

**City of San Leandro Board of Zoning Adjustments**

**RESOLUTION NO. 2024-XXX**

**A RESOLUTION OF THE BOARD OF ZONING ADJUSTMENTS  
OF THE CITY OF SAN LEANDRO**

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**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT, ADMINISTRATIVE  
SITE PLAN REVIEW, ADMINISTRATIVE EXCEPTION, AND FENCE MODIFICATION  
AT 98 AND 100 CASTRO STREET, AND DETERMINING THAT THE PROJECT IS  
CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY  
ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15303, NEW  
CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES,  
PLN22-0056**

**WHEREAS**, the applicant and property owner, Habitat for Humanity East Bay Silicon Valley, Inc. (“Applicant” and “Property Owner”), submitted an application for a Conditional Use Permit, Administrative Site Plan Review, Administrative Exception, and a Fence Modification to construct a three-unit single-family residential development with associated site improvements (the “Project”) on an existing 7,500 square-foot parcel located at 98 and 100 Castro Street.; Zoning District: DA-3, Downtown Area-3; Alameda County Assessor’s Parcel Number 77-550-11 (the “Property”); and

**WHEREAS**, the Property is a vacant site comprising one 7,500 square-foot; and

**WHEREAS**, the Property has a Downtown Mixed Use General Plan Land Use designation and is zoned DA-3, Downtown Area-3; and

**WHEREAS**, the Property is located within half a mile of a Major Transit Stop, including a boarding platform at the intersection of East 14<sup>th</sup> Street and Davis Street serving the Tempo Bus Rapid Transit (BRT) line, and the San Leandro Bay Area Rapid Transit (BART) Station; and

**WHEREAS**, the Project is located within Downtown San Leandro, where new development is guided by the Downtown San Leandro Transit Oriented Development Strategy (TOD Strategy); and

**WHEREAS**, the goals, policies and objectives of the TOD Strategy intend to bring more housing, retail, and jobs to the City’s downtown core through projects designed to create a sense of arrival and place, reduce reliance on automobiles, maximize available transit options, and promote a pedestrian-oriented community; and

**WHEREAS**, 100-percent of the units in the development would be deed restricted affordable to moderate-income households, exceeding the requirements of the City’s Inclusionary Housing Ordinance codified in San Leandro Zoning Code Chapter 6.04; and

**WHEREAS**, numerous policies in the City's General Plan and Housing Element are applicable to the project. Many of those policies are generally applicable to residential development and apply citywide, while others are specific to projects in the Downtown Area; and

**WHEREAS**, Zoning Code Section 2.08.232.B.17 requires a Conditional Use Permit (CUP) for single-family residential use in the DA-3 Zoning District; and

**WHEREAS**, Zoning Code Section 2.08.404.A.1.a requires Administrative Site Plan Review for the development of new structures greater in size than 2,500 square feet in the DA-3 Zoning District; and

**WHEREAS**, Zoning Code Sections 2.08.304.A. and 2.08.400.A requires an Administrative Exception to allow the creation of lots less than the minimum size of 5,000 square-feet in the DA-3 Zoning District; and

**WHEREAS**, fencing in the proposed project would exceed the maximum of height of three feet in front yards specified in Zoning Code Section 4.04.364.B.1; and

**WHEREAS**, Zoning Code Section 4.04.364.D.1 requires a Fence Modification to modify the requirements for the maximum height for fences established in the Zoning Code; and

**WHEREAS**, a staff report dated June 6, 2024, and incorporated herein by reference, describes and analyzes the proposed Project; and

**WHEREAS**, on June 6, 2024, the Board of Zoning Adjustments reviewed the staff report at a duly noticed public hearing on the proposed Project, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, the Board of Zoning Adjustments has considered all public comments received, the presentation by City staff, the staff report and attachments in adopting this resolution; and

**WHEREAS**, the Board of Zoning Adjustments has determined that the proposed Project does satisfy the requisite findings of fact necessary for approval as described in the staff report and herein; and

**WHEREAS**, the Board of Zoning Adjustments desires to approve a Conditional Use Permit, Administrative Site Plan Review, Administrative Exception, and Fence Modification for the Project; and

**WHEREAS**, the City's General Plan, Zoning Code, and Municipal Code, are incorporated herein by reference, and are available for review at City Hall during normal business hours.

**NOW, THEREFORE THE BOARD OF ZONING ADJUSTMENTS FOR THE CITY OF SAN LEANDRO RESOLVES THAT:** The above recitals are true and correct and made a part of this resolution.

**BE IT FURTHER RESOLVED THAT,** the Board of Zoning Adjustments does hereby determine that the Project is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures.

**BE IT FURTHER RESOLVED THAT,** the Board of Zoning Adjustments of the City of San Leandro does hereby approve a Conditional Use Permit, Administrative Site Plan Review, Administrative Exception, and Fence Modification for the Project to construct a three-unit single-family residential development with associated site improvements on a 7,500 square-foot parcel located at 98 and 100 Castro Street, as shown on the submitted project plans attached as Exhibit A and incorporated herein, based on the following findings and considering the staff report, and the whole of the record related to the Project:

Conditional Use Permit

1. The proposed location of the Project is in accord with the objectives of the Zoning Code and the purposes of the DA-3 (Downtown Area-3) Zoning District in which the Property is located;
2. The proposed location of the Project and the proposed conditions under which it would be in use or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing, or working in, or adjacent to, the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the City;
3. The proposed Project will comply with the provisions of the Zoning Code, including all requirements for the proposed use in the Downtown Area-3 Zoning District in which it would be located; and
4. The proposed Project will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities, which cannot be mitigated.

Administrative Site Plan Review

1. The project is in compliance with the minimum requirements of this Code and are arranged as to achieve the intent of such requirements by providing a harmonious and orderly development that is compatible with its surroundings. Parking, loading, storage, and service areas are appropriately screened by building placement, orientation walls, and/or landscaping.
2. The building(s) has(have) adequate articulation, with appropriate window placement, use of detailing, and/or changes in building planes to provide visual interest. The exterior materials, finishes, detailing, and colors are compatible with those of surrounding structures. Visually incompatible elements, such as roof-mounted utilities, are fully screened from public view.

3. The landscaping complements the architectural design, with an appropriate balance of trees, shrubs, and living ground covers, and provides adequate screening and shading of parking lots and/or driveways.
4. Detail features, such as signs, fences, and lighting for buildings, parking lots, and/or driveways are visually consistent with the architectural and landscape design and minimize off-site glare.
5. All site plan elements in the DA-1, DA-2, DA-3, DA-4, and DA-6 Districts shall be reviewed for general consistency with the Design Guidelines contained in the Downtown San Leandro Transit-Oriented Development Strategy, unless otherwise superseded by this Code.

#### Administrative Exception – Lot Size

1. Adequate shared ingress, egress and access to parking facilities can be provided to accommodate each proposed new lot.

#### Fence Modification

1. The proposed fence would not be detrimental to adjacent property
2. The proposed fence would be compatible with the neighborhood in terms of aesthetics
3. The proposed fence would not create a sight distance hazard.
4. The proposed fence would not be detrimental to the public health, safety, or welfare.

**BE IT FURTHER RESOLVED THAT**, the Board of Zoning Adjustments' approval of a Conditional Use Permit, Administrative Site Plan Review, Administrative Exception, and Fence Modification for the Project is subject to the following conditions of approval:

#### **PLANNING DIVISION**

##### Compliance

1. **Compliance with Approved Exhibits.** The Project shall comply with the following exhibits except as hereinafter modified. Exhibits are on file at the City of San Leandro, Community Development Department located at 835 E. 14th Street, San Leandro, California, 94577.
  - A. Exhibit A: Plan Set
  - B. Exhibit B: Inclusionary Housing Plan
2. **Scope of Work.** The approval of a Conditional Use Permit (CUP), Administrative Site Plan Review (Admin. SPR), Administrative Exception (AE), and Fence Modification (FM) allows for the construction of a three-unit single-family residential development with associated site improvements on a 7,500 square-foot parcel located at 98 and 100 Castro Street; Zoning District: DA-3, Downtown Area 3; APN: 77-550-11.

3. **Effective Date.** The project approval shall become effective on the 15th day after the date the Board of Zoning Adjustments approves the project, unless appealed, as provided in Zoning Code Chapter 5.20 Appeals.
4. **Expiration.** The Project approval shall lapse two (2) years following approval of the application unless diligent progress has been made evidencing a good faith intent to commence the intended use, or an occupancy permit has been issued, or the approval is granted a one-year extension by the Zoning Enforcement Official upon receipt of a written application prior to the expiration of the approval.
5. **Substantial Compliance and Amendments.** The project shall remain in substantial compliance with the approved Plans, Exhibits, and Conditions of Approval. Proposed changes to the project shall be made in writing to the Zoning Enforcement Official. The Zoning Enforcement Official may approve changes to approved exhibits or Conditions of Approval without a public hearing upon determining that the changes are minor and are consistent with the intent of the original approval. Revisions involving substantial changes to approved exhibits or Conditions of Approval shall be treated as new applications, to be reviewed as a new project.
6. **Compliance with Zoning Code.** Prior to permit issuance, the Applicant/Property Owner shall demonstrate that the Project complies with all minimum requirements of the San Leandro Zoning Code.
7. **Access to Conditions of Approval.** These Conditions of Approval shall be made available and accessible to all property owners and occupants on the property.
8. **Successors in Interest.** These conditions of approval shall run with the land and the applicant and/or property owner shall be responsible for assuring that any heirs, executors, administrators, and successors in interest who assumes responsibility for this approval are informed of its terms and conditions.
9. **Revocation.** In accordance with Section 5.24.108 of the Zoning Code, upon determination by the Zoning Enforcement Official that there are reasonable grounds for revocation of the Conditional Use Permit, a revocation hearing shall be set by the Zoning Enforcement Official before the Board of Zoning Adjustments.
10. **Permits Required.** The Applicant/Property Owner shall obtain any and all permits required, including but not limited to grading permits, building permits, fire permits, and encroachment permits for any work in the right-of-way.
11. **Fees.** Any outstanding Planning, Engineering or Building deposit fees or balances shall be paid prior to permit issuance.
12. **School Fees.** School Fees. Prior to issuance of building permits, the Applicant/Property Owner shall pay required developer fees to the applicable school district.

#### Indemnification

13. The Applicant/Property Owner hereby agrees to defend, indemnify, and hold harmless the City of San Leandro, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation)

of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of San Leandro, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.

14. In the event that any person should bring an action to attack, set aside, void or annul the City's approval of this Project, the Applicant/Property Owner shall defend, indemnify and hold harmless the City and/or its agents, officers and employees from any claim, action, or proceeding against the City and/or its agents, officers and employees with counsel selected by the Applicant/Property Owner (which shall be the same counsel used by Applicant/Property Owner) and reasonably approved by the City. Applicant/Property Owner's obligation to defend, indemnify and hold harmless the City and/or its agents, officers and employees shall be subject to the City's compliance with Government Code Section 66474.9.

Additional Submittals

15. **Notations to Conditions of Approval.** Prior to permit issuance, the Applicant/Property Owner shall provide notations to the conditions of approval and clearly indicate how all conditions of approval will be or have been complied with. A reference shall be provided to specific plan sheets that demonstrate compliance. Construction plans shall not be accepted without the annotated final conditions of approval document.
16. **Colors and Materials Board.** The Applicant/Property Owner shall submit a final materials and colors board at the time of building permit submittal for review and approval of the Zoning Enforcement Official to ensure consistency with the approved exterior design. Said plans and specifications shall indicate the exact type of materials and colors to ensure that the exterior materials and finishes meet the standards illustrated in the approved plan exhibits.
17. **Final Landscape and Irrigation Plans.** Prior to issuance of building permits, the Applicant/Property Owner shall submit Final Landscape and Irrigation Plans subject to review and approval of the Zoning Enforcement Official. The plans shall document compliance with applicable Zoning Code requirements, including minimum soil depths, and shall include details such as: 1) tree size, species and location; 2) shrubs and groundcover size, species, and location; 3) installation specifications, including tree staking; 4) irrigation details; 5) water conservation techniques; and 6) maintenance programs. Final landscape and irrigation plans shall be prepared and certified by a California licensed landscape architect and shall conform to the Model Water Efficient Landscape Ordinance (MWELO) as updated by the State of California Department of Water Resources. At the discretion of the City, the landscape plan may be reviewed by a consulting landscape architect, the cost of which shall be the responsibility of the Applicant/Property Owner.
- A. Each tree proposed for removal shall be replaced by a minimum of one 24-inch box size or greater tree, of a species and in a location approved by the Zoning Enforcement Official. The replacement tree shall be in addition to any trees required to be planted by another code requirement or condition of approval.

- B. All areas of the site not used for access, parking, buildings, open space, mechanical equipment, or other function shall be landscaped consistent with Zoning Code Chapter 4.16, Landscape Requirements, and the following requirements. Required landscaping areas shall be planted with a combination of trees, shrubs, and groundcover. Stormwater treatment areas may count toward required landscaping.
  - C. A minimum of one 24-inch box size or greater tree shall be planted per 25 linear feet of landscape area. Tree grates shall be used for trees located in hardscape areas.
  - D. Shrubs shall be a container size of five gallons or greater at planting and planted at spacing distances appropriate for the plant species.
  - E. Landscaped areas that are not planted with trees or shrubs shall be planted with groundcover plants. Mulch (as a ground cover) shall be confined to areas underneath plants and is not a substitute for ground cover plants.
  - F. Groundcover plants other than grasses shall be four-inch pot size or greater and planted at spacing distances appropriate for the plant species.
  - G. Groundcover plants shall be planted at a density that will cover the entire area within two years.
  - H. Street trees proposed in the Public Rights-of-Way shall be from the approved street tree list published by the City of San Leandro Public Works Department, subject to the approval of the Public Works Director. The Applicant/Property owner shall provide irrigation to the street trees.
18. **Lighting Plans.** Prior to issuance of building permits, the Applicant/Property Owner shall submit final plans and details for site lighting, including submittal of a photometric study, for the review and approval of the Zoning Enforcement Official and City Engineer.
- A. The plans and details shall show location, height, decorative features, and construction details showing materials and finishes to be used for areas of the site not used for construction.
  - B. All site lighting shall meet Code requirements, including those in Zoning Code Section 4.04.336, have sufficient illumination for the safety and security of the future building occupants, shall be directed below the horizontal plane, and shall not allow light to spill offsite.
    - i. Freestanding light standards shall not exceed 25 feet in height.
    - ii. Fixtures on buildings shall be attached only to walls or eaves, and the top of the fixture shall not exceed the height of the parapet or roof or eave of roof.
    - iii. Lighting in parking areas shall be maintained with a minimum of one foot-candle of illumination at the ground level during the hours of darkness.
    - iv. Aisles, passageways, and recesses related to and within a development shall be illuminated with an intensity of at least 0.25 foot-candles at the ground level during the hours of darkness.

- C. Streetlighting proposed along the project property frontage shall match the existing decorative lighting currently installed in this area.
  - D. New or replacement on-site lighting shall be LED or other energy-conserving lighting and shall be fully shielded, designed and located so as to not interfere with traffic on adjacent streets and so as not to shine on adjacent properties, details subject to the approval of the Zoning Enforcement Official. After installation, the Zoning Enforcement Official reserves the right to require adjustment of light fixtures to comply with this requirement.
  - E. Building entries and addresses shall be illuminated to provide nighttime visibility from adjacent streets, public accessways, and common areas.
19. **Trash Enclosure Details on Plans.** A detail of trash enclosure areas and refuse storage areas shall be included on the plans submitted for building permit review and subject to the review and approval by the Zoning Enforcement Official. The trash enclosure and refuse storage areas shall be screened using exterior materials, colors, and finishes that are also used on the primary buildings.

#### Improvements

20. **Screened Mechanical Equipment.** All exterior mechanical equipment such as air conditioning/heating units, emergency generators, wireless antennas and exhaust systems shall be located such that they will not be visible from any public-rights-of-way. Alternatively, they shall be screened or enclosed from view so as not to be visible from the public-right-of-way subject to review and approval by the Zoning Enforcement Official.
21. **Screened Utilities.** All electrical, gas, and water meters shall be located such that they will not be visible from any public-rights-of-way. Alternatively, they shall be screened or enclosed from view so as not to be visible from any public-rights-of-way. Screening shall be subject to review and approval by the Zoning Enforcement Official.
22. **Screened Appurtenances.** The Applicant/Property Owner shall place all new transformers, switching boxes, and similar appurtenances subsurface, or shall screen them by locating them in an enclosure with walls matching the material and color of the nearest building. The enclosures shall include gates of heavy gauge corrugated steel and shall be surrounded by trees, shrubs and climbing vines. The Applicant/Property Owner shall arrange the location and treatment of the appurtenances with the gas, electric and communication providers prior to the approval of building permit(s) for vertical construction. A detail of the transformer screening shall be included on the improvement plans submitted for review and approval by the Zoning Enforcement Official.
23. **Backflow Prevention Devices.** Backflow prevention devices shall be installed on all new and existing domestic, commercial, irrigation, and fire water services as required by the East Bay Municipal Utility District (EBMUD). The location of water service and backflow devices shall be subject to review and approval by EBMUD and the City. Devices shall be screened from public view by landscaping or other approved methods in the area in which the device is located. Landscaping shall blend with



surrounding landscaping and, if necessary, landscaping shall be added in other areas, as required for symmetry. The final landscape package shall include landscape screening of any backflow prevention devices.

24. **Improvements Installed Prior to Certificate of Occupancy.** Prior to the issuance of any Certificate of Occupancy on the property, the improvements outlined in the Conditions of Approval shall be completely installed to the satisfaction of the Zoning Enforcement Official and the City Engineer.

*Inclusionary Housing*

25. **Inclusionary Housing Plan.** The Applicant/Property Owner shall comply with its City approved Inclusionary Housing Plan (Exhibit B: "Inclusionary Housing Plan"), which demonstrates how the project will comply with the requirements of the City's Inclusionary Housing Ordinance contained in Zoning Code Chapter 6.04, including the affordability requirements in Zoning Code Section 6.04.112(C). Under its approved Inclusionary Housing Plan, the Applicant/Property Owner will set aside all three units (100 percent) for moderate-income households. Any modifications to the approved Inclusionary Housing Plan shall be subject to the review and approval of the Zoning Enforcement Official to verify compliance with the City's Inclusionary Housing Ordinance.

26. **Affordable Housing Regulatory Agreement.** Prior to the issuance of a building permit, the Applicant/Property Owner shall execute an Affordable Housing Regulatory Agreement, or similar legal agreement, restricting the sale of all affordable units in the project in accordance with Zoning Code Section 6.04.112(C). The project shall require three units to be reserved as affordable to moderate-income households. The Affordable Housing Regulatory Agreement shall be approved by the Zoning Enforcement Official prior to approval of a final map or building permit. The Agreement(s) will be recorded against the property.

*Parking Management*

27. **Parking Lot Maintenance.** The Applicant/Property Owner shall regularly maintain the parking areas and shall be responsible for the prompt clean up and removal of litter, oil stains and spilled vehicle fluids. Parking areas shall be well maintained and kept free of litter and debris at all times.
28. **Delivery and Moving Trucks.** Deliveries and moving trucks shall not load or unload from the public right-of-way without prior approval of an encroachment permit. Loading and unloading shall not obstruct the flow of traffic on surrounding streets.
29. **Storage.** There shall be no parking or storage of boats, trailers, camper tops, inoperable vehicles and the like outside the building(s) and within the project.

*General Conditions*

30. **Site Maintenance.** The Applicant/Property Owner shall maintain the Project site and ensure that it is free of litter, weeds, and other debris in accordance with San Leandro Municipal Code §3-15-215.
31. **Landscape Maintenance.** All landscaping improvements shall be maintained in a healthy, growing, and weed-free condition at all times. Any missing, dead, or damaged

plant and groundcover material shall be promptly replaced with a material similar in type and comparable in size to the plant(s) or groundcover being removed. Street trees and trees onsite shall be maintained to provide shade cover and a healthy canopy. All trees shall be planted so that at maturity they are located far enough away from the sidewalk so that their branches are at least eight (8) feet above the sidewalk area and 14 feet above the roadway/vehicle traveled way. Pruning and tree trimming shall be avoided during nesting season.

32. **Graffiti.** Any graffiti shall be promptly removed from the property. Any graffiti shall be promptly removed from building walls. The developer and its successors in interest shall comply with the rules and regulations of the City's graffiti removal program and shall grant a license and right of entry as requested to enforce the terms of such program.
33. **Sidewalks.** Sidewalk areas shall be kept free of obstruction and available for their designated use at all times. Building egress and accessible paths of travel shall remain unobstructed.
34. **Fences.** All fencing, gates and walls on the project site shall be structurally sound, graffiti-free and well maintained at all times. With the exception of the approved Fence Modification, fences, walls and hedges shall comply with Zoning Code Section 4.04.364 (Fences, Walls, and Hedges). The installation of barbed wire, razor, chain link, cyclone and electrified fencing are prohibited.
35. **Noise Regulations.** All uses and activities shall comply with the provisions of the San Leandro Noise Regulations (Title IV, Chapter 1 of the Municipal Code).
36. **Vibrations.** No use, activity, or process shall produce vibrations that are perceptible without instruments by a reasonable person at the property lines of a site.
37. **Dust.** No use, process, or activity shall produce dust that is perceptible without instruments by a reasonable person at the property lines of a site.
38. **Solid Waste Service Requirement.** There shall be a sufficient number and size of containers and service frequency for all waste generated (garbage, recycling and organics). Management of trash, solid waste and/or recyclables containers shall be required to prevent exposure to or contamination of rainwater, creating illicit discharges or impacting receiving surface waters.
39. **Dumpsters.** All dumpsters or trash containers shall be kept in the trash enclosure except for the day(s) the collection company is scheduled for pick-up. Immediately after pick-up all dumpsters or trash containers shall be returned to the trash enclosure, out of public view.
40. **Outdoor Storage.** There shall be no outdoor storage permitted in any outdoor publicly accessible area, common area such as courtyards, and private area such as balconies and patio areas that would be visible from any public-right-of-way or any access way with the exception that these areas can be furnished with plants and patio furniture.

#### Construction Provisions

41. **Secure Construction Site.** The property shall be secured during construction with a temporary six (6) foot high chain link fence with green screening and any other security

measures in accordance with recommendation of the San Leandro Police Department. Alternative temporary fencing is subject to prior approval from the Zoning Enforcement Official. Temporary fencing shall be maintained and kept free of graffiti.

42. **Removal of Street Trees.** Prior to the removal of any street trees, the Applicant/Property Owner shall obtain the necessary approval from the Public Works Director as required by San Leandro Municipal Code Section 5-2-215, and any necessary encroachment permits from the Engineering and Transportation Department to remove the street trees at the Owner's expense.
43. **Construction Hours and Noise.** Procedures with the highest noise potential shall be scheduled for daylight hours, when ambient noise levels are highest. Construction on the project site shall not commence prior to 7:00 a.m. and shall cease by 7:00 p.m., Monday through Friday, and shall not commence prior to 8 a.m. and shall cease by 7 p.m. Saturday and Sunday, unless otherwise approved by the Chief Building Official. There shall be no construction on Federal holidays. As provided in this City of San Leandro's Noise Ordinance (ORDINANCE NO. 2003-005), "construction" shall mean any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or on any private property, public or private right-of-way, streets, structures, utilities, facilities, or other similar property. Construction activities carried on in violation of this Article may be enforced as provided in Section 4-1-1130, and may also be enforced by issuance of a stop work order and/or revocation of any or all permits issued for such construction activity. Prior to the start of construction activities, the construction contractor shall:
- A. Maintain and tune all proposed equipment in accordance with the manufacturer's recommendations to minimize noise emission.
  - B. Inspect all proposed equipment and fit all equipment with properly operating mufflers, air intake silencers, and engine shrouds that are no less effective than as originally equipped by the manufacturer.
  - C. Post a sign, clearly visible at the site, with a contact name and telephone number of the construction manager.
  - D. Place stationary construction equipment and material delivery in loading and unloading areas as far as practicable from the residences.
  - E. Limit unnecessary engine idling to the extent feasible.
  - F. Use smart back-up alarms, which automatically adjust the alarm level based on the background noise level, or switch off back-up alarms and replace with human spotters.
  - G. Use low-noise emission equipment.
  - H. Limit use of public address systems.
  - I. Minimize grade surface irregularities on construction sites.
44. **Construction Activity.** Construction activity shall not create dust, noise or safety hazards for adjacent businesses and properties. Dirt and mud shall not be tracked onto public streets from the project site during construction. Standard construction

dust control procedures, such as wetting, daily road washing and other maintenance functions to control emissions, shall be implemented at all times during outdoor construction. Dust generating activities such as grading, excavation, paving, etc. shall be scheduled the early morning and other hours when wind speeds are low. All construction activities entailing soil disturbance shall cease when winds exceed 30 miles per hour as an hourly average.

45. **Construction Truck Route.** The Applicant/Property Owner shall prepare a construction truck route plan that would restrict trucks to arterial streets that have a sufficient pavement section to bear heavy truck traffic, thereby minimizing noise and traffic impacts to the community. The construction truck route plan shall be reviewed and approved by the City Engineer prior to receipt of the grading permit.
46. **Construction Contract.** All construction contracts shall include the following requirements: Maintain and tune all proposed equipment in accordance with the manufacturer's recommendations to minimize noise emission.
  - A. Unpaved construction sites shall be sprinkled with water at least twice per day;
  - B. Trucks hauling construction materials shall be covered with tarpaulins or other effective covers;
  - C. Streets surrounding demolition and construction sites shall be swept at least once per day; and
  - D. Paving and planting shall be done as soon as possible. The City shall charge the Applicant/Property Owner, and the Applicant/Property Owner shall pay, for all costs of sweeping city streets in the vicinity of the project as necessary to control dust and spillage.
47. **Pest and Vermin Control.** Pest and vermin control shall be instituted prior to the demolition and construction of the project.
48. **Construction Facilities.** Potable water and temporary sanitary facilities shall be provided to workers during construction activities. Temporary sanitary facilities shall be kept in a clean and odorless condition, secured, and located away from nearby businesses.
49. **Property Maintenance.** The project site and public right-of-way shall be well maintained and shall be kept free of litter, debris and weeds at all times. The Applicant/Property Owner shall be responsible for the maintenance of the project site and adjacent public right-of-way during construction.
50. **Discovery of Historic/Prehistoric Artifacts or Human Remains.** If currently unknown historic/prehistoric artifacts or human remains are discovered during ground disturbing activities, the following measures shall be implemented:
  - A. In compliance with State law (Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code), in the event that historical artifacts are found, all work within 50 feet of the find shall stop and a qualified archaeologist shall examine the find. The archaeologist shall then submit a plan for evaluation of the resource to the City of San Leandro Planning Services Division for approval.

- B. If the evaluation of the resource concludes that the found resource is eligible for the California Register of Historic Resources, a mitigation plan shall be submitted to the City of San Leandro Planning Services Division for approval, which shall consider reasonable efforts for the resources to be preserved in place or left in an undisturbed state.
  - C. If the artifacts and samples recovered during construction are determined to be significant and cannot be preserved in place, the artifacts shall be cataloged and curated by a qualified archaeologist and placed in an appropriate curation facility. The mitigation plan shall be completed before earthmoving or construction activities can recommence within the designated resource area.
  - D. If the human remains are of Native American origin, the coroner must notify the Native American Heritage Commission (NAHC) within 24 hours of this identification. The NAHC will immediately identify a Native American most likely descendant (MLD) to inspect the site and provide recommendation.
51. **Migratory Birds.** Tree removal, landscape grubbing, building demolition, and other construction activities such as grading and utility installation shall be performed in compliance with the Migratory Bird Treaty Act and relevant sections of the California Fish and Game Code to avoid loss of nests in active use. This shall be accomplished by scheduling tree removal and building demolition outside of the bird nesting season (which occurs from February 1 to August 31) to avoid possible impacts on nesting birds if new nests are established in the future. Alternatively, if tree removal and building demolition cannot be scheduled during the non-nesting season (September 1 to January 31), a pre-construction nesting survey shall be conducted. The survey shall be completed by a qualified wildlife biologist no more than 14 days prior to the start of tree removal. If active nests are identified, a no disturbance buffer of 25-500 feet (depending on species and setting) shall be established around each nest until the young are fledged or the nest becomes inactive.
52. **Enforcement.** Construction activities carried on in violation of these Conditions may be enforced as provided in the San Leandro Municipal Code and may be enforced by issuance of a stop work order and/or revocation of any or all permits issued for such construction activity.
53. **Use of Noise Barriers in Residential Areas.** During construction, erect temporary noise barriers, where feasible, when construction noise is predicted to exceed the acceptable standards (e.g., 80 A-Weighted Decibel (dBA) Equivalent Continuous Noise Level (Leq) at residential receptors during the daytime) and when the anticipated construction duration is greater than is typical (e.g., two years or greater). Temporary noise barriers shall be constructed with solid materials (e.g., wood) with a density of at least 1.5 pounds per square foot with no gaps from the ground to the top of the barrier. If a sound blanket is used, barriers shall be constructed with solid material with a density of at least 1 pound per square foot with no gaps from the ground to the top of the barrier and be lined on the construction side with acoustical blanket, curtain or equivalent absorptive material rated sound transmission class (STC) 32 or higher.

54. **Air Quality.** The Applicant/Property Owner shall comply with the current Bay Area Air Quality Management District's basic control measures for reducing construction emissions of PM10 (Table 8-1, Basic Construction Mitigation Measures Recommended for All Proposed Projects, of the BAAQMD CEQA Guidelines). (Review of all demolition, grading, and building permits. Implementation shall remain in place throughout project construction and verification shall occur during normal construction site inspections).

## ENGINEERING AND TRANSPORTATION DIVISION

55. **Protest Within a 90-day Period.** Pursuant to Government Code Section 66020, including Section 66020 (d) (1), the City HEREBY NOTIFIES the Applicant and/or Property Owner for this Project that the 90-day approval period (in which the Applicant and/or Property Owner may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) will begin on the date of the conditional approval of this Project. If the Applicant and/or Property Owner fails to file a protest within this 90-day period, complying with all the requirements of Government Code Section 66020, the Applicant and/or Property Owner will be legally barred from later challenging any such fees, dedications, reservations or other exactions.
56. **Compliance.** The proposed project shall comply with City ordinances, policies and regulations. All improvements shall be in accordance with the City's Design Standards, Specifications and Standard Plans unless otherwise specifically approved by the City Engineer.
57. **Compliance with Standards of Sanitation During Construction.** The Applicant and/or Property Owner shall comply with the following high standards of sanitation during construction of improvements: garbage cans, construction dumpsters, and debris piles shall be removed on a minimum weekly basis. All food related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in closed containers only and shall be regularly removed from the site. Inspections, conducted as part of the regular construction compliance, will be conducted to ensure compliance of the Applicant and/or Property Owner and contractors with these requirements.
58. **Site Plan.** The applicant shall remove any unused driveways or damaged driveways, sidewalk, and curb and gutter along the full property frontage and shall construct new City standard driveway, sidewalk, curb, and gutter according to City standard Plans Dwg. No. 100, 102 and 104. Plans shall show ADA path grades and control point elevations across the proposed driveway.
59. **Geotechnical Investigation Report.** The applicant shall submit a Geotechnical Investigation Report and shall incorporate all recommendations into the design. A letter from the engineer who prepared the geotechnical investigation report stating they have reviewed the proposed improvement plans and that it substantially conforms with the recommendations made in the report will be required.
60. **Utility Removal.** Utility laterals and services to be abandoned shall be entirely removed and capped at the main line.

61. **Storm Drain.** The existing 30" storm drain line in Castro Street is owned by Alameda County Flood Control and Water Conservation District (ACFCWCD) (510-670-5480). Any connections to this storm drain line will require approval from ACFCWCD.
62. **Utility Underground.** Utility services to the site shall be placed underground.
63. **Grading Permit from the Engineering Division.** A Grading Permit is necessary for this project. The requirements for said permit are indicated in San Leandro Municipal Code §7-12. The permit will be issued prior to or concurrent with the Building Permit. The San Leandro Municipal Code can be found at <https://www.sanleandro.org/953/Permits>.
64. **Encroachment Permit from the Engineering Division.** Any proposed work within the Public Right-of-Way shall require an Encroachment Permit from the Engineering Division prior to beginning such work. Please visit the following website for more information on the City's Encroachment Permit process: <https://www.sanleandro.org/953/Permits>.
65. **Application for Parcel Map from the Engineering Division.** The applicant proposes three (3) individually owned single family units with a shared common area and easements. If the units are to be individually owned a Parcel Map application must be submitted to the Engineering Division after the project receives Planning approval. A Shared Maintenance Agreement (CC&R) should be prepared to govern how common area improvements will be managed and maintained in perpetuity. Upon submittal of the Parcel Map, please include the development of the CC&R's for review by City staff.
66. **Development Fee for Street Improvements.** A Development Fee for Street Improvements (DFSI) shall be assessed at the time of building permit issuance and the fee is subject to change. The current rate is \$1,854.89 per General Residential unit constructed, as listed in the 2023-24 City Fee Schedule. Per the drawings provided by the applicant, the proposed project will have 3 new residential units. This results in an estimated DFSI of \$5,564.67. Changes to the number of units will affect the amount of the fee.
67. **Marina Boulevard/Interstate 880 Interchange Traffic Impact Fee.** A Marina Boulevard/Interstate 880 Traffic Impact Fee (M880) shall be assessed at the time of building permit issuance and the rate is subject to change. The current rate \$926.03 per General Residential unit constructed, as listed in the 2023-24 City Fee Schedule. Per the drawings provided by the applicant, the proposed project will have 3 new residential units. This results in an estimated M880 of \$2,778.09. Changes to the number of units will affect the amount of the fee.
68. **Park Facilities Development Impact Fee.** A Park Facilities Development Impact Fee shall be assessed at the time of permit issuance. The current fee calculation assuming 3 Single Family dwelling units (du) is as follows:
- |                            |                               |
|----------------------------|-------------------------------|
| Park Land Acquisition Fee: | \$18,293.00/du or \$54,879.00 |
| Park Improvement Fee:      | \$3,157.00/du or \$9,471.00   |
| Total Park Impact Fee:     | \$21,450.00/du or \$64,350.00 |

## **BUILDING AND SAFETY SERVICES**

69. Plans shall be submitted for plan check review by the Building & Safety Services Division and necessary permits shall be obtained prior to construction. Plans shall fully comply with the current adopted California Building Standards Code in effect at the time of building permit issuance, including Title 24, egress requirements, fire ratings, fire separation, and accessibility requirements.
70. The Applicant/Property Owner shall demonstrate the following on plans submitted for permit issuance:
- A. Submit a Soils Report for the foundation design in liquefaction zone.
  - B. Submit a review and approval letter of the structural plans by soils engineer.
  - C. Submit Structural Plans and Calculations.
  - D. Construction and Demolition shall comply with CalGreen and CalGreen Residential Mandatory Measures Checklist. CalGreen Building Commissioning will be required prior to final.
  - E. Provide fire ratings for walls, roof and roof eaves within five feet of property lines.
  - F. Photovoltaic electric system shall be required.
  - G. EV charging ready is required.
71. All revision clouds and deltas added during Planning approval must be removed prior to submitting to Building for permit.

#### **ALAMEDA COUNTY FIRE DEPARTMENT**

72. The Project shall comply with building and fire codes adopted at the time of building plan submittal.
73. Each residence shall be equipped with NFPA 13D fire sprinkler system.

**PASSED, CONDITIONALLY APPROVED, AND ADOPTED**, on this 6th day of June 2024 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Litha Zuber  
Chair of the Board of Zoning Adjustments

**ATTEST:**



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Avalon Schultz, AICP  
Secretary to the Board of Zoning Adjustments