

## **RESOLUTION NO. 20-106**

**Resolution Of The City Council Of The City Of Emeryville Approving A Conditional Use Permit And Design Review Permit For “47<sup>th</sup> Street Homes”, To Demolish Four Existing Single-Unit Homes And Replace Them With Three Duplexes On One Parcel At 1034-1042 47<sup>th</sup> Street (APN: 49-1175-8-3) (CEQA Determination: Exempt Pursuant To CEQA Guidelines Sections 15303(b) and 15061(b)(3))**

**WHEREAS**, on July 5, 2018 Mark Forbes C/O Rhoades Planning Group submitted an application for a Conditional Use Permit and Major Design Review Permit to demolish four existing single-unit homes and replace them with three duplexes, for a total of six units on one parcel at 1034 – 1042 47th Street (“Project”); and

**WHEREAS**, a community meeting was held on September 5, 2019; a Planning Commission study session was held on October 24, 2019; and a City Council study session was held on January 21, 2020, to discuss the Project; and

**WHEREAS**, the applicant submitted revised plans on June 8, 2020 in response to comments provided at the community meeting and at the Planning Commission and City Council study sessions; and

**WHEREAS**, on June 25, 2020, the Emeryville Planning Commission held a duly and properly noticed public hearing on the Project to solicit public comments and review and consider the application and then voted to recommend denial of the application; and

**WHEREAS**, on September 15, 2020, the Emeryville City Council held a duly and properly noticed public hearing on the Project to solicit public comments and review and consider the application and then voted to continue the item to the October 6, 2020 City Council meeting; and

**WHEREAS**, on October 6, 2020, the Emeryville City Council held a duly and properly noticed public hearing on the Project to solicit public comments and review and consider the application; and

**WHEREAS**, the City Council of the City of Emeryville reviewed and considered the staff report and attachments thereto, the plans, and all public comments for the Project subject to the conditions and requirements set forth in Exhibit A attached to this Resolution and the applicable standards of the Emeryville Planning Regulations (“the Record”); now, therefore, be it

**RESOLVED**, that the City Council of the City of Emeryville hereby finds that the project is exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15303(b) which applies to new construction or conversion of apartments, duplexes and similar structures designed for not more than six dwelling units, and the “common sense exemption” at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment; and be it further

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**RESOLVED**, that in approving the proposed 47th Street Homes project, UPDR18-002, the City Council makes the following findings as required by the Emeryville Planning Regulations:

**Conditional Use Permit Findings Pursuant to Section 9-7.505:**

1. The proposed use is consistent with the General Plan.

**The Project is consistent with the following General Plan goals and policies:**

***LU-G-5      Preservation of residential neighborhoods- Residential use, structures, low-rise scale, and character of the Triangle, Doyle Street, and Watergate neighborhoods preserved, and the scale of other areas of stability maintained.***

The Project preserves residential uses in a Medium Density Residential zone. The Project conforms to the height, floor area ratio (FAR), and residential density limits of the neighborhood as designated by the General Plan, and therefore is in scale with this area of stability and is in character with the Triangle neighborhood.

***LU-P-1      Land uses will be consistent with the Land Use Classifications in section 2.4 and the Land Use Diagram, Figure 2-2.***

The Project is consistent with the Medium Density Residential Classification in section 2.4 and the Medium Density Residential land use designation in the Land Use Diagram, Figure 2-2.

***LU-P-10     Maximum building height will be defined by the Maximum Building Heights diagram, Figure 2-4.***

The Project is consistent with the maximum building height of 30 feet as set forth in Figure 2-4.

***LU-P-11     Maximum floor area ratios (FARs) and residential densities for sub-areas of the city, will be defined by Figure 2-3 and 2-6, respectively.***

The Project is consistent with the base floor area ratio and residential densities as set forth in Figure 2-3 and 2-6.

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2. The location, size, coverage, density, design and operating characteristics of the proposed use will be compatible with, and will not adversely affect, the surrounding area, including neighborhood character, street design and capacity, safety, noise, and lighting.

**The Project is consistent with the coverage, density, design, and operating characteristics of the surrounding area, as required by the Planning Regulations. Neighborhood character, design, and quality will not be adversely affected because the Project preserves the existing residential use while providing new multi-bedroom units with more landscaping and open space than required. The Project is compatible with the neighborhood because it consists of three duplexes on one parcel in a neighborhood that contains a diversity of housing types including single units, duplexes, and multi-unit buildings. The Project reduces the number of curb cuts from four to one, making the Project compliant with the current Design Regulations, and improving street design by providing more on-street parking and street trees. The reduction in curb cuts also improves safety by reducing the number of potential vehicle-pedestrian conflicts, and the new construction will provide safer buildings that meet current Building and Fire codes, including sprinkler systems.**

3. The proposed use is consistent with the capability of the water supply, wastewater disposal, fire, and police systems to operate adequately and cost effectively.

**The Project is consistent with the capability of the water supply, waste water disposal, fire, and police systems to operate adequately and not add to their burden because the Project maintains the current site's use as a residential use and is compliant with all maximum floor area ratio (FAR), building height, and residential density maps (Figures 2-3, 2-4, and 2-6) in the General Plan.**

4. The proposed use at its proposed location will provide a service or facility that will contribute to the general well being of the surrounding neighborhood or community.

**The Project will contribute to the general well being of the surrounding neighborhood and community by adding two new high quality residential units in a residential neighborhood; meeting all requirements of the Planning Regulations; and increasing the number of multi-bedroom residential units in the City. This project will add two additional units of housing during the City's declared emergency shelter crisis and the State housing crisis. The redesigned curb, gutter and sidewalk reduce the total number of curb cuts from four to one, improving the well being of the surrounding neighborhood by adding three new street trees, and improving safety by reducing potential pedestrian-vehicle conflicts at driveways.**

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5. The proposed use complies with all applicable standards and requirements of these Planning Regulations.

**The Project complies with all applicable standards and requirements of the Planning Regulations.**

**Demolition: Replacement of Residential Structures Findings Pursuant to Section 9-5.1206(b)(2):**

1. The applicant will provide at least the same number of dwelling units as the demolished structure, either on-site or elsewhere within the City of Emeryville.

**The Project replaces four residential units with six new residential units on the same site.**

2. The replacement structure would feature design quality that is as high as or higher than the structure to be demolished and that it is compatible with the character of the neighborhood.

**The Project features design quality that is higher than the existing structures to be demolished by providing larger units with family-friendly features that comply with the City's family-friendly guidelines despite not being required to do so because the project consists of fewer than ten units; by exceeding open space and landscaping requirements; and by exceeding minimum bicycle parking requirements. The Project is compatible with the character of the neighborhood in that the number of dwelling units does not require a bonus, respecting the density of the neighborhood. The design of the Project, which utilizes gabled roofs and large front porches, is consistent with the existing building styles and character of the neighborhood.**

3. The elimination of the residential structure would not be materially detrimental to the housing needs or the public interest of the affected neighborhood or the City.

**The Project would not be materially detrimental to the housing needs or the public interest of the neighborhood or the City because it replaces existing units with higher quality units and adds two new residential units, all of which contain multiple-bedrooms and family-friendly features which diversifies the types of residential units available in Emeryville, which has a high number of studio and one-bedroom units compared to neighboring cities.**

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### **Design Review Findings Pursuant to Section 9-7.407:**

1. The design of the project is consistent with the General Plan, including but not limited to its Urban Design goals and policies.

**The Project is consistent with the following General Plan Urban Design goals and policies:**

***UD-G-2      A diversity of building types and scales – Variation to reinforce the identity of individual districts and foster a variety of options for living and working, with continuity in development scale and character and careful transitions between densities and design typologies.***

The Project is consistent with the scale and character of the Triangle neighborhood, which contains a variety of residential homes and modern condominium complexes that use a variety of building styles (including gabled roofs) and various building materials (including wood shingles, wood siding, and stucco). The residential use type supports the identity of the district by maintaining a residential use and conforming to the Emeryville Design Guidelines and Planning Regulations.

***UD-G-5      Neighborhood Preservation - Preservation of the existing small-scale residential quality of older neighborhoods.***

The demolition and replacement of the existing four single-unit homes with three duplexes maintains the existing residential use in the Triangle neighborhood, which includes a mix of housing types. The Project consists of six units with family-friendly features on a site that is zoned for up to 11 residential units with a bonus, and uses building design and setbacks to be sensitive to the existing structures and neighbors on adjacent properties.

***UD-P-15      Infill residential development should incorporate the scale, character and identity of adjacent existing development. To avoid a continuous row of garages along the street, the lot frontage should provide a minimum of 70% active non-parking related uses, provided that a driveway of maximum ten-foot width shall be permitted.***

The Project is compatible with the scale, character and identity of the adjacent existing developments by adhering to setback and height requirements, incorporating gabled roofs, and using building materials found elsewhere in the neighborhood.

To avoid a continuous row of garages along 47th Street, all vehicular parking is located at the rear of the property in garages accessed by a single driveway that is 10 feet wide. This leaves about 140 feet of the 150 foot street frontage, or about 93%, for active non-parking related uses.

***UD-P-19*** *Infill development shall provide activation at the lot frontage and minimize visible off-street parking. The proposed development provides an active residential use for 70% of the lot frontage. The visibility of off-street parking areas is minimized by locating two of the three parking spaces behind the front residential unit, and the third parking space towards the rear of the property.*

The Project provides an active residential use, with each unit having large, street-facing porches. The visible impacts of off-street parking are minimized by having vehicular parking located at the rear of the property in garages accessed by a single driveway that is 10 feet wide.

2. The design of the project conforms to the Emeryville Design Guidelines and any other applicable design guidelines or criteria. If strict compliance with the provisions of such design guidelines or criteria is not achieved, the applicant must convincingly demonstrate that the intent of the guidelines or criteria is met.

**The Project conforms to the applicable provisions of the Emeryville Design Guidelines, including the following:**

***C-5*** *Screen refuse bins and other waste containers by placing them indoors, locating them away from the street, and/or shielding them with fencing and/or landscaping. Prevent contamination of waste in stormwater runoff by maintaining covered bins and prevent empty bins from tipping during storms or due to wind.*

The Project locates all discards enclosures (trash, compost, and recycling) in covered, secured enclosures adjacent to garage entrances at the rear of the property. None of the bins are visible from the street, and bins are covered and secured to prevent tipping over and contamination of waste in stormwater runoff.

***G-14*** *Install roof terraces as an efficient way to use the site and to maximize sunlight access. Green roofs can fulfill common open space requirements, as long as they are usable and accessible to all units.*

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**All second-floor units in the Project include large south-facing porches which maximize sunlight access.**

***I-10 Seek opportunities to improve landscaping, sidewalk condition, and overall streetscape during rehabilitation and new construction.***

**The Project improves landscaping by replacing the existing lawns with water efficient plants; improving the sidewalk condition by replacing the curb, gutter, and sidewalk to provide only one 10 foot wide curb cut; and increasing the number of street trees from one to four.**

3. The project is of a high design quality that is compatible with, and will not adversely affect, the surrounding area:

**The Project uses gabled roofs, large porches, and landscaping that exceeds minimum requirements to create a project that is of a high design quality and that is compatible with, and will not adversely affect, the surrounding neighborhood.**

and be it further

**RESOLVED**, that the City Council hereby approves a Conditional Use Permit and Design Review Permit for **UPDR18-002** to demolish four existing single-unit homes and replace them with three residential duplexes, for a total of six units, as submitted on July 5, 2018 and revised on June 8, 2020 subject to the Conditions of Approval attached hereto as Exhibit A and the applicable standards of the City of Emeryville Municipal Code.

and be it further

**RESOLVED**, that the City Manager is hereby authorized to negotiate and execute an Affordable Housing Agreement pursuant to the conditions of approval.

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**ADOPTED** by the City Council of the City of Emeryville at a regular meeting held on Tuesday, October 6, 2020 by the following votes:

AYES:        4        Mayor Patz and Council Members Bauters, Donahue, and Medina  
NOES:        \_\_\_\_\_  
ABSTAIN:    \_\_\_\_\_  
ABSENT:     \_\_\_\_\_  
RECUSED:    0        Vice Mayor Martinez

DocuSigned by:

Christian R. Patz

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MAYOR

ATTEST:

APPROVED AS TO FORM:

DocuSigned by:

Sheri Hartz

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CITY CLERK

Michael Quinn

CITY ATTORNEY



## **CONDITIONS OF APPROVAL**

**47<sup>th</sup> Street Homes  
1034 – 1042 47<sup>th</sup> Street (APN 49-1175-8-3)  
File Number: UPDR18-002  
Exhibit A. Conditions of Approval  
Adopted by City Council Resolution No. 20-\_\_\_\_  
October 6, 2020**

### **I. COMPLIANCE WITH APPROVALS**

A. **PROJECT APPROVALS.** The project shall be constructed and operated in accordance with the following actions by the Planning Commission:

1. A Conditional Use Permit to allow the demolition of four existing single-unit homes and to replace them with three duplexes, for a total of six residential units, with a total floor area ratio of 0.50; seven new automobile parking spaces; and 16 new bicycle parking spaces in accordance with the staff report dated June 18, 2020, as modified by these Conditions of Approval.
2. Design Review approval for three new duplexes in accordance with the approved plans described below, as modified by these Conditions of Approval.

Any additional uses or design modifications, including signs, will require a separate application and approval.

B. **APPROVED PLANS.** Final plans submitted for a building permit shall be reviewed by the Community Development Director to confirm that the plans substantially conform to the following except as modified by these Conditions of Approval: **[Planning]**

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1. The architectural drawings entitled 1034 – 1042 47<sup>th</sup> Street, Emeryville, CA, submitted by ch x tld, sheets A0.- A0.5 dated June 25, 2020.
  2. The architectural drawings entitled 1034-1042 47<sup>th</sup> Street Emeryville, CA, submitted by ch x tld, sheets A1.0 – A4.1 dated May 28, 2020.
  3. The landscape drawings entitled 1034-1042 47<sup>th</sup> Street Emeryville, CA, submitted by InsideOut Design, sheets L1 and I1.1 – I1.4 dated June 25, 2020.
- C. APPROVAL EFFECTIVENESS AND DURATION. Pursuant to Section 9-7.213 of the Emeryville Municipal Code, this permit shall automatically expire if an application for a building permit has not been filed and fees have not been paid within two years from the date of this approval, and a good faith effort to commence work upon the use has not been made, as determined by the Community Development Director in his/her sole discretion. Time extensions not exceeding one year may be requested by applying to the Planning Commission for such extension period prior to the expiration date of the permit. In no case shall the expiration period extend more than three years from the date of this approval. After that time, a new application shall be required. In the event Applicant undertakes no construction pursuant to this approval, then Applicant shall have no obligation under these conditions of approval.
- D. INSTALLATION AND MAINTENANCE OF IMPROVEMENTS. All improvements shall be installed in accordance with these approvals. Once constructed or installed, all improvements shall be maintained as approved. Minor changes may be approved by the Community Development Director.
- E. COMPLIANCE WITH THE MUNICIPAL CODE AND GENERAL PLAN. No part of this approval shall be construed to be a violation of the Emeryville Municipal Code or the General Plan. Operations on this site shall be conducted in a manner that does not create a public or private nuisance or otherwise violate the Emeryville Municipal Code.
- F. FAILURE TO COMPLY WITH CONDITIONS OF APPROVAL. If Applicant constructs buildings or makes improvements in accordance with these approvals, but fails to comply with any of the conditions of approval or limitations set forth in these Conditions of Approval and does not cure any such failure within a reasonable time after notice from the City of Emeryville (“City”), then such failure shall be cause for nonissuance of a

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certificate of occupancy, revocation or modification of these approvals or any other remedies available to the City.

- G. APPLICATION TO SUCCESSORS IN INTEREST. These Conditions of Approval shall apply to any successor in interest in the property and Applicant shall be responsible for assuring that the successor in interest is informed of the terms and conditions of this zoning approval.

## II. GENERAL CONDITIONS

- A. INDEMNIFICATION. Applicant, its assignees, and successors-in-interest shall defend, hold harmless, and indemnify the City of Emeryville, the Bay Cities Joint Powers Insurance Authority and their respective officials, officers, agents and employees (the Indemnified Parties) against all claims, demands, and judgments or other forms of legal and or equitable relief, which may or shall result from: 1) any legal challenge or referendum filed and prosecuted to overturn, set-aside, stay or otherwise rescind any or all final project or zoning approvals, analysis under the California Environmental Quality Act or granting of any permit issued in accordance with the Project; or 2) Applicant's design, construction and/or maintenance of the public improvements set forth in the final building plans. Applicant shall pay for all direct and indirect costs associated with any action herein. Direct and indirect costs as used herein shall mean but not be limited to attorney's fees, expert witness fees, and court costs including, without limitation, City Attorney time and overhead costs and other City Staff overhead costs and normal day-to-day business expenses incurred by the City including, but not limited to, any and all costs which may be incurred by the City in conducting an election as a result of a referendum filed to challenge the project approvals. The Indemnified Parties shall promptly notify the Applicant, its assignees, and successors-in-interest of any claim, demand, or legal actions that may create a claim for indemnification under this section and shall fully cooperate with Applicant, its assignees and successors-in-interest. **[City Attorney]**
- B. PRIOR TO ISSUANCE OF A DEMOLITION AND/OR BUILDING PERMIT
1. Subdivision Approval. Prior to the issuance of a building permit, the Public Works Director shall confirm that the Applicant has received subdivision approval for the project through a lot line adjustment and has applied for the reapportionment of the Bay-Shellmound Assessment as applicable. **[Public Works]**
  2. Affordable Housing Program. Prior to the issuance of a building permit, the Director of Community Development shall confirm that Applicant has either paid the applicable affordable housing impact

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fee as required by Section 9-5.406 of the Emeryville Municipal Code, or entered into an agreement with the City and approved by the City Council to be recorded against the property which satisfies the requirements of the City of Emeryville's Affordable Housing Program, as set forth in Article 4 of Chapter 5 of Title 9 of the Emeryville Municipal Code, as applicable. **[Economic Development]**

3. Public Art Program. Prior to the issuance of a foundation permit, Applicant shall submit evidence of compliance with the Art in Public Places Ordinance (Article 4 of Chapter 2 of Title 3 of the Emeryville Municipal Code) by showing a signed contract to commission or purchase and to install the artwork on the development site, or by payment of the full amount of the in-lieu public art fee. If Applicant intends to install on-site art rather than pay the in-lieu public art fee, but has not supplied the above-specified information prior to the issuance of the foundation permit, payment of the in-lieu public art fee will be required and will be repaid to Applicant only at such time the above-specified information is provided to City. **[Economic Development and Housing]**
4. Fees, Dedications and Exactions. Conditions of Approval set forth herein include certain fees, dedication requirements, reservation requirements and other exactions, attached as Exhibit A. Pursuant to Government Code Section 66020(d)(1), this set of Conditions of Approval constitutes written notice of a statement of the amount of such fees and a description of the dedications, reservations and other exactions. Applicant is hereby further notified that the 90-day approval period in which these fees, dedications, reservations and other exactions may be protested, pursuant to Government Code Section 66020(a) will begin upon approval of the aforementioned project approvals by the City of Emeryville Planning Commission. If Applicant fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, Applicant will be legally barred from challenging such exactions.  
  
Prior to the issuance of a building permit, the Building Official shall confirm that all applicable fees due at the issuance of a building permit have been paid. **[Building]**
5. Cost Recovery Planning Fees. Prior to the issuance of a building permit, the Community Development Director shall confirm that all cost recovery planning fees have been paid to date. **[Planning]**

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6. Applicant-Proffered Regulatory Agreement for Deed-Restricted Unit. Before the issuance of a demolition permit, the applicant shall enter into a regulatory agreement with the city for the provision of one (1) deed-restricted, two-bedroom unit, for a period of twenty (20) years, on LLA Parcel 1 of APN 49-1175-8-3, as it appears in the application at the time of approval. The regulatory agreement is to be recorded against the property. A rental unit restricted by the regulatory agreement shall be available to a low-income or very low-income household, as defined using the Area Median Income (AMI) limits and standards set forth by the City of Emeryville's Housing Affordability Table. An ownership unit restricted by the regulatory agreement shall be available to a moderate-income or low-income household, as defined using the Area Median Income (AMI) limits and standards set forth by the City of Emeryville's Housing Affordability Table. The city manager is authorized to negotiate and execute any and all additional provisions of the regulatory agreement that are in furtherance of and consistent with this provision. This provision was offered by the applicant and accepted by the city council at the public hearing approving the accompanying resolution.

C. PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY

1. Notice to Tenants and Future Owners. Prior to the issuance of a certificate of occupancy, Applicant shall provide to the Community Development Director a notice in all lease and sales documents to all prospective tenants and future purchasers of the property on the site, in a form acceptable to the City Attorney, addressing: 1) nearby manufacturing/industrial uses which may generate odors; 2) existence of truck traffic; 3) existence of a nearby mainline railroad that operates 24 hours per day seven days per week with associated train horns and other sounds and vibration; and 4) the possibility of future nearby development that may block views.**[City Attorney/Planning]**
2. Fees, Dedications and Exactions. Prior to the issuance of a certificate of occupancy, the Building Official shall confirm that all applicable fees due at the issuance of a certificate of occupancy have been paid. **[Building]**
3. Cost Recovery Planning Fees. Prior to the issuance of a certificate of occupancy, the Community Development Director shall confirm that all cost recovery planning fees have been paid in full. **[Planning]**

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4. Condominium Plan. Any subdivision or condominium map review for purposes of dividing the residential portion of the property for sales as individual units shall include, as required, legal documentation pertaining to dedication or reservation of group or common open spaces, for the creation of a non-profit homeowners' association, for the long-term maintenance of the landscaped and common areas of the project and for performance bonds, pursuant to Emeryville Municipal Code Section 9-7.1009(b)(8). The map or condominium plan shall be filed prior to the issuance of a certificate of occupancy for the residential component. The map/plan and the CC&Rs for the homeowners' association shall include a condition that residential parking shall not be used for storage in lieu of needed parking. **[City Attorney's Office]**
5. Public Art Program. Prior to the issuance of a certificate of occupancy, Applicant shall notify the Economic Development and Housing Department Public Art Projects Coordinator to verify Applicant's installation of the on-site public art. If City determines that public art has not been installed, Applicant shall be required to pay the in-lieu public art fee in full. **[Economic Development and Housing]**

### III. BUILDING AND CONSTRUCTION REQUIREMENTS

#### A. PRIOR TO ISSUANCE OF ANY DEMOLITION, GRADING, OR BUILDING PERMITS

1. Tree Protection Plan. Prior to the issuance of a demolition permit, grading permit, and/or building permit, the applicant shall submit a Tree Protection Plan for the street tree prepared by a certified arborist. This plan shall be reviewed, approved, and enforced by the Consulting City Arborist and Community Development Director. The approved Tree Protection Plan must be printed on all demolition, grading, and building plans. The purpose of the Tree Protection Plan is to preserve and protect the existing street tree, including all elements of the tree, such as trunk, roots and branches. The Tree Protection Plan shall include, but not be limited to, methods and protocols to prevent root and soil compaction, prevent damage to tree roots and branches, and insure that the conditions of the project site allow for the future good health of all trees and tree roots. **[Building/Planning]**

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B. PRIOR TO ISSUANCE OF A BUILDING PERMIT

1. Plans. Prior to the issuance of a building permit, the Building Official shall verify that the title sheet for the building permit drawings contains the following: **[Building]**
  - a. Permit number.
  - b. Zoning district.
  - c. FAR (density per acre for residential).
  - d. Lot area in square feet.
  - e. Total number of parking spaces with parking spaces numbered on plans in a consecutive manner and consistent with the parking summary on the title page.
  - f. Building heights with height of any appurtenances noted.
  - g. Number and type of residential units (e.g. live/work, apartment, condo).
  - h. Detailed breakdown of floor areas.
  - i. Number of floors.
  - j. Existing building information (if applicable).
  - k. Total Impervious Surface area in square feet (from "Impervious Surface and Stormwater Treatment Measures - Final Form" provided by the City of Emeryville Public Works Department).
  - l. Scorecard Summary from one of the following checklists: the most recent Multi-Family or Single Family Green Building Guidelines, developed by StopWaste.org or Build It Green, or the most recent LEED-NC Guidelines (or other LEED product most appropriate for the project from the USBGC) (with electronic version with notes on claimed points to be emailed to the Emeryville Public Works Department Environmental Programs Staff person).
  - m. Scorecard Summary from the most recent Bay-Friendly Landscaping Guidelines checklist, as developed by StopWaste.org. (with electronic version with notes on claimed points to be emailed to the Emeryville Public Works Department Environmental Programs Staff person.)
  - n. Full text of Tree Protection Plan.
  - o. Full text of these conditions of approval.
2. Compliance with Applicable Codes. Prior to the issuance of a building permit, the Building Official shall confirm that the building permit plans, specifications and other related information conform to the California Codes in effect at the time, and all other applicable local ordinances. Compliance with the California Codes and local ordinances shall include, but not be limited to, seismic and

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geotechnical requirements for Risk Category II; Seismic Class D, and Title 24 energy conservation and disabled access requirements. **[Building]**

3. Utility Service. Prior to the issuance of a building permit, the Building Official shall confirm that the building permit plans, specifications and information include detailed plans for providing water, electrical, gas, telephone, and other like utilities services to the site, including a review of the existing services to the site and measures or improvements on-site that will be required to adequately serve the site, including the location and design of transformers (if above ground and if required) and all connections. All new and existing on-site electrical and communication lines shall be placed underground. All transformers shall be placed underground unless prior permission is granted by the City to place them above ground, in which case they shall be screened from public view by fencing, dense landscaping, or other acceptable means. **[Building]**
4. Traffic and Parking Management Plan during Construction. Prior to issuance of a building permit for any portion of the project, Applicant shall submit a traffic and parking management plan for review and approval by the Public Works Director. The plan shall include any City restrictions and limitations on using certain local streets for construction traffic, proposed truck delivery and haul routes, parking arrangements for construction personnel, ingress and egress, noise, efforts to address street debris and dust control and proposed on-site staging and equipment/material storage areas. **[Public Works]**
5. Construction Sign. Prior to the issuance of a building permit, Applicant shall submit a construction sign for approval by the Community Development Director in accordance with the prototype provided. The sign shall be made of a permanent material with professional lettering. The sign shall be at least 3 feet by 4 feet with a minimum letter size of 3 inches. The sign shall include this information: the project name; name of the owner/developer; the name and phone number of a contact person, available at all times to address complaints and with the authority to control construction activity on the site; name and phone number of the contractor; and the approved hours of construction. The contact person should be the Noise Disturbance Coordinator listed below in Condition III.C.1.c.



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The sign shall be posted at the time of placing temporary fencing and start of construction activity. At least one sign shall be placed along each public street frontage and each vehicle entry and exit of the site in a location facing the street where the information can be easily read. Street frontages exceeding 300 feet in length shall have one sign per each 300-foot segment or fraction thereof.

**[Planning]**

6. Fencing. Prior to the issuance of a building permit, Applicant shall install temporary construction fence around the perimeter of the site that provides for continued pedestrian traffic meeting the standards of the Americans with Disabilities Act as approved by the Public Works Director. **[Public Works]**
7. Approval of Regulatory Agencies. Prior to the issuance of a building permit, Applicant shall submit to the Building Official copies of all other permits necessary from the applicable regulatory agencies. **[Building]**
8. Approval of Hazardous Material Regulatory Agencies. Prior to issuance of a building or grading permit, Applicant shall confirm that the property has never been subject to an environmental regulatory action or order. For sites that are or have been the subject of a regulatory action or order, the Applicant shall submit to the Community Development Director confirmation that the proposed use of the site is acceptable to the appropriate regulatory agency (e.g. San Francisco Bay Regional Water Quality Control Board, Alameda County Department of Health or the State of California Department of Toxic Substances Control) and that any conditions prior to such use have been met. For closed cases, agency closure letters describing conditions of closure or use restrictions (if any) may be used to satisfy this documentation requirement. For open cases, a site-specific agency determination may be necessary. If a Risk Management Plan, Site Cleanup Plan, Health and Safety Plan or similar document is required for the work that is the subject of the permit, then Applicant shall have such plan approved by the regulatory agency; shall submit copies to the Community Development Director and Public Works Director; and shall comply with all provisions of such plan. **[Planning and Public Works]**
9. Lead and Asbestos. Prior to the issuance of a demolition or building permit, the Building Official shall confirm that a survey of lead-based paint (LBP) and asbestos-containing materials (ACMs) shall be completed and all identified ACMs and any loose or

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peeling LBP must be abated. If intact LBP is present on the site and not abated, demolition and construction activities must comply with the State's construction lead standard (Title 8, California Code of Regulators, Section 1532.1). **[Building]**

10. Broadband Service. Prior to the issuance of a building permit, the Building Official shall confirm that the building permit plans, specifications and information include detailed plans for providing open access fiber optic cable service to all occupants of the site at a minimum of 1 gigabit, provided that such facilities exist adjacent to the site. If such facilities do not exist adjacent to the site, the applicant shall make a good faith effort to work with service providers to extend service to the site. **[Building]**

- C. DURING DEMOLITION AND CONSTRUCTION. Violations of the following conditions and any other applicable conditions may result in a stop work notice being issued or any other measures that the City deems necessary.

1. Construction Noise.

- a. *Hours.* Unless the City Council grants a waiver allowing different construction hours pursuant to Section 5-13.06 of the Emeryville Municipal Code, construction hours shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, except that pile driving and similarly loud equipment, including but not limited to jack hammering, grading, compacting, dump trucks, generators, and chain saws shall be limited to 8:00 a.m. to 5:00 p.m., Monday through Friday. In an urgent situation, the City Manager, Planning and Building Director, or Public Works Director may approve weekend or night work pursuant to Section 5-13.05(e) of the Emeryville Municipal Code.
- b. *Equipment.* All heavy construction equipment used on the project shall be maintained in good operating condition, with all internal combustion, engine-driven equipment equipped with intake and exhaust mufflers that are in good condition and as deemed to be practically feasible. All non-impact tools shall meet a maximum noise level of no more than 85 dB when measured at a distance of 50 feet. All stationary noise-generating equipment shall be located as far away as possible from neighboring property lines especially residential uses.

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- c. *Noise Disturbance Coordinator.* Applicant shall designate a “Noise Disturbance Coordinator” who shall be responsible for responding to any complaints about construction noise. The Noise Disturbance Coordinator shall determine the cause of the noise complaint and shall require that reasonable measures warranted to correct the problem be implemented. Applicant shall conspicuously post a telephone number for the Noise Disturbance Coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. The Noise Disturbance Coordinator shall be the contact person listed on the construction sign required by Condition III.A.6 above.
2. Traffic Measures. Applicant, through its contractor, shall implement comprehensive traffic control measures as set forth in the approved Traffic and Parking Management Plan, including scheduling of major truck trips and deliveries to avoid peak hours (normally 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.).
3. Street Debris. All mud, dirt and construction debris carried off the construction site onto adjacent streets shall be removed and cleaned daily. Failure to adequately sweep the streets may result in the City undertaking the effort at Applicant’s cost.
4. Dust Control Measures. Dust control measures to minimize air quality impacts shall be implemented including:
  - a. Cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.
  - b. Cover all trucks hauling soil, sand, and other loose materials.
  - c. Pave, apply non-potable water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at site.
  - d. Limit traffic speeds on unpaved roads to 5 mph.
  - e. Install, maintain and replace sandbags or other erosion control measures to prevent silt runoff to public roadways.
  - f. Minimize removal and replant vegetation in disturbed areas as quickly as possible.

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- g. No grading between October 1<sup>st</sup> and April 15<sup>th</sup> unless the Public Works Director has approved an erosion and sedimentation control plan.
- 5. Archeological Resources. If archeological resources are encountered during construction, then Applicant shall: cease all construction activity in the vicinity; notify the Community Development Director; have the significance of the items determined by a qualified archeologist or cultural consultant; and take any further appropriate measures under the California Environmental Quality Act and other applicable laws with the Community Development Director's approval. If human remains are encountered, state law requires that the County Coroner be called immediately. All work must be halted in the vicinity of the discovery until the Coroner's approval to continue has been received.
- 6. Tree Protection Plan. The Chief Building Official shall have the authority to enforce the Tree Protection Plan and to issue a stop work notice for any violations of the Tree Protection Plan.

#### IV. PUBLIC IMPROVEMENTS

##### A. PRIOR TO ISSUANCE OF A BUILDING PERMIT

- 1. Street Improvements. The Applicant shall be responsible for the following Public improvements described herein and as shown on the approved plans, to conform to City of Emeryville Standards, the City of Emeryville Urban Forestry Ordinance, the Americans with Disabilities Act and implementing regulations, and the California accessibility regulations **[Public Works]**:
  - a. Constructing all new curb, gutter, and sidewalk in compliance with City standards and ADA requirements. The replaced sidewalks shall match the finish of existing adjacent sidewalks.
  - b. Installation of all landscaping and irrigation to meet Bay Friendly requirements.
  - c. Installation of three new street trees, per recommendation of the Arborist Report by SBCA Tree Consulting dated June 3, 2020, including structural soil beneath the sidewalks to achieve rootable soil requirements. (See conditional VII.A.2.b below for street tree planting requirements.)

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2. Site Grading and Storm Drainage. Development that contributes additional stormwater to an existing off-site drainage facility shall be required to perform a hydraulic review of the off-site drainage systems and shall be required to make improvements to the system as may be necessary to accommodate the additional stormwater flow. **[Public Works]**
3. Sanitary Sewer. The Applicant shall be responsible to conform to the requirements of the City's Wastewater Collection System Ordinance and to the East Bay Municipal Utility Districts (EBMUD) Private Sewer Lateral Ordinance. Any existing sanitary sewer lateral serving the property that is not to be reused shall be abandoned up to the connection to the City sanitary sewer main. Any existing sanitary sewer lateral serving the property that is to be reused or any new private sanitary sewer lateral to be installed shall pass a verification test witnessed by the City of Emeryville and EBMUD inspectors prior to occupancy. It shall be noted that if an existing sewer lateral cannot pass a verification test then it will need to be replaced. All work performed on sanitary sewer laterals shall require a Sanitary Sewer Lateral Permit and said work is not covered under the Building Permit. **[Public Works]**
4. Underground Utility Lines. All new and existing on-site electrical and communication lines shall be placed underground. **[Public Works]**
5. Improvement Plans and Specifications. Prior to the issuance of a building permit, the Public Works Director shall confirm that detailed improvement plans and specifications have been prepared for said public improvements. **[Public Works]**
6. Improvement Agreement. Prior to the issuance of a building permit and as deemed appropriate by the Public Works Director, Applicant shall enter into an Improvement Agreement with the City of Emeryville to ensure the faithful performance of the design, construction, inspection and installation of all public improvements secured by good and sufficient surety bond or cash deposit adequate to cover all of the costs, inspections and administrative expenses of completing such improvement in the event of a default. **[City Attorney/Public Works]**

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B. PRIOR TO BEGINNING CONSTRUCTION IN THE PUBLIC RIGHT OF WAY

1. Encroachment Permit. Prior to removing any street trees or beginning any construction in the public right of way, Applicant shall apply for and receive an encroachment permit for all work and improvements within the City's right of way or City easements. As required by the Public Works Director, Applicant shall post the required security in the form of a Performance and Payment Bond equivalent to 100 per cent of the valuation of the project improvements plus triple the value of the trees to be protected, and provide evidence of liability insurance as part of the encroachment permit process. Applicant shall pay for all inspection fees associated with work within the City's right of way. **[Public Works]**

C. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

1. Completion of Public Improvements. Prior to issuance of a certificate of occupancy, the Public Works Director shall confirm that all off-site and on-site public improvements are completed in accordance with the final building permit and improvement plans or that other arrangements acceptable to the Public Works Director have been made for ensuring that the work is completed, such as an irrevocable standby letter of credit. **[Public Works]**

D. ONGOING

1. Damage to Public Facilities. Applicant shall be deemed responsible for any damage to public improvements that occurs during construction and shall repair such damage at its expense and to the satisfaction of the Public Works Director, including but not limited to sidewalk repair, street slurry seal or street reconstruction.
2. Maintenance of Street Trees and Other Vegetation in the Public Right of Way: Applicant, its successors and assigns, shall maintain all landscaping improvements in the public areas fronting the property, in a healthy, growing condition at all times according to Bay Friendly Landscaping Practices as described by StopWaste.org's Bay Friendly Landscaping program. The landscaped areas shall be irrigated by an automatic sprinkler system designed to reduce water usage. Applicant shall replace all landscaping that dies with the exact living species, or substitutes approved by the Public Works Director after obtaining an encroachment permit from the City. Landscaping work shall comply

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with the provisions of Chapter 10 of Title 7 of the Emeryville  
Municipal Code.

## **V. PUBLIC SAFETY REQUIREMENTS**

### **A. PRIOR TO ISSUANCE OF A BUILDING PERMIT**

1. Fire Department Standards. Prior to the issuance of a building permit, the Fire Department shall confirm that the final building plans include all fire and emergency safety measures as required by the Department, including access requirements, premises identification, key boxes, hydrants, fire protection systems and equipment and exiting and emergency illumination. **[Fire]**

### **B. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY**

1. Fire Department Standards. Prior to the issuance of a certificate of occupancy, the Fire Chief shall confirm compliance with the applicable Fire Department standards. **[Fire]**

### **C. ONGOING**

1. Compliance with Fire Department Standards. Applicant shall comply with the Fire Department Standards during operations. **[Fire]**

## **VI. PARKING AND TRANSPORTATION**

### **A. PRIOR TO ISSUANCE OF A BUILDING PERMIT**

1. Parking. Prior to the issuance of a building permit, the Community Development Director shall confirm that the final building plans for the project incorporate: **[Planning]**
  - a. Seven vehicular parking spaces, as shown on Sheet A1.2 of the approved plans, shall be provided. Parking spaces shall be clearly numbered consecutively on plans, and a summary table provided.
  - b. A minimum of 16 bicycle parking spaces as set forth below:
    - i. 4 guest parking spaces, as shown on Sheet A1.2 of the approved plans.

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- ii. 12 total residential bicycle parking spaces, as shown on Sheet A1.2 of the approved plans.

**B. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY**

1. Emery Go-Round. Applicant shall fully participate in the Emeryville Transportation Management Association (the TMA), a private, nonprofit agency responsible for administering the Emery Go-Round, a transportation service system serving Emeryville and the members participating in the TMA. Prior to the issuance of certificate of occupancy, Applicant shall provide evidence to the Community Development Director that it has executed a Membership Agreement if required in accordance with the policies, rules and regulations of the TMA. **[Planning]**

**C. ONGOING**

1. Emery Go-Round. Applicant, its successors and assigns, shall remain a member of the TMA so long as the TMA or its successor or assignee is in fact operating the Emery-Go-Round. Applicant and future property owners shall make good faith efforts to provide a brief description or tag line about the Emery-Go-Round and other forms of alternative transportation in its marketing and advertising efforts.

**VII. DESIGN CONDITIONS AND SITE STANDARDS**

**A. PRIOR TO ISSUANCE OF A BUILDING PERMIT**

1. Elevations/Colors/Materials/Site Plan. Prior to the issuance of a building permit, Applicant shall submit a color scheme, samples and details of all exterior elevations and building materials of sufficient size to the Community Development Director for review and approval. Materials to be submitted shall include, but not be limited to, all perimeter gates and fences, window treatments, storefront windows and doors, awnings, outdoor furniture, paving and lighting fixtures. **[Planning]**
2. Landscaping Plans.
  - a. Prior to the issuance of a building permit, Applicant shall submit a detailed on-site landscaping and irrigation plan for the approval of the Community Development Director. The plans shall conform to Article 5 of Chapter 4 of Title 9 of the Municipal Code and Section B of the attached Stormwater



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Pollution Prevention and Source Control Measures. The plans shall include species, number of plantings, size of plantings and specifications for the irrigation system. Minimum plant sizes are flats or 1-gallon containers for ground cover, 5-gallon containers for shrubs and 24-inch box containers for trees.

Additional on-site medium or large stature trees shall be added to the landscape plan to help provide additional canopy lost by the removal of the three large on-site trees (two Lombardy Poplars and one Silver Maple), with the revised landscape plan subject to approval by the Community Development Director following a review and recommendation by the City Consulting Arborist. **[Planning]**

- b. Prior to the issuance of a building permit, Applicant shall submit a detailed off-site landscaping and irrigation plan for the approval of the Public Works Director. The plans shall conform to Article 5 of Chapter 4 of Title 9 of the Emeryville Municipal Code, Bay Friendly Landscaping Practices as per the guidelines from StopWaste.org and Section B of the attached Stormwater Pollution Prevention and Source Control Measures. The plans shall include species, number of plantings, size of plantings and specifications for the irrigation system. Minimum plant sizes are flats or 1-gallon containers for ground cover, 5-gallon containers for shrubs and 24-inch box containers for trees. Street trees shall be of a species approved by the Public Works Director and shall be spaced no farther than 25 feet on center or as approved by the Director. Street trees may require tree grates and an automatic sprinkler system.

Removal of any existing street trees shall comply with the provisions of Chapter 10 of Title 7 of the Emeryville Municipal Code, including, but not limited to, providing replacement trees of equal or cumulative diameter and/or payment of a replacement value fee as determined by a certified arborist, or combination thereof. As part of the encroachment permit fees, the applicant will pay to have the City Consulting Arborist perform soil and drainage tests in the public right of way areas that will have tree plantings. The City also requires the applicant to pay for the installation of structural soil or other engineered products, as per City standards and in consultation with the arborist, under sidewalk areas, to provide adequate rootable soil volume

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areas for healthy street trees. The amount of rootable soil volume to be provided per tree is based on the size of the tree at maturity: 600 cubic feet of rootable soil volume shall be installed per small tree, 900 cubic feet per medium-sized tree and 1200 cubic feet per large-sized tree. The plan shall also discuss proper drainage to be provided for all street trees based on the Consulting Arborist's soil and drainage findings which could entail extensive excavation for sumps or trenching with clean sand or rock backfill. All imported soils shall be tested and the results provided to the City for approval before import. Import soil shall be amended with compost per city standards in place of other soil amendments. Street trees may require tree grates and an automatic sprinkler system. The replacement trees shall be provided off-site but within the vicinity of the project site.

**[Public Works]**

Note: The on-site and off-site landscaping and irrigation plans required by conditions (a) and (b) above may be combined into a single landscaping and irrigation plan showing both on-site and off-site improvements.

3. Recycled Water. Prior to the issuance of a building permit, Applicant shall submit plans for the approval of the Community Development Director showing the design of a plumbing system to serve nonpotable uses in common areas including, but not limited to, landscaped areas and planters, if recycled water is available at the project site at a reasonable cost, is of adequate quality, will not be detrimental to public health, and will not adversely affect downstream water rights, degrade water quality or injure plants, fish and wildlife. In addition, Applicant shall submit a letter from the recycled water provider (East Bay Municipal Utility District) stating requirements for recycled water plumbing, prior to issuance of building permit. If Applicant is not complying with the requirements of the recycled water provider, Applicant shall provide a written explanation of its actions. **[Planning]**
4. Trash, Recycling and Composting Facilities. Prior to the issuance of a building permit, the Community Development Director and Public Works Director shall review and approve a Trash, Recycling and Composting Plan from the applicant.
  - a. Maintenance and Service: Trash, recycling and composting storage areas shall include adequate space for the maintenance and servicing of containers for all materials

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that are provided by local hauling companies. Sewer drains, fire sprinklers, enclosures, and roofing (if outdoors) shall be provided as per city standards.

- b. Adequate Space for Trash, Recyclables and Compostables:  
The amount of space provided for the collection and storage of recyclable materials shall be at least as large as the amount of space provided for the collection and storage of trash materials and shall reflect the estimated volumes of trash and recyclable and compostable materials to be generated providing for the separate and dedicated containers for those materials with the goal of 25% or less of the total materials generated going to a landfill. An appropriately sized and designed area for wastes banned from regular trash containers such as electronics, fluorescent lamps and batteries shall be designated. Residential properties will also provide area for bulky item collection such as mattresses, furniture, tires and white goods.
- c. Convenience and Accessibility: The recycling area shall be at least as accessible and convenient for tenants and collection vehicles as the trash collection and storage area. If chutes are planned then separate, properly labeled (as per City Standards) and dedicated chutes must be provided for each and every collected stream of materials - not just for trash (non-recyclable and non-compostable materials.) The trash and recycling room(s) or areas shall be located on an exterior wall of the building (if indoors) with adequately-sized door or gate access to the street through the wall so as to minimize distance for the collection vehicle personnel and eliminate temporary outdoor storage of containers on collection days. If the storage area is located outside, then it must be easily accessible by the collection vehicles. If the day-to-day-use trash and recycling area(s) cannot be located adjacent to the street, then service-day locations easily accessible by the collection vehicle staff, must be provided in an area on-site as per city standards in enclosures completely screened and covered from off-site view by a solid fence or masonry wall at least six feet high and in harmony with the architecture of the building(s).

**[Planning and Public Works]**

- 5. Height. A height of up to 30 feet shall be permitted on the building structure. **[Planning]**

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6. Development Sign. The project is allowed one development sign indicating developer, architect, contractor, etc. during construction that shall not exceed twelve square feet. Other development/marketing signs may be approved administratively by the Community Development Director provided that they are removed prior to issuance of a final certificate of occupancy. **[Planning]**
7. Exterior Lighting. Prior to issuance of a building permit, Applicant shall provide sufficient information for the Community Development Director to confirm that exterior lighting for the project complies with the following standards and criteria: **[Planning]**
  - a. Driveway illumination shall conform to the requirements of Section 9-4.406(k) of the Emeryville Municipal Code.
  - b. Light fixtures attached to buildings shall be designed as an integral part of the building facades to highlight building forms and architectural details.
8. Noise. Prior to the issuance of a building permit, the Building Official shall confirm that the project is designed in order to limit noise exposure to those levels set forth in the Emeryville Municipal Code and General Plan. **[Building]**
9. Water Efficiency. Prior to issuance of a building permit, the Public Works Director shall confirm that the project complies with the attached East Bay Municipal Utility District requirements. **[Public Works]**

B. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

1. Completion of Landscaping.
  - a. Prior to issuance of a certificate of occupancy, the project landscape architect shall confirm to the Community Development Director that all on-site landscaping is completed and in accordance with the final building permit and improvement plans, including off-site and public improvements, or that other acceptable arrangements acceptable have been made for ensuring that the work is completed, such as an irrevocable standby letter of credit to cover all costs of the unfinished work plus 25 percent. **[Planning]**

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- b. Prior to issuance of a certificate of occupancy, the project landscape architect shall confirm to the Public Works Director that all off-site landscaping is completed and in accordance with the final building permit and improvement plans, including off-site and public improvements, or that other acceptable arrangements acceptable have been made for ensuring that the work is completed, such as an irrevocable standby letter of credit to cover all costs of the unfinished work plus 25 percent. **[Public Works]**
  2. Equipment/Storage. Prior to issuance of a certificate of occupancy, the Community Development Director shall confirm that:  
**[Planning]**
    - a. All mechanical equipment, including electrical and gas meters, heating/air conditioning or ventilation units, radio/TV antennas or satellite dishes shall be appropriately screened from off-site view, and electrical transformers shall be either placed underground or appropriately screened.
    - b. All trash enclosures shall be completely screened and covered from off-site view by a solid fence or masonry wall at least six feet high and in harmony with the architecture of the building(s). Alternatively, the trash facilities may be placed within the building.
    - c. All visible vents, gutters, down spouts, flashings, and the like shall match the color of adjacent surfaces, or shall be incorporated into the overall exterior color and materials scheme for the building.
  3. Plan of Units. Prior to issuance of a certificate of occupancy, the Community Development Director shall confirm that the developer has provided the City with a plan showing the layout of units with their mailing address unit numbers, unit types, square feet, number of bedrooms, and live/work units. **[Planning]**

C. ONGOING

1. Landscaping. All landscaping improvements shall be maintained in a healthy, growing condition at all times. The landscaped areas shall be irrigated by an automatic sprinkler system designed to reduce water usage. Applicant shall replace all landscaping that dies with the exact living species, or substitutes approved by the

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Community Development Director. Landscapes within the public right of way shall be maintained according to the principles of Bay Friendly Landscaping per guidelines by StopWaste.org

2. No Outside Storage. There shall be no outside storage of any type in parking areas. Those areas shall be kept free of obstruction and available for their designated use at all times. Boats, trailers, camper tops, inoperable vehicles and the like shall not be parked or stored on the parking areas.
3. Maintenance and Graffiti Removal. The site and improvements shall be well maintained and kept free of litter, debris, weeds and graffiti. Any graffiti shall be removed within 72 hours of discovery in a manner which retains the existing color and texture of the original wall or fence as most practically feasible.
4. Noise. The project shall operate in order to limit noise exposure to those levels set forth in the Emeryville Municipal Code and General Plan.
5. Exterior Lighting. Exterior lighting shall provide adequate illumination for on-site security and display purposes for the building, parking lots and pedestrian access ways while limiting off-site spillover of light through shielding. No light shall create a hazard for auto drivers.
6. Trash, Recycling and Composting Plan. Applicant and its successors and assigns shall implement the approved Trash, Recycling and Composting Plan and report its activities and achievements to the Public Works Director annually. **[Public Works]**
7. Real Estate Signs in Public Right-of-Way. Off-site signs located on the public sidewalk and directing the public to “open house” events for the viewing of lots, premises, dwellings or structures that are for sale, lease, or rent, shall be regulated by the applicable provisions of Chapter 34 of Title 5. **[Public Works]**

## **VIII. STORMWATER**

### **A. GENERAL.**

1. Design, Construction, Operation, and Maintenance. The project shall be designed, constructed, operated, and maintained in conformance with the attached “Stormwater Pollution Prevention

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and Source Control Measures” (“Stormwater Measures”) and the City’s “Stormwater Guidelines for Green Dense Redevelopment” (“Stormwater Guidelines”).

2. Cost Recovery. The applicant shall pay cost recovery fees related to the verification of permanent stormwater treatment drainage facilities planned and implemented on the site. Fees will be charged for plan check and engineering analysis of stormwater treatment system, inspection during construction of stormwater treatment facilities, and inspection before the issuance of the certificate of occupancy to verify that the stormwater treatment systems are properly functioning. Applicant shall also permit city representatives to perform inspection of said treatment facilities to enter the property during and after construction to perform said duties **[Public Works]**

**B. PRIOR TO ISSUANCE OF A BUILDING PERMIT.**

1. Compliance with Stormwater Measures. Prior to the issuance of a building permit, the applicant shall submit plans as part of the building permit package, showing how the project complies with the attached Stormwater Measures, in particular with the provision C.3 requirements (or new development section) of the City’s NPDES Stormwater Permit and with plans and calculations showing how the project meets the numeric hydraulic sizing requirements as described in Section A of the attached Stormwater Measures. The applicant shall also provide calculations showing the percentage of on-site stormwater treatment through mechanical means and percentage of on-site treatment through vegetative means. If a portion of on-site stormwater treatment is through mechanical means, then the applicant shall provide justification as to why all on-site treatment by vegetative means is not feasible. **[Public Works]**
2. Site Grading and Storm Drainage. Prior to the issuance of a building permit, the Public Works Director shall confirm that the building permit plans, specifications and information include detailed site drainage, grading plans and hydraulic calculations in conformance with the City’s stormwater runoff requirements and specifications. All runoff from the site shall be intercepted at the project boundary, and shall be collected, treated and conducted via an approved drainage system through the project site to an approved public storm drain facility. Roof drainage from the structure shall be collected, treated and conducted to an approved drainage facility. No concentrated drainage of surface flow across

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sidewalks shall be permitted. Grading and drainage plans shall conform to Section A of the attached Stormwater Measures.

**[Public Works]**

3. Site Plan. The site plan shall conform to Section B of the attached Stormwater Measures. **[Public Works]**
  4. Operations and Maintenance Agreement. Prior to the issuance of a building permit, Applicant shall enter into a Stormwater Treatment Measures Operation and Maintenance Agreement with the City of Emeryville to ensure the faithful performance of the design, construction, operation, and maintenance of the stormwater treatment systems. **[City Attorney/Public Works]**
- C. DURING CONSTRUCTION. Applicant and contractor shall comply with Section C of the attached Stormwater Measures. **[Public Works]**
- D. PRIOR TO THE ISSUANCE OF CERTIFICATE OF OCCUPANCY
1. Commitment to the Stormwater Pollution Prevention Practices. Prior to the issuance of a certificate of occupancy, Applicant shall submit evidence of commitment to the stormwater pollution prevention practices, as detailed in Section D of the attached Stormwater Measures. **[Public Works]**
  2. Completion of Construction of Stormwater Treatment Systems. Prior to issuance of a certificate of occupancy, the Public Works Director shall confirm that the stormwater treatment systems are properly installed and functioning. **[Public Works]**
- E. ONGOING. The owner/operator of the facility shall permit, in perpetuity, allow city representatives to enter the property during and after construction in order to perform periodic inspection of stormwater treatment facilities.

Attachments: Fee Charts – Building Permit Fees

Construction Sign Prototype

East Bay Municipal Utility District Water Efficiency Requirements

Stormwater Pollution Prevention and Source Control Measures