided under separate cover for review and consideration by the Planning Commission, and is available to the public at the Planning Department office. The Final EIR included some minor revisions to the project description, land use and policy section, and the utilities and service systems section of the Draft EIR. Significant but mitigable impacts identified in the Final EIR are discussed in detail below.

Significant and Unavoidable Impacts

The project would not result in any significant and unavoidable impacts.

Potentially Significant Impacts that Can Be Mitigated to Less-Than-Significant-Levels

The Draft EIR analysis identified potentially significant impacts that could be mitigated to less-than-significant levels on air quality, biological resources, cultural resources, hydrology, geology and soils, noise, traffic and transportation, utilities. These impacts and proposed mitigation measures are briefly summarized below:

Air Quality: Construction activities would contribute to increased criteria pollutants and exposure of these pollutants to sensitive receptors. Under mitigation measure AQ-2 and AQ-5, the project sponsor shall be required to implement a dust abatement program in accordance with the Bay Area Air Quality Management District's (BAAQMD) best management practices to reduce construction dust impacts on neighboring residents to less than significant levels.

Biological Resources: Grading and construction activities would harm special status plant species if located on the project site. Pursuant to mitigation measure BIO-1, the project sponsor shall be required to retain a qualified biologist to conduct pre-construction surveys. These surveys will be conducted between March and May to confirm the absence of the 12 special-status plant species listed in Table 4 of the DEIR. If any special-status plant species are found, a qualified biologist shall develop and implement a Mitigation Plan (MP). The MP will be prepared in consultation with the California Department of Fish and Game and shall be approved by the City prior to any ground disturbing activities. The MP could include the complete or partial avoidance of any special-status plant population and/or options for mitigation.

The project would require the removal of one mature redwood tree in the median of Keller Avenue and the possible mortality of six native oak saplings at the upper elevation of the site. All of these trees are protected under the City's Tree Preservation Ordinance. In regards to the six native oak saplings, mitigation measure BIO-3 states that the project sponsor will consult with a qualified arborist and the Public Works Agency, Tree Division to develop and implement a tree protection plan to protect these trees during grading and construction. If mortality is unavoidable the project sponsor shall apply for a tree removal permit. The proposed tree removal permit must also be reviewed and approved by the Tree Division. Pursuant to BIO-4, the project applicant shall be required to apply for a tree removal permit for the redwood tree as required by the ordinance. The proposed tree removal permit must be reviewed and approved by the Public Works Agency, Tree Division.

Grading activities would create suitable growing conditions for French broom, a non-native plant species already located on the project site. Pursuant to mitigation measure BIO-5, the project sponsor shall be required to retain a qualified landscape architect to develop a final landscape plan. The landscape plan will include a program to eliminate this species and prevent its reestablishment on the site. The landscape plan will also incorporate a native, drought-tolerant, and fire-resistant plant palette.

Cultural Resources: Archaeological artifacts or paleontological resources may be encountered during project construction activities. Mitigation measure CUL-1a and CUL-1b states that the project sponsor shall be required to halt work immediately if artifacts or fossils are encountered and retain a qualified archeologist or paleontologist. These consultants shall evaluate the find, assess their significance, and offer proposals for further investigation or mitigate any adverse impacts resulting from the proposed project.

Human remains may also be encountered during project construction activities. Mitigation measure CUL-1c states that the project sponsor shall be required to halt work immediately if human remains are found and contact the County Coroner and the appropriate representative of the Native American Heritage Commission.

Geology, Soils, and Seismicity: The project site would likely be subject to strong seismic ground shaking. The project sponsor shall be required to design the buildings and infrastructure in compliance with current building codes. In addition, the proposed project would be placed on moderately expansive soils and these soils would become less stable in the event of an earthquake. To reduce these geologic impacts to a less than significant level, mitigation measures GEO-1, GEO-2, and GEO-4 require the project sponsor to implement the following: design the retaining walls and building foundations in compliance with current building codes and follow the criteria in the Geotechnical Investigation for the DEIR; prepare a grading plan that limits the grades to a maximum 2-to-1 slope ratio with retaining walls; submit detailed grading plans and construction drawings to the City of Oakland Building Services for review and approval; and design building foundations to bear on rock and be drilled piers and grade beams. The project sponsor shall also insure that drainage on the site be designed and maintained following the criteria in the Geotechnical Investigation to minimize surface water and saturation of soils.

Grading and construction on the project site would increase the risk of wind and water erosion. Mitigation measure GEO-3 states that the project sponsor shall prepare a plan that minimizes short-term construction related erosion. The erosion control plan shall incorporate the associated hydrology mitigation measures, including HYDRO-1, HYDRO2a, and HYDRO-2b. Long-term erosion shall be addressed through landscaping and the installation of storm drainage facilities.

Geologic Hazard Abatement District (GHAD). GHADs are governmental districts formed in specific geographic areas to address potential geologic hazards. The purpose of a GHAD (pronounced "GAD") is to prevent, mitigate, control or abate defined geologic hazards through maintenance, improvements, or other means. Financing of a GHAD is accomplished through an assessment of the property owners who live within the boundaries. Issuing and servicing of bonds, notes or other debentures is also authorized under a GHAD. A GHAD will be required as condition of approval # 24 to address ongoing maintenance of the retaining walls, drainage system, street sweeping, inlet cleaning, and landscaping.

Hydrology: Grading and construction of the project would increase erosion and result in changes to drainage patterns that could degrade downstream waterways. The proposed project would also result in water quality impacts from an increase in pollutants, erosion, and siltation. Pursuant to HYDRO-1, HYDRO-2 and HYDRO-4, the project sponsor shall be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) and submit the plan to the Regional Water Quality Control Board (RWQCB) prior to construction. The sponsor shall apply for a Phase II National Pollutant Discharge Elimination System (NPDES) permit and comply with the Construction Activities Storm Water Permit Requirements of the Clean Water Act. Filter mechanisms must also be installed at all drop inlets.

Storm water from the project site would not be adequately contained by the on-site drainage system in a manner that would result in a controlled release downstream. In response, mitigation measure HYDRO-3 is included that requires the project sponsor to submit final hydrology calculations based on the final drainage and design plans for review and approval by the City Engineer. These calculations shall demonstrate that the existing drainage infrastructure is capable of handling the flows from the proposed development.

Noise: The project would result in long-term construction activities adjacent to residential uses for most phases of construction. Mitigation measure Noise-3 states that the project sponsor shall require its construction contractor to limit the time of construction activities, to implement noise control techniques as required by the City Council, to prepare site-specific noise attenuation measures, and to submit measures to respond to and track complaints about construction noise.

Mitigation measure Noise-4 addresses the potentially impacts of noise from I-580 and Keller Avenue on the proposed residential project. The project shall be constructed using sound-rated building techniques and materials in order to achieve an acceptable indoor noise level.

Traffic and Transportation: Increased traffic generated by the project would affect levels of service at the Keller Avenue/Mountain Boulevard intersection under existing and year 2020 cumulative conditions. In response, the mitigation measure TRAF-1 is included that requires the project sponsor to contribute the project's fair share towards the installation of a traffic signal and other improvements already approved as part of the Leona Quarry project and as outlined in the Leona Quarry Traffic Improvement Program and Traffic Improvement Fee (TIP/TIF). Finally, mitigation measure TRAF-2 states that the project sponsor shall prepare a construction management plan for review and approval by the Public Works Agency, Transportation Services to reduce the impacts of construction-period traffic and parking.

Utilities and Service Systems: The project would create localized flooding since the existing drainage inlets do not have enough capacity to accommodate run-off from the proposed project during a 100-year storm. To reduce this impact to a less than significant level, mitigation measure UTIL-2 is included. This mitigation measure requires that the project sponsor install additional drainage inlets along the Siena Drive.

Under the existing and proposed conditions, pipe capacity for Sub-basin 1, located on the eastern portion of the site, is inadequate to convey drainage flows from a 100-year storm. This impact is mitigated to a less than significant level through implementation of hydrology mitigation measure HYDRO-3 that requires the project sponsor to submit final hydrology calculations based on the final drainage and design plans for review and approval by the City Engineer.

Project Alternatives

As required by the California Environmental Quality Act (CEQA), several alternatives that would avoid or substantially lessen the significant impacts of the project were analyzed in the Draft EIR. These included a No Project Alternative, a 16-Unit Alternative, and a Mitigated Project Alternative. Under the No Project Alternative, the project would not be undertaken and none of the impacts of the project would occur. This alternative would neither meet the project sponsor's objectives nor the City's objective in facilitating the need for new housing units on infill sites that is compatible with the density, scale and desired character of surrounding development. Under the 16-unit Alternative, 16 "detached" single family units would be constructed using the same site configuration as the 32-unit proposal. The lot area and unit size would double and each lot would have two considerable side setback dimensions. This alternative would represent a 50% decrease in the number of vehicular trips compared to the proposed project. The reduced trip generation would minimize the levels of service traffic impact at the Keller Ave./Mountain Blvd. intersection and therefore the 16-unit alternative would be considered slightly less traffic impacts than the proposed project in this regard. However, both this alternative and the proposed project would have less than significant traffic impacts. Under the mitigated project alternative, 32 attached single family units would be constructed using the same site plan as the proposed project. However, this alternative would implement all the measures recommended in the DEIR. The Mitigated Project alternative would meet the both the projects sponsor's and the City's objectives and is considered the environmentally superior alternative.

The DEIR also discusses other project alternatives that were not further analyzed. The applicant originally submitted a proposal to construct 44 attached single family homes on the project site with a different access configuration. This site plan was rejected by Planning and Zoning, Building Services, and the Public Works Agency, Transportation Services due to an increase in visual impacts associated with the amount and height of the retaining walls, grading impacts, and traffic design hazards. The applicant voluntarily reduced the number of units from 44 to 32 in response to the impacts and also comments from the various City departments. Accordingly, the proposed project reviewed in the DEIR represents an alternative that was already substantially mitigated from the original 44-unit submittal. In addition, a 32-unit "detached" alternative with the same road alignment as the 44-unit proposal was considered but rejected. Since the proposal resulted in more extensive grading impacts, an increase in the height of the required retaining walls, and the increased visual impact of housing dispersed over a greater area of the site, this option was not studied further.

CONCLUSION

The proposal seeks to develop an underutilized parcel into an attractive residential community that will enhance the surrounding residential neighborhood while maximizing the efficient use of the parcel. The project meets the primary goal of providing new high quality housing units on an infill site. Furthermore, the project is clearly in conformance with many General Plan goals and policies including orienting units toward the street, providing adequate parking, and creating an attractive streetscape. The planned unit development permit and variances for the minimum height and separation of retaining walls, minimum

amount of front yard paving, and building length along side lot lines are warranted and are not anticipated to create adverse impacts, pursuant to the attached Findings and Conditions of Approval.

Therefore, staff recommends that the Planning Commission:

- 1) Adopt the CEQA findings, including Certifying the Final EIR; and
- 2) Adopt the attached conditions of approval for the mitigated project alternative including the Mitigation Monitoring and Reporting Program; and
- 3) Approve the applications for the Planned Unit Development (Preliminary Development Plan and Final Development Plan for the first phase only), Design Review, and Variances subject to the attached findings and conditions of approval.

Respectfully submitted:

CLAUDIA CAPPIO
Director of Development

Prepared by:

Heather Klein
Planner II, Major Development Projects

- Attachments:
- A. Project Architectural, Engineering, and Landscape Plans
 - B. Public Comments
 - C. Final EIR (Delivered under separate cover)

CEQA FINDINGS**A. Certification of EIR Findings (CEQA Guidelines § 15090)**

1. That the Draft EIR was prepared by the City of Oakland as the Lead Agency, was properly circulated for public review and comment for 45 days (November 22, 2004 through January 5, 2005), was independently reviewed and analyzed by the City Planning Commission, and reflects the independent judgment of the Planning Commission.
2. That the Final EIR was properly circulated, independently reviewed and analyzed by the City Planning Commission and reflects the independent judgment of the Planning Commission. That such independent judgment is based on review and consideration of the information contained in the Final EIR and on substantial evidence in the record (even though there may be differences between or among the different sources of information and opinions offered in the documents, testimony, public comments and such responses that make up the Final EIR and the administrative record as a whole). The Final EIR included some minor revisions to the project description, land use and policy section, and the utilities and service systems section of the Draft EIR. That the Planning Commission recognizes that the Final EIR contains certain additions, clarifications, modifications or other revisions (as the result of the public review and comments on the Draft EIR, public agency responses to those comments, and refinements to the project description), but that such work does not present significant new information requiring re-circulation of the Draft EIR. That such information, revisions and additional data do not include any new significant environmental impacts that would result from the project or from a new mitigation measure and that they do not reflect any substantial increase in the severity of any environmental impact, nor do they propose any additional feasible project alternative or mitigation measure that is materially different from others previously analyzed that would clearly lessen the significant environmental impacts of the project that has not been adopted. Thus, no recirculation of the Draft EIR is required. No information indicates that the Draft EIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the Draft EIR.
3. The Final EIR and its findings and conclusions are adopted by the City Planning Commission as its source of environmental information, except where otherwise expressly stated; and that the Final EIR is legally adequate and was completed in compliance with CEQA and the City's Environmental Review Regulations.

CEQA Findings for Project Approval(CEQA Guidelines § 15091-15093)**Environmental Impacts**

1. That the Final EIR identifies all potential significant adverse environmental impacts and feasible mitigation measures that would reduce these impacts to a less-than-significant level. All of the mitigation measures identified in the Draft and Final EIR, as they may have been modified, and again in the Mitigation Monitoring and Reporting Program, will be adopted and implemented as condition of approval # 13 for the Project.

2. That the approval of project complies with CEQA; and that the Final EIR was presented to the City Planning Commission, which reviewed and considered the information contained therein prior to acting on any of the development approvals for the project.
3. That the Initial Study included as Appendix A in the Draft EIR evaluated the proposed project and found, after an initial review, the impacts listed in the *Environmental Review Section* of the March 2, 2005 staff report to be less than significant: All the reasons stated in the DEIR, as well as the responses to comments in the FEIR, as to why the foregoing impacts are less than significant are hereby adopted and incorporated by reference as if fully set forth herein.
4. The EIR evaluated the proposed project and identified significant potential adverse impacts in the following environmental categories *Environmental Review Section* of the March 2, 2005 staff report]. The EIR found that there would be less than significant environmental impacts associated with many of these categories. All the reasons stated in the DEIR, as well as the responses to comments in the FEIR, as to why many of the foregoing impacts are less than significant are hereby adopted and incorporated by reference as if fully set forth herein.
5. As detailed previously in this report, the EIR also recommends mitigation measures that, if implemented, would avoid or reduce some of the identified significant effects to less-than-significant levels. These measures are included within the attached Mitigation Monitoring and Reporting Program, and these measures are incorporated into the Conditions of Approval #13 for the Project.

FINDINGS FOR APPROVAL

This proposal meets the required findings under Oakland Municipal Code Sections 17.140.080 (Planned Unit Development Criteria), 17.140.060 (Planning Commission Action for a Final Planned Unit Development for Phase 1), 17.148.050 (Variance Criteria), 17.136.070 (Design Review Criteria), and Government Code Section 65589.5(j) (Reducing Density for Housing Developments) as set forth below. Required findings are shown in **bold** type; explanations as to why these findings can be made are in normal type. The project's conformance with the following findings is not limited to the discussion below, but is also included in all discussions in this report and elsewhere in the record.

Section 17.140.080 Preliminary Planned Unit Development Permit

- A. That the location, design, size, and uses are consistent with the Oakland Comprehensive Plan and with any other applicable plan, development control map, or ordinance adopted by the City Council.**

The proposed residential project is located within the Detached Unit Residential General Plan land use designation. Although the project is proposing attached single family homes with a 0' setback along one side lot line, the project is under the maximum allowable density for the DU designation. The applicant has worked with staff during the past 3 years to propose a density fitting the project's topographic and access constraints.

Several policies in the General Plan encourage cluster development as shown on the project plans. Land Use and Transportation Element (LUTE) Policy N7.6 states that development on subdivided parcels should be allowed where the site and building design minimize environmental impacts, building intensity and activity can be accommodated by available and planned infrastructure, and site and building designs are compatible with neighborhood character. Open Space, Conservation, and Recreation Element Policy OS-1.3 states that creative architecture and site planning which minimizes grading should be encouraged. By clustering development, an integrated site plan with a lower residential density and reduced visual and grading impacts is achieved.

In addition, the project implements several General Plan Land Use and Transportation Element policies related to the construction of new, high quality housing units on infill sites (including Objective N3 and Policies N3.1, N3.2, N3.8, N3.10, N6.2, N7.1, N7.4, and N7.8). Therefore, the project is consistent with the intensity and uses allowed by the General Plan land use designations, as well as with several General Plan policies.

- B. That the location, design, and size are such that the development can be well integrated with its surroundings, and, in the case of a departure in character from surrounding uses, that the location and design will adequately reduce the impact of the development.**

The "Italian hilltown" theme of the proposed project represents a clear difference to the surrounding single and multifamily homes that were built in a 1950-1950's boxlike style. Since the proposed project is located at the edge of this development and because the existing homes are not visible from Keller Avenue, staff believes that the style difference is not an issue. The location of the homes with a 20' setback from Keller Avenue and a 15-95' setback from the rear property line, along with a muted earthtone color scheme will reduce any visual impacts from the proposed project. Currently, the project site is mostly void of vegetation. The applicant is proposing an extensive landscape plan that will visually improve the aesthetic of the parcel. The elevations, with distinct architectural details in the facades and roof forms will also provide visual interest.

- C. That the location, design, size, and uses are such that traffic generated by the development can be accommodated safely and without congestion on major streets and will avoid traversing other local streets.**

Plans for Siena Drive show a reduced width and a small portion divided by a median. One-way signage is required as a condition of approval. This street is designed for project traffic and does not support high speed or large volumes of traffic. The proposed project will generate some additional traffic at a few intersections. However, the EIR determined that with implementation of the required mitigation measures the cumulative traffic impacts of the project will be less than significant.

- D. That the location, design, size, and uses are such that the residents or establishments to be accommodated will be adequately served by existing or proposed facilities and services.**

The proposed project site is located in a developed area that is adequately served by existing utilities and service systems including water supply, wastewater treatment, storm water drainage, and solid waste disposal as documented in the Initial Study and the EIR. The proposed project will also provide additional services for the area and improvements to the existing infrastructure.

- E. That the location, design, size, and uses will result in an attractive, healthful, efficient, and stable environment for living, shopping, or working, the beneficial effects of which environment could not otherwise be achieved under the zoning regulations.

The proposed project could not otherwise be achieved under the zoning regulations due to the site's topographic and access constraints. Construction of a private road on the parcel required that a planned unit development permit be requested. This PUD permit allowed the applicant the flexibility to achieve an appropriate density and design for the project site off the proposed road. The proposed project is an attractive, high quality residential development that will benefit the surrounding area by developing a barren infill parcel. The project's interior private drive is designed to create an attractive and intimate neighborhood setting. The applicant has successfully designed the rear facades of the downslope units so they appear to be oriented to Keller Avenue. The design is attractive and appropriate for the location.

- F. That the development will be well integrated into its setting, will not require excessive earth moving or destroy desirable natural features, will not be visually obtrusive and will harmonize with surrounding areas and facilities, will not substantially harm major views for surrounding residents, and will provide sufficient buffering in the form of spatial separation, vegetation, topographic features, or other devices.

Although the project will require earthmoving, the project was designed to respect and follow the existing 2:1 slope. Since the slope was created as a result of the construction of Keller Avenue and the site is mostly void of vegetation, no desirable natural features will be destroyed. The structures' bulk and mass step down the hill in response to the steep grade and retaining walls are used to stabilize the slope. Extensive landscaping, as shown on the plans, will soften the structures and increase the visual aesthetic of the hillside. The proposed earthtone colors for the walls and roofs will reduce visual impacts and allow the structures to "blend" into the hillside background. Varied roof forms and distinct elevations, including projections and recesses, provide shadow lines, depth, and texture to the structures. The height of the structures will not impact views across Interstate 880 from the upslope units. As demonstrated in the project EIR, all visual impacts can be reduced to a less than significant level.

Section 17.140.060 (Planning Commission Action for Final Planned Unit Development for Phase 1 only):

The proposal conforms to all applicable criteria and standards and conforms in all substantial respects to the preliminary development plan, or, in the case of the design and arrangement of those portions of the plan shown in generalized, schematic fashion, it conforms to applicable design review criteria.

The proposed Final Development Plan for Phase 1 conforms to all applicable criteria and standards and is consistent with the Preliminary Development Plan for the project. The design is attractive and appropriate for the location.

Section 17.136.070A (Residential Facilities Design Review Findings)

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

As stated above, the Italian "hilltown" theme of the proposed project represents a clear style difference from the surrounding single and multi-family buildings built in the 1950-1960's. Since the project is located along the edge of this existing development, staff does not believe that the style is an issue. However, the project is well related to the surrounding area in terms of materials and textures. Many of the buildings are stucco, have pitched roofs over the entrances, wood windows and shutters and metal balconies and railings. The existing buildings range in height from 1-2 stories for single-family homes and 2-3 stories for multi-family buildings located on a slope. The building height for the proposed project is consistent with the height of these multi-family buildings.

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

The project is located on a barren hillside that is already surrounded by a significant amount of residential development. The proposed project is consistent to those homes in many respects, including materials, height, and roof forms. The proposed project protects desirable neighborhood characteristics such as preserving the top of the ridgeline and protecting views from the existing upslope homes. The high quality design and building articulation will enhance the neighborhood. The project has an appropriate site layout with typical setbacks, large open areas at the project's entrance and exit, and new landscaping.

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

The proposed project is located on a 2:1 slope as a result of the construction of Keller Avenue. Construction of the units and the private road will require a significant amount of grading. A final grading plan will be prepared that will limit and retain the 2:1 slope proportion. In addition, the units have been designed to step down the slope. The variations in the structure's elevations and roof forms provide visual interest, reduce the bulk and mass of the project, and decrease the "wall-like" effect that is often noticeable on hillside homes. The project's earthtone colors will blend into the hillside and minimize visual impacts. Although the site is mostly void of vegetation, the applicant is proposing extensive landscaping for the parcel, including trees, shrubs, groundcovers and vines. Staff has included as a condition of approval that the infill and theme trees (as described on the landscape plans) be of a boxed size to soften the structures and produce an immediate landscape effect that would otherwise take years to achieve.

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

As stated above, the project site is located on a steep hillside. The unit's bulk and massing have been designed to step down the slope in relation to the grade. The bulk and massing is typical of hillside development and the "Italian hilltown" theme of the project. The front, side, and rear elevations provide visual interest using variety in materials, roof forms, projections, recesses, and architectural details. Staff has included as a condition of approval that the lower floor's skirt walls on the downslope units provide a deep recess to add a shadow line and further reduce the mass of the structures. The buildings' height will follow the topography and preserve views from the existing homes above the project site.

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

As stated above in the PUD findings, the project is consistent with the General Plan land use designation of Detached Unit Residential. The project supports many of the objectives and policies of the Land Use and Transportation Element (LUTE) for this area including the construction of high quality residential units on infill or orphaned lots, orienting residential development toward the streets, adequately locating off-street parking to avoid visual prominence, and the creation of intimately designed streets. This use and density is permitted under the Planning Code and appropriate to the area.

Section 17.148.050 (Minor Variance Criteria for a) the minimum height and separation between retaining walls, b) the minimum amount of front yard paving, and c) the building length along side lot lines):

1. **That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or, as an alternative in the case of a minor variance that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.**
 - a) Per Section 17.102.400(E) of the Planning Code, no retaining wall shall exceed six feet in height and provide less than a four foot separation distance between retaining walls. Due to the steep slope of the site, the project will include construction of retaining walls. Many of these are over 6' in height, but none would be taller than 10'. In a couple of instances, the minimum separation between retaining walls is approximately 3'. These retaining walls are necessary for slope stability and would be incorporated into the foundations of the homes. Strict compliance with this regulation would preclude an effective design solution and require additional retaining walls or a steeper grade between them. A steeper grade between the retaining walls would be in direct conflict with Mitigation Measure Geo-2a of the EIR. The addition of more retaining walls that adhere to the minimum separation distance would limit the amount of tree planting and landscaping. This extensive landscaping is necessary to screen the walls, provide additional slope stability, prevent the establishment of non-native French broom, and improve the visual aesthetic for the project.
 - b) Both Traffic Engineering and Fire Services have required that there be no off-street parking on Siena Drive due to the reduced road width for a private drive. In order to accommodate unit and guest parking, the applicant provided 3 parking spaces per unit, 1 space in the garage, 1 space in the driveway, and 1 space in a parking area between the planting area and the driveway. This amounts to more than 50% of a paved front yard, which would require a variance per Section 17.102.400(A) of the Planning Code. Strict compliance with this regulation would preclude an effective design solution to providing parking for the units. Approximately 32 unit or guest parking spaces would need to be provided at either end of the development. Scattering the parking throughout the design, buffered by planting areas, provides a more effective design solution than essentially creating large parking lots at the entrance and exit of the development. Since the proposed project is requesting a PUD, each unit will have the same front yard design and therefore an integrated site plan is achieved.
 - c) Per Section 17.16.040 of the Planning Code, when the site area to be covered by the principal building exceeds a slope of 20%, the building length facing a side lot line shall be limited to 35' if within 10' of the side lot line. The downslope units exceed the required building length by 23'. The unit sizes are typical for hillside development. Strict compliance with this

regulation would require shorter units with an increased height or larger setbacks and reduction in the number of units. The additional height to accommodate the shorter building length would require a variance and be inconsistent with the heights for the surrounding homes. Providing increased setbacks would reduce the number of units which is otherwise permitted by the zoning density. Staff believes that a variance for building length is warranted due to the varied projections and recesses shown on the side elevations. Architectural details such as turrets, windows, chimneys and balconies provide visual interest and extensive landscaping will screen the further building length. In addition, the planned unit development regulations allow for reduced yards to create an integrated site plan.

2. **That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.**
 - a) The basic intent of the minimum height and separation of the retaining walls regulations is to provide hillside stability, planting areas to screen walls, and ensure that the slope respects the existing topography of the site. The retaining walls will be installed at the same slope ratio as the existing topography. Strict compliance with the minimum height would preclude an effective design solution that would require additional retaining walls thereby decreasing the amount of landscaping. This would reduce the visual aesthetic of the development.
 - b) The basic intent of the minimum paved front yard area is to create an intimate and well-designed residential streetscape. Since the project is creating a new street and only units within the PUD will front onto the street, this is an internal issue to the project. Strict compliance would require the creation of parking lots at either end of the development to accommodate 32 parking spaces. Scattering parking spaces throughout the development, buffering them with planting areas and lawns, and using visually distinct materials for each paved area are more appropriate design solutions that fulfill the intent of the regulations.
 - c) The basic intent of the maximum building length regulation is to reduce blank facades that are visible from adjacent units and the street and to protect unit privacy. The project elevations show visually interesting side elevations which include turrets, windows, balconies, and varied building and roof projections and recesses. In addition, the building length will be appropriately screened with extensive landscaping. These design solutions fulfill the basic intent of the regulations.
3. **That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy.**
 - a) Granting a variance for the height and separation of retaining walls will not adversely affect the character, livability, or appropriate development of the abutting properties since the development will occur on a parcel already surrounded by residential development. The retaining walls will help to stabilize the homes upslope from the development at the existing 2:1 slope ratio. In addition, the retaining walls will be designed of an appropriate material and finish for residential properties as recommended in the conditions of approval. Furthermore, they will be appropriately screened with extensive tree and shrub planting and the tops planted with trailing vines.

- b) Granting a variance for the amount of front yard paving will not adversely affect the character, livability, or appropriate development of the abutting properties since the development will occur on a parcel already surrounded by residential development. The project will also include the construction of a new private road for the units, so this is an internal issue to the development. The landscape plans show that these paved areas are buffering by lawns, planting areas, and landscaped strips. Staff has included as a condition of approval that the driveways, walkways, and parking areas be constructed with different materials to provide visual interest and that a portion of the hardscape be of a pervious material to provide increased water absorption on the site.
 - c) Granting a variance for the building length along side lot lines will not adversely affect the character, livability, or appropriate development of the abutting properties or the surrounding area since the development will occur on a parcel already surrounded by residential development. The side facades of each structure provide visual interest through projections, recesses, and architectural details. Extensive landscaping will also screen the building length as surrounding residents drive along Keller Avenue.
4. **That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.**

a, b, and c) The variances, in conjunction with the PUD permit, are necessary to create a well-designed and integrated site plan and will not constitute a granting of special privilege inconsistent with limitations imposed on other similarly zoned properties. As stated above the variances are consistent with the basic intent of the zoning regulations and are internal issues to the project. In addition, similar variances have been granted for other hillside properties that were not associated with a PUD permit.

Findings Pursuant to State Government Code Section 65589.5 (j)

Pursuant to Government Code section 65589.5(j), the Planning Commission finds that the proposed housing development cannot have its density reduced because:

- (a) The project is consistent with the general plan and zoning regulations; and
- (b) There is no specific, adverse impact upon the public health or safety as a result of the project.

According to Government Code section 65589.5 (j), if a "housing" project is consistent with a City's General Plan and zoning ordinance, and does not present a threat to public health and safety at its current density, a lower density project cannot be considered as a feasible alternative. Thus, it is not legally feasible to reduce the density of a "housing" project that meets the requirements of Government Code section 65589.5 (j). Under the statute, a "housing" project is defined as residential units only or mixed use developments in which nonresidential uses are limited to neighborhood serving commercial uses on the first floor of buildings. As described elsewhere in this report, the proposed residential project is consistent with the City General Plan and zoning regulations (pursuant to the granting of the planned unit development permit and the variances relating to the minimum height and separation of retaining walls, the amount of front yard paving, and the building length along side lot lines) and there is no specific, adverse impact on the public's health and safety as a result of the project. As defined by the statute, a

“specific, adverse impact” means a significant, quantifiable, direct and unavoidable impact, based upon objective, identified written public health or safety standards, policies or conditions as they existed on the date the application was deemed complete.” Thus, the proposed housing project cannot have its density reduced.

CONDITIONS OF APPROVAL**STANDARD CONDITIONS****1. Approved Use.****a. Ongoing.**

The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the engineering plans dated January 24, 2005, the architectural plans dated May 6, 2004, and the landscape plans dated January 31, 2005 and as amended by the following conditions. Any additional uses other than those approved with this permit, as described in the project description, will require a separate application and approval.

2. Effective Date, Expiration, and Extensions and Phasing Requirements**a. Ongoing through project completion.**

These approvals shall become effective upon satisfactory compliance with these conditions. These approvals for the project site shall expire on **March 2, 2006** unless actual construction of the first phase of the project has begun under necessary permits by this date. Upon written request and payment of appropriate fees prior to the expiration of the approvals, the Zoning Administrator may grant a one-year extension of these dates, with additional extensions subject to approval by the Planning Commission.

b. Within two (2) years of this approval.

Failure of the applicant to obtain a Final PUD approval for the second phase within two (2) years of the effective date of this Preliminary PUD approval shall invalidate this approval. Failure of the applicant to obtain a Final PUD approval for the third phase within two (2) years of a certificate of occupancy being issued for the second phase shall invalidate this approval. Provided further, that upon written request, the Planning and Zoning Division may grant a one year extension of the deadline, with additional extensions subject to approval by the City Planning Commission.

c. Prior to issuance of building permit

The project sponsor shall submit a Construction Phasing and Management Plan, incorporating all applicable conditions of approval. The plan shall also include the following additional measures and standards:

- a. A site security and safety plan to assure that grading and construction activities are adequately secured during off-work hours.
- b. A fire safety management plan for all phases of work, including provisions for access, water, and other protection measures during grading and construction activities.
- c. A construction period litter/debris control plan to ensure the site and surrounding area is kept free of litter and debris.

d. Prior to issuance of certificate of occupancy.

Final inspection and a certificate of occupancy for any unit or other structure within a phase, as set forth above, shall not be issued until (a) all landscaping and on and off-site improvements for that phase are completed in accordance with this Approval, or (b) until cash, an acceptably rated bond, a certificate of deposit, an irrevocable standby letter of credit

or other form of security (collectively "security"), acceptable to the City Attorney, has been posted to cover all costs of any unfinished work related to landscaping and public improvements plus 25 percent within that phase, unless already secured by a subdivision improvement agreement approved by the City. For purposes of these Conditions of Approval, a certificate of occupancy shall mean a final certificate of occupancy, not temporary or conditional, except as the City determines may be necessary to test utilities and services prior to issuance of the final certificate of occupancy.

3. Scope of This Approval

a. Ongoing.

The project is approved pursuant to the Planning Code only and shall comply with all other applicable codes and requirements imposed by other affected departments, including but not limited to the Building Services Division and the Fire Marshal. Minor changes to the approvals may be approved administratively by the Planning Director; major changes to the approvals, shall be subject to review and approval by the City Planning Commission.

4. Modification of Conditions or Revocation

a. Ongoing.

The City reserves the right, after notice and public hearing, to alter Conditions of Approval or revoke this conditional use permit if it is found that the approved use or facility is violating any of the Conditions of Approval, any applicable codes, requirements, regulation, guideline or causing a public nuisance.

5. Recording of Conditions of Approval

a. Prior to issuance of building permit or commencement of activity.

The applicant shall execute and record with the Alameda County Recorder's Office a copy of these conditions of approval on a form approved by the Zoning Administrator. Proof of recordation shall be provided to the Zoning Administrator.

6. Reproduction of Conditions on Building Plans

a. Prior to issuance of building permit.

These conditions of approval shall be reproduced on page one of any plans submitted for a building permit for this project.

7. Indemnification

a. Ongoing.

The applicant shall defend, indemnify, and hold harmless the City of Oakland, its agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Office of Planning and Zoning Division, Planning Commission, 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.

8. Waste Reduction and Recycling

a. Prior to issuance of a building or demolition permit.

Prior to issuance of any building permits including the grading and/or demolition permit the project applicant will submit a demolition/construction waste diversion plan and operational

waste reduction plan for review and approval by the Public Works Agency. The plan will specify the methods by which the development will make a good faith effort to divert 50% of the demolition/construction waste generated by the proposed project from landfill disposal. After approval of the plan, the project applicant will implement the plan. The operational diversion plan will specify the methods by which the development will make a good faith effort to divert 50% of the solid waste generated by operation of the proposed project from landfill disposal. After approval of the plan, the project applicant will implement the plan.

9. Subsequent Conditions or Requirements.

a. Ongoing.

This approval shall be subject to the conditions of approval contained in any subsequent Tentative Tract Map, Tentative Parcel Map or mitigation measures contained in the approved environmental document for this project.

10. Electrical Facilities

a. Prior to installation.

All new electric and telephone facilities, fire alarm conduits, streetlight wiring, and similar facilities shall be placed underground. Electric and telephone facilities shall be installed in accordance with standard specifications of the servicing utilities. Street lighting and fire alarm facilities shall be installed in accordance with the standard specifications of the Building Services Department.

11. Improvements in the Public Right-of-Way

a. Prior to issuance of building permit for work in the public right-of-way

The applicant shall submit Public Improvement Plans for adjacent public rights-of-way showing all proposed improvements and compliance with conditions of approval and City requirements including but not limited to curbs, gutters, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design specifications locations of facilities required by the East Bay Municipal Utility District (EBMUD), and accessibility improvements compliant with applicable standards and any other improvements or requirements for the project as provided for in this approval, including the approved landscape plans, the design of the pedestrian paths, and the street tree locations and planting specifications. In addition, the plans shall also include how the public improvements will be phased concurrent with the proposed project phasing, in order to assure that units can be occupied and meet access, life safety and other requirements. This plan shall be reviewed and approved by the City Engineer and used as the confirmation of compliance with all phases of the project. Encroachment permits shall be obtained as necessary for any applicable improvements.

12. Phased Public Improvement Plan

a. Prior to issuance of building permit for work in the public right-of-way

The applicant shall submit Public Improvement Plans for improvements to be installed with each phase of the development.

SPECIFIC PROJECT CONDITIONS

13. Mitigation Monitoring and Reporting Program

a. Ongoing.

The following mitigation measures shall be incorporated into the project. The measures are taken directly from the environmental impact report for the Siena Hill Project. For each measure, this Mitigation Monitoring and Reporting Program (MMRP) indicates the entity (generally, an agency or department within the City of Oakland) that is responsible for carrying out the measure ("Responsible Implementing Entity"); the actions necessary to ensure compliance with the applicable measure ("Monitoring Action(s)") and the entity responsible for monitoring this compliance ("Monitoring Responsibility"); and the time frame during which monitoring must occur ("Monitoring Timeframe").

AIR QUALITY

A. Impact AQ-2: Project construction would contribute to an increase in levels of ROG, NOx and/or PM10.

Mitigation Measure AQ-2: The applicant shall implement a construction dust abatement program. BAAQMD suggests a range of best management practices (BMPs) for minimizing construction dust. The project shall incorporate the following BMPs:

- a. Water all active construction areas at least twice daily and more often during windy periods. Active construction areas would be considered to be those under excavation at a given time, storage piles and internal roadways. Watering methods may include water trucks for roadways and hoses or sprinklers for storage piles and active excavation.
- b. Cover all trucks hauling soil, sand, and other loose materials offsite, or require all trucks to maintain at least 2 feet of freeboard.
- c. Pave, apply water three times daily, or apply non toxic soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;
- d. Sweep daily with water sweepers all paved access roads, parking areas, and staging areas at construction sites;
- e. Sweep streets daily with water sweepers if visible soil material is carried onto adjacent public streets;
- f. Hydroseed or apply non toxic soil stabilizers to inactive construction areas;
- g. Enclose, cover, water twice daily, or apply non toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- h. Limit traffic speeds on unpaved roads to 15 mph;
- i. Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- j. Replant vegetation in disturbed areas as quickly as possible.
- k. Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site; and
- l. Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph

Responsible Implementing Entity: CEDA, Building Services Division

Monitoring Action(s): CEDA, Building Services Division shall review and approve the construction dust abatement program and conduct spot-checks as deemed necessary throughout construction period.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Prior to the issuance of a grading permit and throughout construction.

B. Impact AQ-5: The project would expose sensitive receptors to increased concentrations of PM10 during construction.

Mitigation Measure AQ-5: This impact would be reduced to a less-than-significant level by implementation of Mitigation Measure AQ-2.

Responsible Implementing Entity: CEDA, Building Services Division

Monitoring Action(s): CEDA, Building Services Division shall conduct spot-checks as deemed necessary throughout construction period.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Prior to the issuance of a grading permit and throughout construction.

BIOLOGICAL RESOURCES

C. Impact BIO-1: Grading and construction activities on the site would have the potential to harm special-status species or habitat for special-status species.

Mitigation Measure BIO-1a: A project applicant shall retain a qualified botanist as approved by the City to conduct detailed preconstruction surveys in spring (March and May) to confirm absence of any special-status plant species on the site. The survey shall focus on the twelve special-status plant species listed in Table 4 of the Draft EIR considered to have a remote (highly unlikely) probability of occurrence on the site. The surveys shall be completed and a report of findings shall be submitted to the City before the onset of any initial ground-disturbing activity or construction.

Responsible Implementing Entity: Project Sponsor, CEDA, Planning Division

Monitoring Action(s): CEDA, Planning and Zoning shall review the preconstruction surveys and findings taken in both March and May to confirm the absence of any special status-plant species listed in table 4 of the Draft EIR.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Prior to issuance of grading permit or ground disturbing activities.

Mitigation Measure BIO-1b: If populations of any special-status plant species are encountered, the project applicant shall ensure that construction-related impacts are avoided or adequately mitigated by retaining a qualified botanist to develop and implement a Special-Status Plant Species Mitigation and Monitoring Plan. A Mitigation and Monitoring Plan shall only be required if a listed species, or those maintained on Lists 1B or 2 of the CNPS Inventory are encountered during the preconstruction survey. Potential impacts on any species maintained on Lists 3 and 4 of the CNPS Inventory would not be considered significant and no additional mitigation would be required for these species if encountered during the preconstruction survey.

The Mitigation and Monitoring Plan shall be prepared in consultation with the CDFG and shall be approved by the City prior to any initial ground-disturbing activity or construction. The Mitigation and Monitoring Plan shall be based on the status and vulnerability of the species present with avoidance of all or a majority of any populations on the site the preferred method of

mitigation. Where complete or even partial avoidance of any special-status plant populations on the site is considered infeasible, options for mitigation may include a program to salvage and re-establish the population at an alternative, suitable location. Details of any salvage and habitat recreation effort shall include the following criteria and performance standards:

- a. Collection of seeds during the appropriate developmental stage of the plant.
- b. Procedures for sowing techniques appropriate to the life cycle of the plant.
- c. Development of a maintenance and monitoring plan specific to the environmental conditions necessary for survival of the new population. Maintenance and monitoring shall be provided for a minimum of five years to determine success of re-seeding and habitat creation, and need for additional preservation.
- d. Identification of funding sources by the applicant to provide implementation of the plan in consultation with the qualified plant ecologist, landscape architect, and civil engineer.
- e. In addition, preservation of another existing occurrence of the affected special-status plant species shall be required if monitoring indicates that the re-establishment efforts have not been successful after five years. The preservation program shall provide for permanent protection of a different existing population in Alameda County, which is equal or larger in size than that encountered on the site (minimum 1:1 replacement), through land acquisition or use of a conservation easement. Any off-site mitigation lands shall include establishment of a management endowment as necessary to provide for long-term management of the preserved population.

Responsible Implementing Entity: Project Sponsor, CEDA, Planning Division

Monitoring Action(s): If special-status plant species are found, the CEDA, Planning Division shall review the mitigation and monitoring plan in consultation with the CDFG to determine appropriate mitigation measures.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Prior to issuance of grading permit or ground disturbing activities.

D. Impact BIO-3: Although no native live oak saplings on the site would be removed as part of the project, they could be harmed by construction.

Mitigation Measure BIO-3: The six native sapling live oaks along the upper elevations of the site shall be preserved to the extent possible and adequate measures taken to prevent removal or damage as part of grading. The applicant shall work with a consulting arborist as approved by the City and with the Tree Services Division of the Public Works Agency to create a tree protection plan. This plan shall include measures such as surveying and mapping the trunk locations and elevations of individual trees and adjusting the grading plan where feasible to preserve individual trees. Trees to be preserved shall be clearly flagged prior to any grading, and temporary construction restriction fencing shall be installed to prevent inadvertent removal, entrance of construction equipment or storage of construction materials.

Where tree removal is unavoidable, the project applicant must apply for a tree removal permit, as required by the Tree Removal/Preservation Ordinance. This application process includes a detailed review of site plans and tree surveys by the Office of Planning and Zoning, the Office of Parks and Recreation, and the Public Works Agency. The proposed tree removal must be reviewed and approved by all relevant City offices. Any trees that are removed shall be replaced at

a 3:1 ratio and incorporated into the Landscape Plan recommended in Mitigation Measure BIO-5b.

Responsible Implementing Entity: Project Sponsor; CEDA, Planning Division; Public Works Agency, Tree Division

Monitoring Action(s): Public Works Agency, Tree Division shall review the tree protection plan and provide mitigation measures to prevent the mortality of these trees.

Monitoring Responsibility: CEDA, Planning Division; Public Works Agency, Tree Division

Monitoring Timeframe: Prior to issuance of grading permit or ground disturbing activities.

E. Impact BIO-4: The proposed project would necessitate the removal of one redwood in the median of Keller Avenue which is protected under the City's Tree Protection/Removal Ordinance.

Mitigation Measure BIO-4: The project applicant must apply for a tree removal permit for the removal of the redwood, as required by the Tree Protection/Removal Ordinance. This application process includes a detailed review of site plans and tree surveys by the City Planning Department, the Office of Parks and Recreation and the Office of Public Works. The proposed tree removal must be reviewed and approved by all relevant City offices.

Responsible Implementing Entity: Project Sponsor; CEDA, Planning Division; Public Works Agency, Tree Division

Monitoring Action(s): The Public Works Agency, Tree Division shall review and approve the application for a tree removal permit.

Monitoring Responsibility: CEDA, Planning Division; Public Works Agency, Tree Division

Monitoring Timeframe: Prior to issuance of grading permit or ground disturbing activities.

F. Impact BIO-5: Grading would create suitable growing conditions for further establishment of invasive French broom on the site, which would limit habitat values unless carefully controlled.

Mitigation Measure BIO-5a: A program to remove French broom shall be incorporated into the Final Landscape Plan for the project to eliminate this species from the site and prevent its reestablishment. Graded slopes and areas disturbed as part of the project shall be monitored to prevent reestablishment and spread of broom. The removal and monitoring program shall include annual late winter removal of any rooted plants when soils are saturated, and cutting back of any remaining flowering plants in the spring before seed begins to set in late April. Monitoring and routine removal shall be provided on an annual basis for a minimum of five years to prevent reestablishment.

Responsible Implementing Entity: Project Applicant, CEDA, Planning Division

Monitoring Action(s): The applicant shall retain a qualified botanist, as approved by the City, who will monitor the site at the appropriate time for the reappearance of this species and will submit a report to the City, either confirming the absence of the plant or detailing measures for removal.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: The Final Landscape Plan shall be submitted prior to issuance of a grading permit; monitoring for French Broom shall be conducted on an annual basis for a minimum of five years.

Mitigation Measure BIO-5b: A Final Landscape Plan shall be prepared by a qualified landscape architect which emphasizes the use of native, drought tolerant and fire resistant tree, shrub, and groundcover species in landscape plantings, and recognizes the difficult growing conditions created by proposed cut slopes on the site. The following requirements and restrictions shall be incorporated into the Plan.

- a. Unsuitable species include: blue gum (*Eucalyptus globulus*), acacia (*Acacia* spp.), pampus grass (*Cortaderia selloana*), broom (*Cytisus* spp. and *Genista* spp.), gorse (*Ulex europaeus*), bamboo (*Bambusa* spp.), giant reed (*Arundo donax*), English ivy (*Hedera helix*), German ivy (*Senecio milanioides*), and periwinkle (*Vinca* sp.).
- b. Suitable species include: coast live oak, California bay (*Umbellularia californica*), big leaf maple (*Acer macrophyllum*), California buckeye (*Aesculus californica*), toyon (*Heteromeles arbutifolia*), California fuchsia (*Epilobium canum*), sticky monkeyflower (*Mimulus aurantiacus*), California sagebrush (*Artemisia californica*), purple needlegrass (*Nasella pulchra*), and buckwheat (*Eriogonum fasciculatum*).
- c. Plantings in the vicinity of the coast live oak saplings shall follow the recommendations of the California Oak Society's Compatible Plants Under and Around Oaks booklet.

Responsible Implementing Entity: CEDA, Planning Division and Fire Services; Public Works Agency, Environmental Services Division

Monitoring Action(s): The CEDA, Planning Division, Fire Services, and the Public Works Agency, Environmental Services Division shall review the final landscape plan to ensure compliance with applicable standards and regulations.

Monitoring Responsibility: CEDA, Planning Division and Fire Services; Public Works Agency, Environmental Services Division

Monitoring Timeframe: The Final Landscape Plan shall be submitted prior to issuance of a grading permit.

CULTURAL RESOURCES

G. Impact CUL-1: Although no evidence of cultural resources or human remains has been discovered on the site, it is possible that construction activities could disturb undiscovered buried cultural resources or human remains.

Mitigation Measure CUL-1a: If previously-undetected cultural resources of significance are encountered during the course of any construction, all earthmoving activity in the area of impact shall stop until the applicant retains the services of a qualified archaeological consultant. The archaeological consultant shall examine the findings, assess their significance and offer proposals for any procedures deemed appropriate to further investigate and/or mitigate adverse impacts to those cultural resources which have been encountered.

Responsible Implementing Entity: CEDA, Planning Division

Monitoring Action(s): CEDA, Planning Division shall receive notice that an archeologist has been retained and verify that construction work has been suspended if significant resources are found. CEDA, Planning Division shall review the archaeological resources report.

Monitoring Responsibility: CEDA, Planning Division and Building Services Division

Monitoring Timeframe: Throughout grading and construction.

Mitigation Measure CUL-1b: If previously undetected paleontological resources of significance are encountered during the course of any construction, all earthmoving activity in the area of impact shall stop until the applicant retains the services of a qualified paleontologist. The paleontologist shall examine the findings, assess their significance and offer proposals for any procedures deemed appropriate to further investigate and/or mitigate adverse impacts to those cultural resources which have been encountered

Responsible Implementing Entity: CEDA, Planning Division

Monitoring Action(s): CEDA, Planning Division shall receive notice that a paleontologist has been retained and verify that construction work has been suspended if significant resources are found. CEDA, Planning Division shall review the paleontological resources report.

Monitoring Responsibility: CEDA, Planning Division, Paleontologist Consultant

Monitoring Timeframe: Throughout grading and construction.

Mitigation Measure CUL-1c: If previously unknown human remains are encountered during construction, the County Coroner and an appropriate representative of the Native American Heritage Commission shall be informed and consulted, as required by State law.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Planning Division; Alameda County Coroner; Native American Heritage Commission

Monitoring Action(s): The project sponsor shall contact the coroner in the event that human remains are encountered. Agencies shall respond to any such discovery as applicable.

Monitoring Responsibility: CEDA, Planning Division; Alameda County Coroner; Native American Heritage Commission

Monitoring Timeframe: Throughout the construction period.

GEOLOGY AND SOILS

H. Impact GEO-1: The proposed project site is within a seismically-active region, and the proposed project site will likely be subject to strong seismic ground shaking during its design life.

Mitigation Measure GEO-1: Structures shall be designed in compliance with current building codes related to seismic safety.

Responsible Implementing Entity: CEDA, Building Services Division

Monitoring Action(s): The Building Services Division shall review and approve the final building plans to demonstrate compliance with current building codes.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Prior to issuance of first building permit.

I. Impact GEO-2: As the soils on the site become saturated in an earthquake event, the slopes become less stable.

Mitigation Measure GEO-2a: The grading plan for the proposed project shall limit slope grades to a maximum 2-to-1 horizontal to vertical ratio with retaining walls to support this slope.

Responsible Implementing Entity: CEDA, Building Services Division

Monitoring Action(s): CEDA, Building Services shall review and approve the final grading plan including the locations, dimensions, and slope ratio of all retaining walls.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Prior to issuance of first grading permit.

Mitigation Measure GEO-2b: New retaining walls and foundations shall be designed following the detailed criteria set forth in the Geotechnical Investigation completed for the proposed project.

Responsible Implementing Entity: CEDA, Building Services Division

Monitoring Action(s): CEDA, Building Services shall review and approve the final grading plan and retaining wall design in consultation with the Geotechnical Investigation completed for the proposed project.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Prior to issuance of first grading permit.

Mitigation Measure GEO-2c: Detailed grading plans and construction drawings shall be submitted to the City of Oakland Building Services Department for approval prior to excavation to ensure that the buildings and retaining walls conform to Uniform Building Code requirements.

Responsible Implementing Entity: CEDA, Building Services Division

Monitoring Action(s): The CEDA, Building Services Division shall review and approve the final grading and construction plans for conformance with the Uniform Building Codes.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Prior to issuance of first grading permit.

Mitigation Measure GEO-2d: Foundations of the buildings shall bear on rock.

Responsible Implementing Entity: CEDA, Building Services Division

Monitoring Action(s): The CEDA, Building Services Division shall review and approve the final grading and construction plans to ensure that the foundations bear on rock.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Prior to issuance of first grading permit.

Mitigation Measure GEO-2e: In addition to the requirements contained in Mitigation Measure HYDRO-3, drainage on the site shall be designed and maintained to minimize ponding of surface water and/or saturation of the soils, following the detailed criteria in the geotechnical investigation completed for the project.

Responsible Implementing Entity: CEDA, Building Services Division; Public Works Agency, Engineering Design Services

Monitoring Action(s): The CEDA, Building Services Division and the Public Works Agency, Engineering Design Services shall review the final drainage plans to minimize ponding of surface water.

Monitoring Responsibility: CEDA, Building Services Division; Public Works Agency, Engineering Design Services

Monitoring Timeframe: Prior to issuance of first grading permit.

J. Impact GEO-3: Soils on the site above the fill layer are at risk of erosion.

Mitigation Measure GEO-3a: An erosion control plan to minimize wind and water erosion during the construction period shall be prepared, as is standard during the grading and building permit approval process. This erosion control plan shall incorporate appropriate measures in accordance with the mitigation measures outlined in Mitigation Measure HYDRO-1, HYDRO-2a and HYDRO-2b.

Responsible Implementing Entity: CEDA, Building Services Division; Public Works Agency, Engineering Design Services

Monitoring Action(s): The CEDA, Building Services Division and the Public Works Agency, Engineering Design Services shall review the erosion control plan.

Monitoring Responsibility: CEDA, Building Services Division; Public Works Agency, Engineering Design Services

Monitoring Timeframe: Prior to issuance of the first grading permit.

Mitigation Measure GEO-3b: Long-term erosion shall be addressed through installation of landscaping and storm drainage facilities.

Responsible Implementing Entity: CEDA, Building Services Division and Planning Division; Public Works Agency, Engineering Design Services

Monitoring Action(s): The CEDA, Building Services Division, Planning Division, and the Public Works Agency, Engineering Design Services shall review the erosion control plan.

Monitoring Responsibility: CEDA, Building Services Division; Public Works Agency, Engineering Design Services

Monitoring Timeframe: Prior to issuance of the first grading permit.

K. Impact GEO-4: The proposed project would be placed on slightly to moderately expansive soil and non-expansive bedrock and on steep slopes.

Mitigation Measure GEO-4: Foundations shall be drilled piers and grade beams.

Responsible Implementing Entity: CEDA, Building Services Division

Monitoring Action(s): The CEDA, Building Services Division shall review and approve the final grading and construction plans to ensure that the foundations are drilled piers and beams.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: The geotechnical recommendations shall be incorporated into the final construction drawings to be reviewed and approved prior to issuance of first building permit.

HYDROLOGY AND WATER QUALITY

L. Impact HYDRO-1: Increased erosion caused by the grading of the project site during construction of the project could result in the degradation of downstream waterways.

Mitigation Measure HYDRO-1: The project applicant shall prepare a storm water pollution prevention plan (SWPPP) prior to construction activities, as required by the statewide General Permit for Construction Activities. Implementation of the plan shall start with the commencement of construction and shall continue through the completion of the project. Upon completion of the project, the sponsor must submit a Notice of Termination to the San Francisco RWQCB to indicate that construction is completed. At a minimum, the SWPPP shall include the following requirements:

- a. Excavation and grading activities will be scheduled for the dry season only (April 15 to October 15), to the extent possible. This will reduce the chance of severe erosion from intense rainfall and surface runoff, as well as the potential for soil saturation in swale areas.
- b. If excavation occurs during the rainy season, storm runoff from the construction area will be regulated through a storm water management/erosion control plan that may include temporary onsite silt traps and/or basins with multiple discharge points to natural drainages and energy dissipaters. Stockpiles of loose material will be covered and runoff diverted away from exposed soil material. If work is stopped due to rain, a positive grading away from slopes will be provided to carry the surface runoff to areas where flow can be controlled, such as the temporary silt basins. Sediment basin/traps will be located and operated to minimize the amount of off site sediment transport. Any trapped sediment will be removed from the basin or trap and placed at a suitable location onsite, away from concentrated flows, or removed to an approved disposal site.
- c. Temporary erosion control measures will be provided until perennial revegetation or landscaping is established and can minimize discharge of sediment into nearby waterways. For construction within 500 feet of a water body, straw bales will be placed upstream adjacent to the water body.
- d. After completion of grading, erosion protection will be provided on all cut-and-fill slopes. Revegetation will be facilitated by mulching, hydroseeding, or other methods and should be initiated as soon as possible after completion of grading and prior to the onset of the rainy season (by November 1).
- e. Permanent revegetation/ landscaping will emphasize drought-tolerant perennial ground coverings, shrubs, and trees to improve the probability of slope and soil stabilization without adverse impacts to slope stability due to irrigation infiltration and long-term root development.
- f. BMPs selected and implemented for the project will be in place and operational prior to the onset of major earthwork on the site. The construction-phase facilities will be maintained regularly and cleared of accumulated sediment as necessary.
- g. Hazardous materials such as fuels and solvents used on the construction sites will be stored in covered containers and protected from rainfall, runoff, and vandalism. A stockpile of spill cleanup materials will be readily available at all construction sites. Employees will be trained in spill prevention and cleanup, and individuals will be designated as responsible for prevention and cleanup activities.

Responsible Implementing Entity: RWQCB, CEDA, Building Division Public Works Agency, Environmental Services Division

Monitoring Action(s): The RWQCB and Public Works Agency, Environmental Services Division shall review the SWPPP for completeness and the Environmental Services Division shall conducted regular spot checks to ensure compliance with the SWPPP.

Monitoring Responsibility: RWQCB, CEDA, Building Division Public Works Agency, Environmental Services Division

Monitoring Timeframe: The final grading plan and drainage plan shall be reviewed prior to issuance of the first grading permit. Compliance with the SWPPP shall be monitored during grading and construction.

M. Impact HYDRO-3: If storm water runoff from the project is not adequately contained by the on-site drainage system, and exceeds existing subbasin or conveyance system capacity, a significant impact would result.

Mitigation Measure HYDRO-3: Prior to final approval of the project, the applicant shall submit final hydrology/ hydraulics calculations for the project based on final design plans. These calculations shall be reviewed and approved by a City Engineer. The calculations shall demonstrate that the existing drainage infrastructure along Keller Avenue and Greenridge Drive are capable of handling flows from the proposed development. If remedial actions must be taken to ensure that the project would not impact downstream drainage infrastructure, these actions shall be completed prior to construction of the proposed project at the sole cost and expense of the applicant, subject to City review and approval.

Responsible Implementing Entity: Public Works Agency, Engineering Design Services

Monitoring Action(s): The Public Works Agency, Engineering Design Services shall review and approve the final hydrology/ hydraulics calculations for the project based on final design plans.

Monitoring Responsibility: Public Works Agency, Engineering Design Services

Monitoring Timeframe: The applicant has submitted final hydrology calculations and therefore prior to the approval of the public improvement plans for the project, PWA shall confirm the applicant's final hydrology calculations in relation to the design and specifications of the site drainage system.

N. Impact HYDRO-4: The proposed project could result in water-quality impacts including an increase in NPS pollutants and on- or off-site erosion and/or siltation.

Mitigation Measure HYDRO-4a: Filter mechanisms shall be installed at all drop inlets receiving runoff from the project site.

Responsible Implementing Entity: Public Works Agency, Engineering Design Services

Monitoring Action(s): The Public Works Agency, Engineering Design Services shall review and approve the final grading plan and drainage plan prior to issuance of first grading permit.

Monitoring Responsibility: Public Works Agency, Engineering Design Services

Monitoring Timeframe: Public Works Agency, Engineering Design Services

Mitigation Measure HYDRO-4b: The project applicant shall develop a long-term storm water pollution prevention plan (SWPPP) to protect storm water quality after the construction period. The SWPPP shall include the following additional BMPs to protect storm water quality:

- a. Proper maintenance of parking lots and other paved areas can eliminate the majority of litter and debris washing into storm drains and thus, entering local waterways. Regular sweeping

is a simple and effective BMP aimed at reducing the amount of litter in storm drain inlets (to prevent clogging) and public waterways (for water quality). The project applicant shall enter into an agreement with the City of Oakland to ensure this maintenance is completed.

- b. Proper maintenance of filter mechanisms at drop inlets is essential to maintain functionality. The maintenance of filter mechanisms will be the responsibility of the City of Oakland's Public Works Department. The project applicant shall enter into an agreement with the City of Oakland to ensure this maintenance is completed.
- c. The applicant shall prepare informational literature and guidance on residential BMPs to minimize pollutant contributions from the proposed development. This information shall be distributed to all residences at the project site. At a minimum the information should cover: (1) Proper disposal of household and commercial chemicals; (2) Proper use of landscaping chemicals; (3) Clean-up and appropriate disposal of yard cuttings and leaf litter; and (4) Prohibition of any washing and dumping of materials and chemicals into storm drains.

Responsible Implementing Entity: RWQCB; Public Works Agency, Engineering Design Services

Monitoring Action(s): The RWQCB and Public Works Agency, Environmental Services Division shall review the SWPPP for completeness and the Environmental Services Division shall conduct regular spot checks to ensure compliance with the SWPPP.

Monitoring Responsibility: RWQCB; Public Works Agency, Engineering Design Services

Monitoring Timeframe: Final grading plan and drainage plan shall be reviewed prior to issuance of first grading permit. Compliance with the SWPPP shall be monitored during grading and construction.

NOISE

O. Impact NOISE-3: Construction noise would impact nearby existing residential land uses. It is likely that construction noise would exceed the City's quantitative standards for long-term construction noise at nearby residences during most phases of construction.

Mitigation Measure NOISE-3a: The project sponsor shall require construction contractors to limit standard construction activities as required by the City Building Department. Such activities are generally limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, with extreme noise generating activities greater than 90 dBA limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday, with no extreme noise generating activity permitted between 12:30 p.m. and 1:30 p.m. No construction activities shall be allowed on weekends until after the building is enclosed, without prior authorization of the Building Services Division, and no extreme noise generating activities shall be allowed on weekends and holidays.

Responsible Implementing Entity: CEDA, Building Services

Monitoring Action(s): The CEDA, Building Services Division shall make regular checks to the project site to ensure that construction hours are restricted to between 7:00 a.m. and 7:00 p.m. Monday through Friday.

Monitoring Responsibility: CEDA, Building Services

Monitoring Timeframe: Throughout grading and construction.

Mitigation Measure NOISE-3b: To reduce daytime noise impacts due to construction, the project sponsor shall require construction contractors to implement the following measures:

- a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).
- b. Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.
- c. Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible.

Responsible Implementing Entity: CEDA, Building Services Division and Planning Division

Monitoring Action(s): The CEDA, Building Services Division shall make regular checks to the project site to that all the methods above are in place to reduce daytime noise impacts.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Prior to issuance of a grading or building permit and ongoing throughout construction.

Mitigation Measure NOISE-3c: To further mitigate potential extreme noise generating construction impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation will be achieved. These attenuation measures shall include as many of the following control strategies as feasible: Erect temporary plywood noise barriers around the construction site, to shield adjacent uses; Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

Responsible Implementing Entity: CEDA, Building Services Division and Planning Division

Monitoring Action(s): The CEDA, Building Services Division and Planning Division shall review and approve the site specific noise reduction program.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Prior to issuance of a grading or building permit and ongoing throughout construction.

Mitigation Measure NOISE-3d: Prior to the issuance of each building permit, along with the submission of construction documents, the project sponsor shall submit to the City Building Department a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

- a. A procedure for notifying the City Building Division staff and Oakland Police Department;

- b. A plan for posting signs on-site pertaining to permitted construction days and hours and complaint procedures and who to notify in the event of a problem;
- c. A listing of telephone numbers (during regular construction hours and off-hours);
- d. The designation of an on-site construction complaint manager for the project;
- e. Notification of neighbors within 300 feet of the project construction area at least 30 days in advance of pile-driving and/or other extreme noise-generating activities about the estimated duration of the activity; and
- f. A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

Responsible Implementing Entity: CEDA, Building Services Division and Planning Division

Monitoring Action(s): The CEDA, Building Services Division and Planning Division shall review and approve the site specific noise reduction program.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Prior to issuance of a grading or building permit and ongoing throughout construction.

P. Impact NOISE-4: Future noise from I-580 and Keller Ave will exceed the State's "normally acceptable" noise level goal of a CNEL of 60 dBA at the residential buildings along these roadways. The noise level will also exceed the State Building Code threshold of a DNL of 60 dBA for new construction.

Mitigation Measure NOISE-4: Sound-rated building construction shall be used to achieve acceptable indoor noise levels as per the State Building Code and City's Noise Element.

Responsible Implementing Entity: CEDA, Building Services Division

Monitoring Action(s): The CEDA, Building Services Division shall review the building plans and verify that noise reduction features have been incorporated.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Measures shall be incorporated into final construction drawings for approval prior to issuance of first building permit.

TRAFFIC AND CIRCULATION

Q. Impact TRAF-1: With the addition of project-related traffic, the Keller Avenue/Mountain Boulevard intersection, currently controlled by four-way stop signs, would operate at LOS E.

Mitigation Measure TRAF-1: The project applicant shall pay a proportional share towards installation of the previously approved set of improvements at the intersection of Mountain Boulevard and Keller Avenue to improve the level of service ratio to the City of Oakland standard of LOS D. Such payment shall be determined based on the approved cost estimate and a formula as derived from the Leona Quarry Traffic Improvement Program and Traffic Improvement Fee (TIP/TIF). If the TIP/TIF is not approved, the fair share payment shall be based on the adopted cost estimate for the Mountain Boulevard/Keller Avenue intersection as set forth in the Leona Quarry City Council Resolution # 78358.

Responsible Implementing Entity: CEDA, Planning Division

Monitoring Action(s): The project applicant's traffic consultant shall verify the proportional share based on the Leona Quarry Traffic Improvement Program and Traffic Improvement Fee (TIP/TIF). The traffic consultant shall submit the estimated proportional share cost to the CEDA, Planning Division for review and approval.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Payment of a proportional share shall be due when the City issues a certificate of occupancy for each phase of the project.

Q. Impact TRAF-2: Truck traffic during construction of the proposed project could have a significant impact on local roadways.

Mitigation Measure TRAF-2: Prior to construction activity, the project applicant shall submit a construction management plan for review and approval by the City's Traffic Engineering Division. This plan shall include, but is not limited to, the following items:

- a. Identification of routes (in a Haul Route Plan) for the movements of construction vehicles that would minimize the impacts on vehicular traffic circulation and safety in the area.
- b. Staging of the movements of construction materials and equipment so as not to hinder the general flow of traffic in the immediate vicinity of the project site.
- c. Identification of areas required for encroachment within the public right-of-way.
- d. Accommodation of on-site placement of construction equipment, construction vehicles, and construction worker vehicles.
- e. Provision of adequate notification procedures for any road closures. Designation of an on-site complaint and enforcement manager to respond to and track complaints, as well as posting of signs at the construction site that include permitted construction days and hours, a day and evening contact number for the designated complaint manager, and a day and evening contact number for the City of Oakland in the event of problems.

Responsible Implementing Entity: CEDA, Building Services and Planning Division; Public Works Agency, Traffic Engineering Division

Monitoring Action(s): The CEDA, Building Services, Planning Division and the Public Works Agency, Traffic Engineering Division shall review and approval the construction management plan for the project.

Monitoring Responsibility: CEDA, Building Services and Planning Division; Public Works Agency, Traffic Engineering Division

Monitoring Timeframe: Plans shall be submitted, reviewed and approved prior to issuance of a grading permit. Compliance with plan requirements shall be continuous throughout grading and construction.

UTILITIES AND SERVICE SYSTEMS

R. Impact UTIL-2: Existing inlets at Keller Avenue and Greenridge Drive may not have adequate capacity to accommodate runoff from the proposed project site from a 100-year storm

event. This could create localized flooding in the area immediately surrounding the existing inlets.

Mitigation Measure UTIL-2: The proposed project shall provide additional drop inlets along the new Siena Drive.

Responsible Implementing Entity: Public Works Agency, Engineering Design Services

Monitoring Action(s): The Public Works Agency, Engineering Design Services shall review the final drainage plan to ensure that additional drop inlets along Siena Drive are proposed.

Monitoring Responsibility: Public Works Agency, Engineering Design Services

Monitoring Timeframe: Prior to issuance of first building permit.

S. Impact UTIL-3: The existing pipe capacity in subbasin 1 would be inadequate to convey flows from the 100-year storm event under both existing and proposed conditions.

Mitigation Measure UTIL-3: Potential impacts to subbasin 1 would be mitigated to a less-than-significant level by the implementation of Mitigation Measure HYDRO-3.

Responsible Implementing Entity: Public Works Agency, Engineering Design Services

Monitoring Action(s): The Public Works Agency, Engineering Design Services shall review and approve the final hydrology/ hydraulics calculations for the project based on final design plans.

Monitoring Responsibility: Public Works Agency, Engineering Design Services

Monitoring Timeframe: The applicant has submitted final hydrology calculations and therefore prior to the approval of the public improvement plans for the project, PWA shall confirm the applicant's final hydrology calculations in relation to the design and specifications of the site drainage system.

14. **Design Review Requirements**

a. ***Prior to issuance of building permit***

The final design elements listed below shall be submitted for review and approval by the Planning Director prior to issuance of the building permit. The Planning Director may exercise his/her standard authority to refer the final design to the Design Review Committee or to the Planning Commission.

- a. The materials and installation methods shall be detailed to provide a high-quality, durable, and attractive building façades. Final material selections and installation details shall be submitted for review and approval.
- b. Windows shall be of wood or similar material and articulated to provide a two-inch minimum recess from the building façade and projecting mullions in order to create a sufficient shadow line and articulation. The final window details shall be submitted for review and approval.
- c. Garage doors shall be of wood or similar material and articulated to provide a two-inch minimum recess from the building façade.
- d. Provide colored renderings of all facades for each unit.
- e. Provide larger window proportions on the rear façade of the upslope units.
- f. Recess the skirt wall on the lower floor of downslope structure (3a and 4) a minimum 8" and add a cornice element to eliminate a blank façade and to create a sufficient shadow line and articulation.

- g. Due to the reduced front setback and the amount of impervious surface on the site, the mailboxes should not be located on individual columns but in the front entry porch of each unit.
 - h. Provide details of the ornamental iron guardrails and handrails. Wait till CO of 2 model unit
 - i. Install a separate paving material at the entrance of Siena Drive to delineate the road as a private drive. Wait till CO of first phase
 - j. Provide a pervious surface for a portion of each unit's driveway or parking area. Use different materials for the driveways, walkways, and parking areas to provide visual interest. Building Permit
 - k. Materials and finishes shall be submitted for all retaining walls and fences. Fences wait until CO of each building.
 - l. If required by the Traffic Engineering Division, the applicant shall fully fund the installation of a one-way street sign at the intersection of Siena Drive and Greenridge Drive and a No-U Turn sign at the proposed left turn lane into Siena Drive from Keller Ave.
 - m. The final colors must be submitted for review and approval. Any new colors must be submitted for review. The colors on the board acceptable, staff will be most likely be invited to a mock up.
 - n.
- 15. Covenants, Conditions and Restrictions & Homeowner's Association.**
- a. *Within one year after issuance of the first certificate of occupancy.*

The Covenants, Conditions and Restrictions (CC&Rs) for the approved 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 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.
- 16. Building Address Signs.**
- a. *Prior to issuance of first certificate of occupancy.*

The applicant shall submit for review and approval of the Planning and Zoning Division, plans showing the design and location of the building address signs of each dwelling unit, structure. All address signs shall be clearly posted, lighted and permanently maintained.
- 17. Meter Shielding.**
- a. *Prior to issuance of building permits.*

The applicant shall submit for review and approval by the Planning and Zoning Division, plans showing the location of any and all utility meters, transformers, and the like located within a box set within the building, located on a non-street facing elevation, or screened from view from any public right of way.
- 18. Recycling Space Allocation Requirements**
- a. *Prior to issuance of building permit*

The design, location and maintenance of recycling collection and storage areas shall comply with the provision of the Oakland City Planning Commission "Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas", Policy 100-28 and with the recycling space requirements of the Planning Code. The recycling location and area shall be clearly delineated on the building permit plans.

19. Lighting Plan**a. Prior to issuance of building permit**

A lighting plan for the exterior of the project shall be submitted for review and approval by the Planning Director. The lighting plan shall include the appearance and location of all exterior and lighting fixtures or standards. The plan shall indicate lighting fixtures that are adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. All lighting shall be architecturally integrated into the site. The project applicant shall install pedestrian-scale light fixtures along the proposed Siena Drive. The outdoor lighting is subject to review by the Public Works Agency, Electrical Services in accordance with the City's outdoor lighting standards.

20. Landscape and Streetscape Plans**a. Prior to issuance of building permit.**

The project sponsor shall submit a detailed landscaping plan to the Planning Director for review and approval prior to the issuance of any building permits. This plan shall include:

- a. Street tree planting specifications. Consistent street tree species must be provided on the street frontages with the species to be approved by the Office of Parks and Recreation.
- b. All infill and theme trees as noted on the final landscape plan shall be a minimum of 24" boxed. The applicant shall install additional trees in front of the retaining walls on the downslope units. The landscape plan shall indicate the installation of 5 gallon shrubs minimum along the skirt wall of each downslope unit. Characteristics of the selected species shall be that it grows to a sufficient size within five (5) years of planting to screen the lower 5-8 feet of the structure above grade.
- c. All landscaping areas and related irrigation shown on the approved plans shall be permanently maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with all applicable landscaping requirements. All landscaping shall be served by an automatic irrigation system. All paving or other impervious surfaces shall occur only on approved areas.

21. Signage Plan**a. Prior to issuance of building permit**

The project sponsor shall submit a revised monument sign where the base on the upslope side is no more than 8" above grade and the sign is no more than 11' in length. The actual name of the development on the sign can remain 8' in length.

22. Water, Wastewater and Storm Sewer Service**a. Prior to issuance of building permit**

The project sponsor shall provide the necessary information to the Public Works Agency, Design and Construction Services Division to confirm the existing capacity of the water, wastewater and storm service systems that serve the project site and the projected project demand. The project sponsor shall be responsible for payment of the required installation or hookup fees to the affected service providers. The project sponsor shall also be responsible for payment of sewer and/or storm water improvement fees as required by the Public Works Agency.

23. Special Inspector**a. Throughout construction**

At the discretion, of PWA and Building Services, the project sponsor may be required to pay for an on-call special inspector(s) as needed during the times of most intense grading or construction. Prior to issuance of a grading permit, and the project sponsor may be required to establish a deposit with the Building Services Division to fund a special inspector who shall be available as needed, as determined by the Building Official or the Planning Director.

24. Geologic Hazards Assessment District

a. Prior to the approval of the final map

Prior to approval of the final map for the project, a Geologic Hazard Abatement District (GHAD) shall be fully operational, and all assessments, reserve funding and/or other long-term financing and other requirements necessary to fully fund the GHAD shall be established and authorized.

APPROVED BY:

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

City Council: _____ (date) _____ (vote)

Location:	Siena Hill (off of Keller Avenue, between Greenridge Drive and Rilea Way) (APN: 040A-3848-001-00 through 040A-3848-032-00)
Proposal:	Extension of entitlements for the Preliminary Planned Unit Development (PUD) Permit to allow construction of 32 attached single-family dwellings on 32 lots, 103 off-street parking spaces, and a private road. Phase 1, which includes 10 of the 32 units, the associated parking spaces and the private road, has already been constructed.
Applicant:	Keven Kwok
Phone Number:	(510) 258-8502
Owner:	Oakland Siena LLC
Case File Number:	PUD02-217
Planning Permits Required:	Extension of the Planned Unit Development (Preliminary Development Plan); Minor Variances for height and minimum separation of retaining walls, maximum percentage of front yard paving, and length of building along side lot lines; and Design Review.
General Plan:	Previously: Detached Unit Residential; Currently: Mixed Housing Type Residential
Zoning:	Previously: R-50 Medium Density Residential Zone; Currently: Mixed Housing Type -3 (RM-3)
Environmental Determination:	A Final Environmental Impact Report was certified on March 2, 2005. (Case File ER02-0012).
Historic Status:	N/A
Service Delivery District:	4
City Council district	6
Status:	Planning Commission approval on March 2, 2005 (Case File PUD02-217; PUDF05-081; TTM7396). Construction of 10 units, associated parking and the private road in 2009. Planning Commission approval of two-year extension for the entitlements on June 18, 2008. Entitlements extended through December 31, 2015.
Staff Recommendation	Decision based on staff report
Finality of Decision:	Appealable to City Council within 10 days
For further information:	Contact case planner Heather Klein at 510 238-3659 or by e-mail at hklein@oaklandnet.com .

SUMMARY

The Project applicant has requested an extension of the entitlements originally approved by the Planning Commission in 2005 and extended in 2008 (*Attachment A*). The Project applicant has taken advantage of the ministerial options for extensions, and the entitlements were set to expire on December 31, 2015. However, adopted Condition of Approval #2a allows for the Project applicant to request an additional one-year extension of the entitlements from the Planning Commission if an application is submitted prior to the expiration date. The Project applicant filed for an extension on December 23, 2015.

According to the Project applicant, the 2008 financial situation and market prices for the units did not justify beginning construction. In addition, there has been uncertainty regarding the Geologic Hazard Abatement District (GHAD) Condition of Approval imposed on the Project. Currently, the Project applicant is currently seeking funding for construction of Phase 2 and has

submitted a pre-application to Planning staff for Phase 2 which includes minor design modifications to the proposed buildings and location of the structures on the lots. The Project applicant will take advantage of the time extension opportunity in order to facilitate development of the approved project and has included an anticipated phasing schedule in their extension request.

The Project provides new housing units and infill development on vacant parcels. The Project is a continuation of a larger phased development which has been partially completed. The Project is still in conformance with the General Plan's goals and policies and the Planning Code. Therefore, staff recommends that the Project's entitlements be extended for a one-year period.

BACKGROUND

On March 2, 2005, the Planning Commission approved a Preliminary Planned Unit Development Permit for the entire site, a Final Development Permit for Phase 1 and a Vesting Tentative Tract Map for the construction of 32 attached, single-family homes on 32-lots off and a private road off of Keller Avenue. (*Attachment B*). An Environmental Impact Report (EIR) was prepared for the Project which identified four potentially significant geologic impacts. As such, the City determined there was a need for ongoing specialized preventive maintenance to reduce the risk of the geologic hazards on the site, and recommended a GHAD to ensure ongoing compliance of the conditions of approval and related mitigation. The EIR at the same time Project approvals were granted.

In 2008, the Planning Commission approved a two-year extension of the entitlements until June 18, 2010.

In 2009, Building Permits were finalized for ten (10) of the units.

In October of 2013, the Siena Hill Homeowners Association and owners of the vacant parcels submitted an application requesting an amendment removing the GHAD-related conditions and the Project from the Oakland Area GHAD as 1) the GHAD had not accepted responsibility for maintenance obligations and 2) the homeowners are paying a significant assessment without receiving any services from the GHAD. In June of 2015, the Planning Commission recommended to the City Council and the GHAD Board that the GHAD Condition of Approval be removed from the Project. Staff has not scheduled this item before City Council as it had come to our attention that the owners were working with GHAD staff to keep the Project within the GHAD, reduce the assessment and allow the GHAD Board to assume maintenance responsibilities on the property. This matter is still pending.

From 2011 through 2015, the Oakland City Council passed Resolutions (81723, 83424, 83989, 84746 and 85305 C.M.S.) to allow automatic extensions of active land use entitlements due to the economic recession. The Project applicant took advantage of the 2011-2015 Resolutions extending the entitlements.

In October of 2015, the Project applicant filed a pre-application to review minor changes to the design of Phase 2.

PROJECT DESCRIPTION

Extension Request

In conformance with adopted Condition of Approval #2a, the Project applicant submitted an application on December 23, 2015 requesting an extension of the entitlements from the Planning Commission. As noted above in the *Background* section, the approved permit for this application is still active, but was set to expire on December 31, 2015. Unless the Planning Commission approves a time extension request, the approved permit will expire, and the Project applicant will need to apply for a new PUD development permit for the remaining portions of the development.

Approved Project Use and Design

The Project consists of 32 attached single-family homes on 32 parcels, 10 homes of which already have been constructed. Each home has three parking spaces and is accessed via a private, one-way road, entering off of Keller Avenue and exiting onto Greenridge Drive. An additional seven spaces are for visitors. The buildings are designed in an Italian hillside architectural style. The building materials include stucco in warm terracotta, ochre, and beige colors with clay tile roofs. The buildings will step down the slope to Keller, which will reduce the mass and bulk of the buildings while keeping with the "Italian hill town" theme of the project. Two pedestrian stairways through the project would provide access to Keller Avenue. At the time of the decision and the previous extension, the Planning Commission supported the use and design character for the site.

GENERAL PLAN AND ZONING ANALYSIS

General Plan Analysis

The Project was approved when the site was located in the Detached Unit Residential General Plan designation which was "intended to create, maintain, and enhance residential areas characterized by detached single unit structures." While the Project was proposing attached, single family homes with a 0' setback along one side lot line, staff determined that this type of Project was consistent with the Detached Unit Residential General Plan designation based on the allowable units per gross acre. The Detached Unit Residential designation states that the maximum allowable density is 11 units per gross acre, which equates to 14.6 units per net acre. Accordingly, a maximum of 43 units would be permitted on the 3.86 acre project site. Furthermore, the Project was also consistent with other General Plan policies such as construction of new, high-quality housing units on infill sites and clustered development that minimizes environmental impacts as detailed in the Findings for Project approval.

Since the Project was approved, the General Plan designation has been changed to Mixed Housing Type Residential. This designation is intended to create, maintain, and enhance residential areas near arterial roads and characterized by a mix of single-family homes, townhouses, and small multi-family buildings. The Mixed Housing Type designation states that the maximum allowable density is 30 units per gross acre. If the Project was under the allowable density for the Detached Unit Residential designation with 11 units per gross acre then the Project would be under the allowable density for the Mixed Housing Type designation with 30 units per gross acre. Furthermore, the Project, as a single-family, attached townhome development, is consistent with the new General Plan designation's character, use, intensity, and density.

Zoning Analysis

The previous zoning of the Project site was R-50 Medium Density Residential. However, due to the Detached Unit Residential General Plan designation, residential density in the surrounding neighborhood and the site's environmental constraints staff applied a "best fit" zone of R-30 One Family Residential to the site. In terms of density, the R-30 regulations were more restrictive than the R-50 regulations and the 32 unit project was 1 unit under the allowable R-30 zoning density.

Since the Project was approved, the zoning of the site has been changed to Mixed Housing Type -3 (RM-3). The intent of this zoning is to create, maintain, and enhance residential areas characterized by a mix of single family homes, duplexes, townhouses, small multi-unit buildings at somewhat higher densities than in RM-2, and neighborhood businesses where appropriate. In the RM-3 zoning, the maximum outright permitted density is two units on lots greater than 4,000 sq. ft. However, the RM-3 zoning permits a maximum density of one unit per 1,500 sq. ft. of lot area on lots greater than 4,000 sq. ft. with a Conditional Use Permit. The Project site is well under the maximum conditionally permitted density by 80 units. However, the Project was approved with a PUD permit which set the density for the site.

In regards to other zoning requirements such as lot area and setbacks for example, either the previous zoning was more restrictive than the current zoning and the Project was approved PUD bonuses waiving those requirements or the Project meets both the previous and existing zoning. However, Minor Variances for height and minimum separation of retaining walls, maximum percentage of front yard paving, and length of building along side lot lines are still necessary for Phase 2 and 3.

DISCUSSION

As noted above in the *Background* section, the Project took advantage of City Council Resolution 85305 C.M.S. which stated that Projects shall be subject to, and the applicant shall agree to and pay any development impact fees that are eventually adopted by the City Council unless a vested right is obtained prior to the impact fee adoption date and such project is diligently pursued toward completion, as reasonably determined by the Planning Director or designee. As such, the City is requesting that this Planning Commission extension be approved

with an additional Condition of Approval that the Project shall be subject to the imposition of impact fees unless a vested right is obtained prior to the impact fee adoption date.

In addition, staff is requesting that Condition of Approval #2a be changed to allow further extensions of the entitlements to be granted by the Planning Commission. Staff's reason for the change is based on the fact that the Bureau of Planning's standard language for the effective date, expirations, extensions, and extinguishment allows a Project applicant to return to the approving body with additional extensions and for some reason this same benefit was not bestowed on the current Project. An excerpt of the standard Condition of Approval is provided below.

" Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body."

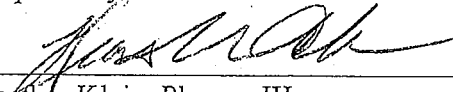
CONCLUSION AND RECOMMENDATIONS

As noted above, the Project is still in conformance with the General Plan's goals and policies and the Planning Code. Completion of the additional building foundations, retaining walls and drainage improvements associated with Phase 2 and 3 will improve the stability of the site from a geologic hazard perspective. Finally, staff believes that the one-year extension would allow the applicant to successfully complete the approved, desirable project. At the same time, an additional year would ensure that the site does not remain underutilized for an excessive amount of time. Condition of Approval #2a permits the applicant to request additional extensions from the Planning Commission if needed to complete the Project.

Therefore, staff recommends that the Planning Commission:

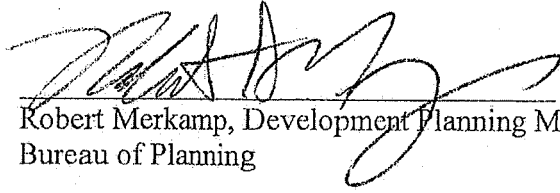
1. Approve the extension of Project approvals until December 31, 2016, subject to the previously approved Findings and Conditions of Approval, the revised Condition of Approval #2a, regarding further extensions, and the additional Condition of Approval regarding the imposition of impact fees.

Prepared by:



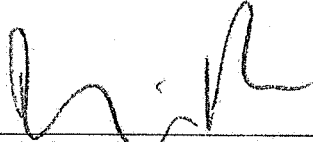
Heather Klein, Planner III

Reviewed by:



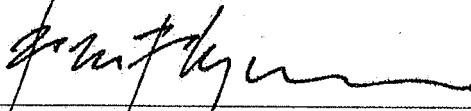
Robert Merkamp, Development Planning Manager
Bureau of Planning

Reviewed by:



Darin Ranelletti, Deputy Director
Bureau of Planning

Approved for forwarding to the Planning Commission:



Rachel Flynn, Director
Department of Planning & Building

ATTACHMENTS:

- A. Applicant's extension letter of request, dated December 23, 2015
- B. Staff Report (Excerpt), dated March 2, 2005
- C. Staff Report (Excerpt), dated June 18, 2008

FINDINGS FOR APPROVAL

See Attachment B and Attachment C

REVISED CONDITION OF APPROVAL #2A

2. Effective Date, Expiration, and Extensions

a. Ongoing.

This extension shall expire on ~~June 18, 2010~~ December 31, 2016, unless actual construction or alteration, or actual commencement of the authorized activities (phases 2 and 3) in the case of a permit not involving construction or alteration, has begun under necessary permits by this date. Upon written request and payment of appropriate fees submitted no later than the expiration date ~~the City Planning Commission may grant an additional one year extension of this date.~~ of this Approval, additional extensions subject to approval by the approving body.

b. Within two (2) years of this approval.

Failure of the applicant to obtain a Final PUD approval for the second phase within two (2) years of the effective date of this Preliminary PUD approval shall invalidate this approval. Failure of the applicant to obtain a Final PUD approval for the third phase within two (2) years of a certificate of occupancy being issued for the second phase shall invalidate this approval. Provided further, that upon written request, the Planning and Zoning Division may grant a one year extension of the deadline, with additional extensions subject to approval by the City Planning Commission.

c. Prior to issuance of building permit

The project sponsor shall submit a Construction Phasing and Management Plan, incorporating all applicable conditions of approval. The plan shall also include the following additional measures and standards:

- a. A site security and safety plan to assure that grading and construction activities are adequately secured during off-work hours.
- b. A fire safety management plan for all phases of work, including provisions for access, water, and other protection measures during grading and construction activities.
- c. A construction period litter/debris control plan to ensure the site and surrounding area is kept free of litter and debris.

d. Prior to issuance of certificate of occupancy.

Final inspection and a certificate of occupancy for any unit or other structure within a phase, as set forth above, shall not be issued until (a) all landscaping and on and off-site improvements for that phase are completed in accordance with this Approval, or (b) until cash, an acceptably rated bond, a certificate of deposit, an irrevocable standby letter of credit or other form of security (collectively "security"), acceptable to the City Attorney, has been posted to cover all costs of any unfinished work related to landscaping and public improvements plus 25 percent within that phase, unless already secured by a subdivision improvement agreement approved by the City. For purposes of these Conditions of Approval, a certificate of occupancy shall mean a final

Findings and Additional Condition of Approval

certificate of occupancy, not temporary or conditional, except as the City determines may be necessary to test utilities and services prior to issuance of the final certificate of occupancy.

ADDITIONAL CONDITION OF APPROVAL

The following condition of approval shall be added to the adopted conditions of approval for case file PUD02-217 upon extension of applicable entitlements beyond December 31, 2015:

The project approved under case file PUD02-217 shall be subject to, and Applicant shall agree to pay, any development impact fees that are eventually adopted by the City Council unless a vested right is obtained prior to the impact fee adoption date and such project is diligently pursued toward completion, as reasonably determined by the Planning Director or designee.

Findings and Additional Condition of Approval

Oakland Siena LLC
4481 Belmont Way
Castro Valley, CA 94546

December 23, 2015

City of Oakland
Attn: Heather Klein
250 Frank H Ogawa Plaza, Suite 2114
Oakland, CA 94612

Re: Siena Hill Entitlement Extension

Dear Heather:

This letter is a request for entitlement extension for Phase 2 and 3 of the Siena Hill project.

We are requesting an extension due to the following reasons:

There has been uncertainty with the Oakland Area Geological Hazard Abatement District (GHAD) and the assessment on the Siena Hill properties. The July 1, 2015 Planning Commission decision recommended approval of amendments to the Conditions of Approval to remove the Siena Hill project from the Oakland Area GHAD. The final decision still needs to be made by the City Council and GHAD Board. A date for this has not been determined yet.

Phases 2 and 3 are currently going through minor design revisions. A pre-application for the remaining phases was submitted in October 2015. Completion of revised drawings and a final submittal of Phase 2 re-design is anticipated for Q1 2016.

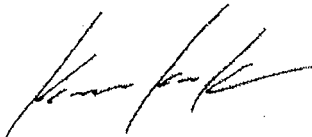
Construction of phases 2 and 3 did not start immediately in 2008, when Oakland Siena LLC purchased the properties, due to financial reasons. Market price did not justify starting construction at the time. The design changes are also driven to increase selling price. Ownership is currently seeking funding for phase 2 construction activities.

The projected phasing schedule is as follows:

Phase 2 Final Submittal – Q1 2016
Phase 2 Construction – Q3 2016 – 2018
Phase 3 Final Submittal – Q1 2018
Phase 3 Construction – Q3 2018 – 2020

Enclosed is the \$1,628.31 fee for the extension.

Sincerely,



Keven Kwok
President
Oakland Siena LLC

ATTACHMENT A