

## **Exhibit B**

### **RECOMMENDED CONDITIONS OF APPROVAL**

**PLN18-0091  
2540 West Avenue 133rd  
Alameda County Assessor's Parcel Number 079A-0586-015-01  
Kenneth T. Ngai (Applicant/Property Owner)**

#### **I. COMPLIANCE WITH APPROVED PLANS**

- A. The project shall comply with Plan Exhibits A through J attached to the Staff Report, approved August 1, 2019, except as herein modified. Exhibits are on file at the City of San Leandro, Community Development Department, 835 East 14th Street, San Leandro, California.

Exhibit A – Site Plan & Project Info (A1.0)

Exhibit B – New Duplex Floor Plans, Elevations, Roof Plan & Section (A2.0)

Exhibit C – Proposed House Remodel Elevations & Plans (A3.0)

Exhibit D – Existing/Demo Elevations & Plans (A4.0)

Exhibit E – Existing/Demo, Proposed Elevation & Streetscape (A5.0)

Exhibit F – Color Elevations (A6.0)

Exhibit G – Duplex Unit 1 Planting and Irrigation Plan (L1)

Exhibit H – Duplex Unit 2 Planting and Irrigation Plan (L2)

Exhibit I – Preliminary Grading, Drainage and Utility Plan (C.1)

Exhibit J – Preliminary Grading, Drainage and Utility Plan Sections (C.2)

- B. The property owner and/or applicant shall be responsible for assuring that any successor in interest who assumes responsibility for this zoning approval is informed of its terms and conditions.
- C. The Major Site Plan Review approval shall lapse after one (1) year following Board of Zoning Adjustments approval of the application unless a grading permit or building permit has been issued, coupled with diligent progress evidencing good faith intention to commence the intended use; or an occupancy permit has been issued; or the approval is renewed, as provided in Zoning Code Section 5-2218.E. Pursuant to Zoning Code Section 5-2218.E, upon written request, a renewal may be considered by the Zoning Enforcement Official if no substantive change has occurred in conditions or circumstances pertinent to the Major Site Plan Review or its approval. Application for a renewal shall be made in writing to the Zoning Enforcement Official prior to expiration of the Major Site Plan Review approval.

- D. Prior to issuance of building permits, all building specifications shall be submitted for review and approval to the Zoning Enforcement Official to ensure the quality of the exterior design. Said plans shall indicate the exact type of siding, shingles, trims, light fixtures, and window and door manufacturers to ensure that exterior materials and finishes meet the standards specified in the approved exhibits. Any changes to the approved building specifications must be made in writing to the Zoning Enforcement Official, who may either administratively approve the modification or bring it back to the Board of Zoning Adjustments for review. In addition, a final color and materials board shall be submitted for the exterior for the review and approval of the Zoning Enforcement Official, prior to issuance of building permits.
- E. Prior to issuance of building permits a final landscape and irrigation plan that complies with the City's Landscape Ordinance and State Model Water Efficient Landscape Ordinance (MWELo) shall be submitted to the Zoning Enforcement Official for review and approval. Said plans shall include, but is not limited to, trees with a minimum size of 15 gallons, a pallet of shrubs and ground cover planting that is flowering plants, or plants that have colorful foliage. The minimum size for the shrubs shall be five gallons and the ground cover shall be one gallon or shall be from flats with the necessary spacing to cover the planter areas in one growing season.
- F. Prior to issuance of a Building Permit Final and Certificate of Occupancy for the new units, the final landscaping and irrigation specified on the final landscape and irrigation plan shall be completely installed to the satisfaction of the Zoning Enforcement Official and Appendix C for MWELo shall be submitted.
- G. Prior to issuance of building permits, the applicant shall submit final details and specifications and a sample of the proposed concrete (color or wash details) driveway, and/or concrete/stone pavers to be used for the project for the review and approval of the Zoning Enforcement Official and City Engineer.
- H. Prior to issuance of building permits, the applicant shall indicate details and specifications for exterior lighting on the proposed structure. Any new exterior lighting proposed shall be low wattage and designed and located to cast light downward and as not to shine on adjacent properties, details subject to the approval of the Zoning Enforcement Official.
- I. Prior to issuance of building permits, applicant shall submit a checklist showing that the project meets the minimum green building rating for a residential buildings, according to the most current GreenPoint Rated for Newly-Constructed Residential Buildings, or equivalent green building rating system as adopted by the City of San Leandro at the time of

submittal for building permits. Features indicated on said checklist shall be incorporated into building permit plans.

- J. Modifications to the approved Conditions of Approval and Exhibits, including changes to paint colors and building materials, shall require resubmittal of a revised Site Plan Review application in accord with Zoning Code Section 2-2516.C, "Changed Plans." The Zoning Enforcement Official shall review the application to determine if the proposed substitutions or alterations necessitate further consideration by the Board of Zoning Adjustments. The Zoning Enforcement Official may approve changes to approved plans or Conditions of Approval without a public hearing upon determining that the changes in conditions are minor and are consistent with the intent of the original approval.

## **II. PERMITTED USE**

- A. This is an approval of Major Site Plan Review Approval, to allow for the remodel of the existing residence with a garage addition and construction of a new two-story duplex for a total livable area of 7,244 square feet at 2540 West Avenue 133rd. Zoning District: RO Residential Outer District; Alameda County Assessor's Parcel Number 079A-0586-015-01; Kenneth T. Ngai (applicant/property owner).
- B. No application for amendment of the application or Conditions of Approval may be submitted or accepted for processing by the City unless (i) there is full compliance with all other legally binding documents regulating development on the property; and (ii) there is full compliance with all terms of the application and Conditions of Approval, or (iii) the Zoning Enforcement Official has waived compliance with the terms of the application because they are minor in content.
- C. Construction of the project shall remain in substantial compliance with the approved exhibits and plans. Any change to the project design, materials or colors shall be subject to the review and approval of the Zoning Enforcement Official who may administratively approve or require review by the Board of Zoning Adjustments as a modification to appropriate application approval listed above. Revisions involving substantial changes in project use, design, or conditions of approval shall be treated as new applications, to be reviewed as a new project.

## **III. ENGINEERING AND TRANSPORTATION REQUIREMENTS**

- A. The proposed development 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.

- B. Pursuant to Government Code Section 66020, including Section 66020 (d) (1), the City HEREBY NOTIFIES the applicant for this Project that the 90-day approval period (in which the applicant 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 you fail to file a protest within this 90-day period, complying with all of the requirements of Government Code Section 66020, you will be legally barred from later challenging any such fees, dedications, reservations or other exactions.
- C. Since the units will be for individual sale as condominiums, a Parcel Map for a single lot subdivision for condominium purposes shall be prepared for the project. The Map shall be prepared by a licensed Land Surveyor, and a Parcel Map application shall be completed and submitted to the City of San Leandro Engineering and Transportation Department. Parcel Map shall be approved and recorded at the Alameda County Recorder's office prior to building permit application. The Parcel Map application can be found at the following link on the City of San Leandro's website: <https://www.sanleandro.org/civicax/filebank/blobdload.aspx?blobid=3778>
- D. Upon submittal of the Parcel Map, please include the development Conditions, Covenants and Restrictions (CC&Rs) or Shared Maintenance Agreement for review by City staff. Condominiums are subject to regulation by the California Department of Real Estate.
- E. The Owner shall send the tenant of the existing residence to be converted to a condominium a written notification within 10 days after the approval of a final map for the proposed conversion.
- F. The Owner shall send written one hundred and eighty days' notice of intention to convert provided prior to termination of tenancy due to the conversion or proposed conversion pursuant to Section 66452.19, but not before the local authority has approved the planning application.
- G. The Owner shall send notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that the unit will be initially offered to the general public or terms more favorable to the tenant pursuant to Section 66452.20. The exclusive right to purchase shall commence on the date the Parcel Map gets recorded and shall run for a period of not less than 90 days, unless the tenant gives prior written notice of his or her intention not to exercise the right.
- H. If a rental agreement was negotiated in Spanish, Chinese, Tagalog, Vietnamese, or Korean, the owner shall issue all required written notices in that language, per Section 66427.1(d).

- I. As part of the City's review of development applications, we perform a reconnaissance of the fronting sidewalks, driveways and curb & gutter to check for damage or hazards. Our findings are included on an exhibit provided to you previously. Please show the locations of the needed repairs on the plan, and implement these repairs during construction for the safety of pedestrians and bicyclists. Repairs shall be constructed according to City standards. Add a note on the plans stating that the contractor shall obtain an encroachment permit prior to beginning any repairs within the Public Right-of-Way.
- J. The applicant shall obtain an Encroachment Permit from the Engineering and Transportation Department for any work within the Public Right-of-Way. Contractors must be properly licensed, have a valid City of San Leandro Business License, and submit proof of insurance. The applicable Encroachment Permit fees and deposits must be paid.
- K. Drawings submitted for Building Permit shall contain the following notes:
  - a) The applicant shall obtain an Encroachment Permit from the Engineering and Transportation Department for any work within the public right-of-way including the use of lifting equipment or the staging of materials. Barricades, traffic cones, and/or caution ribbon shall be positioned around any equipment or materials within the right-of-way to provide a barrier to public access and assure public safety. Any damage to the right-of-way improvements must be promptly repaired by the applicant according to City adopted standards.
  - b) The applicant shall comply with the following high standards for 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 contractors with this requirement.
  - c) The applicant shall implement construction best management practices during construction to control erosion, keep sediment from leaving the project site and prevent storm water pollution. The applicant shall protect existing storm drain inlets and conveyances within the project area to prevent sediment from construction activities entering the storm drain system.
- L. The existing fence along the back of the sidewalk is within the Public Right-of-Way (PROW). Relocate the fence such that it is entirely outside of the PROW on private property.

- M. Coordinate with the City of San Leandro Public Works Department to plant approved trees in the empty tree wells along the property frontage.
- N. Any retaining structures along the property line shall be constructed from durable materials such as reinforced concrete or concrete blocks.
- O. The applicant shall locate all new electric and communications utilities serving the site underground.
- P. Since the impervious area of the site appears to exceed 2,500 square feet, the site is considered as small project per Alameda County C.3 Stormwater Technical Guidance. As per Appendix L "Site Design Requirements for Small Projects", the project must implement at least one of the following site design measures and show them on the drawings:
  - a) Direct roof runoff into cisterns or rain barrels for use.
  - b) Direct roof runoff onto vegetated areas.
  - c) Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas.
  - d) Direct runoff from driveways/uncovered parking lots onto vegetated areas.
  - e) Construct sidewalks, walkways, and/or patios with permeable surfaces.
  - f) Construct bike lanes, driveways, and/or uncovered parking lots with permeable surfaces.
- Q. The applicant shall reduce storm water pollution by implementing the following pollution source control measures:
  - a) Structures shall be designed to discourage the occurrence and entry of pests into buildings, thus minimizing the need for pesticides. The trash area shall be separated from the rest of the building by concrete or masonry walls so that pests that gain access to the area are less likely to access the rest of the building.
  - b) All storm drains shall be marked "NO DUMPING, DRAINS TO BAY", as per the City of San Leandro Standard Plan Dwg. No. 204, Case 3101.
  - c) All on-site storm drains shall be inspected and, if necessary, cleaned at least twice a year immediately prior to the rainy season.
  - d) Sidewalks and parking lots shall be swept regularly to minimize the accumulation of litter and debris. Steam cleaning or low volume pressure washing may be performed only after pre-cleaning using dry methods, spot cleaning and recovery in stained areas and removal of all mobile pollutants. Debris resulting from pressure washing shall be trapped and collected to prevent entry into the storm drain system. Wash water containing any soap, cleaning agent or degreaser shall not be discharged to the storm drain.
  - e) Interior floor drains (if any) shall not be connected to the storm drain system.

- f) Air conditioning condensate shall be directed to landscaped areas. Any air conditioning condensate that discharges to land without flowing to a storm drain may be subject to the requirements of the State Water Resources Control Board's (SWRCB) Statewide General Waste Discharge Requirements (WDRs) for Discharges to Land with a Low Threat to Water Quality.
  - g) Landscaping shall be designed to minimize irrigation and runoff, promote surface infiltration where appropriate, and minimize the use of fertilizers and pesticides that can contribute to storm water pollution.
  - h) Where feasible, landscaping shall be designed and operated to treat storm water runoff by incorporating elements that collect, detain, and infiltrate runoff. In areas that provide detention of water, plans that are tolerant of saturated soil conditions and prolonged exposure to water shall be specified.
  - i) Plant materials selected shall be appropriate to site specific characteristics such as soil type, topography, climate, amount and timing of sunlight, prevailing winds, rainfall, air movement, patterns of land use, ecological consistency and plant interactions to ensure successful establishment.
  - j) Selection of the plants that will require minimal pesticide use.
  - k) Irrigation shall be appropriate to the water requirements of the selected plants.
  - l) The applicant shall select pest and disease resistant plants.
  - m) The applicant shall plant a diversity of species to prevent a potential pest infestation from affecting the entire landscaping plan.
  - n) The applicant shall plan insectary plants in the landscaping to attract and keep beneficial insects.
- R. Water heater drain lines shall be directly or indirectly connected to the sanitary sewer system and may not discharge to the storm drain system.
- S. The applicant 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 contractors with this requirement.
- T. A one-time Development Fee for Street Improvements (DFSI) shall be assessed for the two proposed dwelling units approximately in the amount of \$2,875.84, which is calculated at \$1,437.92 per housing unit and shall be paid prior to issuance of the building permit. These fees are subject to change each fiscal year and will not be vested until issuance of building permit.

- U. A one-time Marina Boulevard/Interstate 880 Interchange Traffic Impact Fee shall be assessed for the two new units, approximately in the amount of \$1,446.50, which is calculated at \$723.25 per unit, and is due at the time of building permit issuance. This fee is subject to change at the beginning of each fiscal year and is not vested until Building Permit issuance.
- V. A one-time Park Facilities Development Impact Fee shall be assessed assuming 2 dwelling unit (du) will be added to the property as follows:

Park Land Acquisition Fee:	\$14,126.00/du or \$28,252.00
Park Improvement Fee:	\$2,279.00/du or \$4,558.00
Total Park Impact Fee:	\$16,405.00/du or \$32,810.00

*Please note that this is an estimated amount. These fees are subject to change at the start of each fiscal year and will not be vested until issuance of building permit.*

**IV. FENCING AND SCREENING REQUIREMENTS**

- A. All fencing and walls on the project site shall be structurally sound, graffiti free and well maintained at all times.
- B. Barbed or razor wire shall not be installed on any fence or buildings on the property.
- C. All walls, fences, and landscaping within the 20 foot front setback or driveway shall be maintained at a height of not more than 36 inches above the top of the nearest adjacent curb and gutter to allow for adequate sight distance, or unless otherwise approved by the City's Transportation Engineer.
- D. Prior to issuance of Certificate of Occupancy, all electrical or gas meters, utility switch boxes, telephone interface cabinets, outdoor refuse, or other utility areas shall be enclosed or screened from view by a fence, wall or landscaping; details subject to approval of the Zoning Enforcement Official. The enclosure or screen shall be painted to match the color of the exterior of the building wall that it is affixed to.

**V. MAINTENANCE**

- A. 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; during construction, the site shall be well maintained and shall be kept free of litter, debris, and weeds. Post construction, the project site and public right of way shall be well maintained and shall be kept free of litter, debris and weeds. The



property owner shall be responsible for the maintenance of the project site and adjacent public right-of-way.

- B. Any graffiti shall be promptly removed from building walls and/or fences. 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.
- C. All landscaping improvements located on the project site and within adjacent public right-of-way shall be maintained in a healthy, growing condition at all times. Any trees by the sidewalks shall be maintained so as not to interfere or obstruct the public right-of-way for pedestrians and vehicles. The landscaping adjacent to the driveways and in the parkway strips shall be maintained so it does not exceed three feet in height above the top of the nearest adjacent curb and gutter to allow for adequate sight distance, or unless otherwise approved by the City's Transportation Engineer.
- D. The trash and recycle bins shall be kept inside the designated trash enclosure space and kept out of public view, except when it is necessary to place them at the curbside on days that the contents of the containers are picked up for disposal.
- E. There shall be no parking or storage of boats, trailers, camper tops, inoperable vehicles and the like outside the buildings, within the project site. In addition, the garages shall not be used for storage, converted to living area, or any other use that would obstruct the garage to prevent its use for vehicle parking.

## **VI. CONSTRUCTION PROVISIONS**

- A. Construction activity shall not commence prior to 7:00 a.m. and shall cease by 7:00 p.m. Monday through Friday, and construction activity shall not commence prior to 8:00 a.m. and shall cease by 7:00 p.m. on Sunday and Saturday. No such construction is permitted 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 right-of-way, streets, structures, utilities, facilities or 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.
- B. Construction activity shall not create dust, noise, or safety hazards for adjacent residents and properties. Dirt and mud shall not be tracked onto

West Avenue 133rd from the project site. Standard construction dust control procedures, such as wetting, daily roadwashing 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.

- C. The developer shall prepare a construction truck route plan that would restrict trucks to arterial streets that have sufficient pavement section to bear the 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 Transportation Administrator prior to receipt of the grading permit.
- D. Truck hauling activities shall be restricted to 8:00 a.m. to 5:00 p.m. There shall be no truck hauling activity on Saturdays, Sundays and Federal holidays.
- E. Procedures with the highest noise potential shall be scheduled for daylight hours, when ambient noise levels are highest.
- F. The contractor(s) shall be required to employ the quietest among alternative equipment or to muffle/control noise from available equipment.
- G. All construction contracts shall include the following requirements: 1) Unpaved construction sites shall be sprinkled with water at least twice per day; 2) Trucks hauling construction materials shall be covered with tarpaulins or other effective covers; 3) Streets surrounding demolition and construction sites shall be swept at least once per day; and 4) Paving and planting shall be done as soon as possible. City shall charge developer, and developer shall pay, for all costs of sweeping city streets in the vicinity of the project as necessary to control dust and spillage.
- H. The property shall be secured during construction with a six (6) foot tall chain link fence and any other security measures in accordance with recommendation of the San Leandro Police Department.
- I. Pest and vermin control shall be instituted prior to the demolition and construction of the project.
- J. During construction the following high standards for sanitation are required: 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. At no time shall debris

remain on site unattended within the front yard setback of the property. Inspections will be conducted as part of the regular construction compliance, to ensure compliance of the applicant and contractors with this requirement.

- K. Construction workers on the project shall be provided clean drinking water, portable toilets and handwashing stations as sanitary facilities for use during all phases of construction. Said portable toilets shall be screened from view from the public right-of-way or located to the interior or rear of the site.
- L. The Project construction contractor(s) shall use construction equipment fitted with Level 3 Diesel Particulate Filters (DPF) for all construction equipment of 50 horsepower or more. Prior to any construction, the construction contractor(s) shall ensure that all construction plans submitted to the City of San Leandro Community Development Department clearly show the requirement for Level 3 DPF for construction equipment over 50 horsepower. During construction, the construction contractor(s) shall maintain a list of all operating equipment in use on the Project site for verification by the City of San Leandro Community Development Department. The construction equipment list shall state the makes, models, and numbers of construction equipment on site. Equipment shall be properly serviced and maintained in accordance with manufacturer recommendations. The construction contractor(s) shall ensure that all nonessential idling of construction equipment is restricted to five minutes or less in compliance with California Air Resources Board (CARB) Rule 2449.
- M. Project's construction contractor shall comply with the current Bay Area Air Quality Management District (BAAQMD) Best Management Practices for reducing construction emissions of PM<sup>10</sup> and PM<sup>2.5</sup>.

## **VII. BUILDING & SAFETY SERVICES REQUIREMENTS**

- A. Title 24 required.
- B. Construction and Demolition per CalGreen.
- C. CalGreen Mandatory Measures check list.
- D. Egress windows for bedrooms.
- E. Gasline diagram for all new gas appliances.
- F. Fire rating for walls within 5' of property line.
- G. Fire separation between units.

- H. Unit addresses visible from street.

### **VIII. FIRE DEPARTMENT REQUIREMENTS**

- A. A "Deferred Submittal" is required for the fire sprinkler system for the new Duplex. Sprinkler is recommended for the remodeled SFD.
- B. The furthest Exterior point of the duplex shall not exceed 200 from the Fire Department Access Route.
- C. The Occupancy Classification of the new duplex in accordance with Chapter 3 of the 2016 California Building Code is R-3.
- D. Smoke alarms and carbon monoxide alarms will be required for the existing single family dwelling and the duplex in accordance with Section 907.2.11.2 and Section 915 of the 2016 California Fire Code.
- E. Unit addresses are to be visible from the street.

### **IX. GENERAL CONDITIONS**

- A. All exterior mechanical equipment such as air conditioning/heating units and radio/television antennas shall be screened from view so as not to be visible from adjacent properties or streets to the satisfaction of the Zoning Enforcement Official. This condition shall not apply to wireless cable receivers that do not exceed three feet in diameter.
- B. All garage doors shall be equipped with electronic remote controlled garage door openers.
- C. Final building plans submitted for building permit shall incorporate a range of water conservation measures to substantially reduce average per capita daily use. These measures shall include the use of equipment, devices and methods for plumbing fixtures and irrigation that provide for long-term efficient water use, subject to the review and approval of the Building Official.
- D. A range of energy conservation measures, such as use of energy conserving appliances and indoor and outdoor lighting, shall be incorporated into the final building plans, to substantially reduce average per capita daily consumption.
- E. Cable Television facilities for the project shall be installed in conformance with the City's design and Construction Standards for ground mounted Cable TV facilities.

- F. All outdoor lighting shall be contained in fixtures that direct light below the horizontal plane. No site lighting may spill offsite or create off-site glare.
- G. Any outstanding Community Development Department deposit fees or balances shall be fully paid prior to issuance of a building permit.
- H. Applicant shall pay its City development, permitting, and plan checking fees in accordance with the fee schedules in effect at the time of the Building Permit approval.
- I. The approvals granted by the City as a result of this application, as well as the Conditions of Approval, shall be recorded in the Office of the County Recorder of Alameda County.
- J. No application for amendment of the application or Conditions of Approval may be submitted or accepted for processing by the city unless (i) there is full compliance with all terms of the application and Conditions of Approval; or (ii) the Zoning Enforcement Official can waive compliance with the terms of the application if they are minor in content.
- K. Pursuant to Zoning Code Section 2-580.J, this approval shall lapse on **August 1, 2020** unless a) a grading permit or building permit has been issued, coupled with diligent progress evidencing good faith intention to commence the intended use; or b) an occupancy permit has been issued; or c) the approval is renewed, as provided for in Section 5-2218.E.