

**RECORDING REQUESTED BY:**

City of San Leandro  
Planning Services Division  
835 East 14th Street  
San Leandro, California 94577

2021399276

12/17/2021 09:25 AM

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OFFICIAL RECORDS OF ALAMEDA COUNTY  
MELISSA WILK, CLERK-RECORDER  
RECORDING FEES: \$0.00



**WHEN RECORDED MAIL TO:**

Leticia I. Miguel, City Clerk  
City of San Leandro  
835 East 14th Street  
San Leandro, California 94577



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FB

**THIS SPACE FOR RECORDER'S USE ONLY**

*(No fee pursuant to Government Code Section 27383)*

**AGREEMENT TO CONDITIONS**

**PLN18-0046**

**1388 Bancroft Avenue**

**Alameda County Assessor's Parcel Number:**

**77-542-12-4**

**Thomas R. Silva, Eden Realty (Applicant)**

**Silva and Gonsalves Trust (Property Owner)**

THIS AGREEMENT is entered into by and between the CITY OF SAN LEANDRO, a municipal corporation, hereinafter referred to as "City", Thomas R. Silva, Eden Realty, hereinafter referred to as "Applicant" and Silva and Gonsalves Trust as "Property Owner".

Applicant applied for and received approval for a Planned Development and Site Plan Review, which permits construction of a 42-unit multi-family residential building that includes 40 two-bedroom units and 2 three-bedroom units, at 1388 Bancroft Avenue. The proposed new building would be three-story construction. Assessor's Parcel Number 77-542-12-4.

NOW, THEREFORE, pursuant to the applicable provisions of the Zoning Code, it is mutually agreed as follows:

1. Applicant agrees to comply with the Conditions of Approval adopted by the City of San Leandro City Council, more specifically described in the list of Conditions of Approval, attached hereto, and as described in the exhibits on file in the Community Development Department, all of which are incorporated herein by this reference.

2. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.

3. City is authorized to record this agreement and any amendments thereto with the Alameda County Recorder, California. All amendments hereto must be in writing and signed by the appropriate

authorities of the City and Applicant. Conditions run with the land and are binding to future owners of the property.

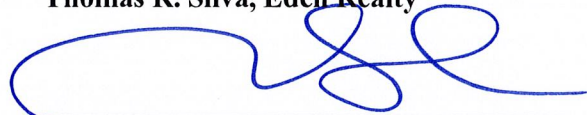
4. Applicant and Property Owner have read and fully understand all of the foregoing terms and conditions, and hereby agree that all said terms and conditions are as approved by the City of San Leandro City Council in accordance with law, and hereby agree to comply with all of said terms and conditions.

IN WITNESS WHEREOF, duly executed by the parties as of the day and year below written.

This PLANNED DEVELOPMENT AND SITE PLAN REVIEW must be exercised within FOUR YEARS or it expires.

(Acknowledgment)

Thomas R. Silva, Eden Realty



Signature

Date

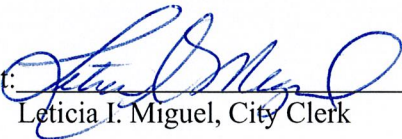
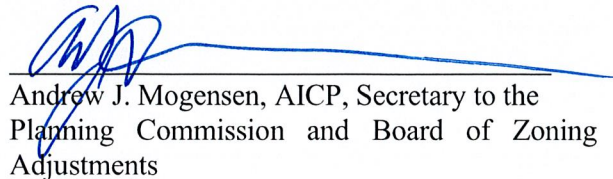
Thomas R Silva President

Print Name and Title

Receipt of Executed Approval: I hereby certify that I am the Secretary to the Planning Commission and Board of Zoning Adjustments of the City of San Leandro and in that capacity did receive this copy of **PLN18-0046** Agreement to Conditions fully executed by all parties thereto, and that the effective date of this approval granted herein is **November 15, 2021**.

CITY OF SAN LEANDRO, a municipal corporation

Attest:

  
Leticia I. Miguel, City Clerk  
Andrew J. Mogensen, AICP, Secretary to the Planning Commission and Board of Zoning Adjustments

Approved as to Form:

  
Richard Pio Roda, City Attorney

# ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of ALAMEDA

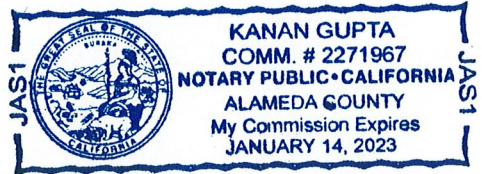
On NOV. 15<sup>th</sup>, 2021 before me, KANAN GUPTA ( NOTARY PUBLIC)  
(insert name and title of the officer)

personally appeared THOMAS R. SILVA  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Kgupta (Seal)





# California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Alameda

s.s.

On 11/17/2021 before me, Sabine Alefeld-Koener Notary Public

personally appeared Andrew J. Mogensen

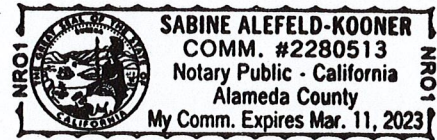
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Sabine Alefeld-Koener

Signature of Notary Public



## OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

### Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of \_\_\_\_\_

containing \_\_\_\_\_ pages, and dated \_\_\_\_\_.

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-fact
- Corporate Officer(s) \_\_\_\_\_

- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: \_\_\_\_\_

representing: \_\_\_\_\_

### Additional Information

#### Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

- form(s) of identification
- credible witness(es)

Notarial event is detailed in notary journal on:

Page # \_\_\_\_\_ Entry # \_\_\_\_\_

Notary contact: \_\_\_\_\_

#### Other

- Additional Signer
- Signer(s) Thumbprints(s)

\_\_\_\_\_

**CITY COUNCIL RESOLUTION 2020-120  
FINAL CONDITIONS OF APPROVAL**

**Exhibit B**

**PLN18-0046**

**1388 Bancroft Avenue**

**Thomas R. Silva, Eden Realty (Applicant)**

**Silva and Gonsalves Trust (Property Owner)**

**I. COMPLIANCE WITH APPROVED PLANS**

- A. The project shall comply with Exhibits A through BB, dated February 4, 2020 except as hereinafter modified. (Exhibits are on file at the City of San Leandro, Community Development Department, 835 East 14th Street, San Leandro, California, 94577).

Exhibit A – Cover Sheet & General Information, A00.00

Exhibit B – Context Site Plan, A01.00

Exhibit C – Site Photos, A01.10

Exhibit D – Occupancy Egress Plans, A01.2

Exhibit E – Ground Floor Plan A02.00

Exhibit F – Second and Third Floor Plan, A02.01

Exhibit G – Roof Plan, A02.02

Exhibit H – Elevations, A03.01

Exhibit I – Elevations, A03.02

Exhibit J – Section, A04.01

Exhibit K – Perspectives (Southwest at Bancroft Ave), A05.01

Exhibit L – Perspectives (Northwest at Bancroft Ave), A05.02

Exhibit M – Perspectives (Estudillo Ave), A05.03

Exhibit N – Perspectives (Joaquin Ave), A05.04

Exhibit O – Unit Plans, A06.01

Exhibit P – Landscape Materials Plan – Ground Floor, L1.1

Exhibit Q – Planting Plan Ground Floor, L2.1

Exhibit R – Landscape Sections, Elevations and Details L3.1

Exhibit S – Materials and Images, L4.1

Exhibit T – Cover Sheet Civil Engineer Improvement Plans, C0.0

Exhibit U – Topographic Survey, C1.0

Exhibit V – Site Plan Sheet Civil Engineer, C2.0

Exhibit W – Grading Plan, C3.0

Exhibit X – Sections Civil Engineer, C3.1

Exhibit Y – Storm Water Control Plan, C4.0

Exhibit Z – Utility Plan, C5.0

- B. The developer 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. Based on the alternative development schedule dated August 11, 2020, the Planned Development and Site Plan Review approval shall lapse after four (4) years following the City's recordation of these Conditions of Approval unless a grading permit or building permit has been applied for, 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 3.04.144. Pursuant to Zoning Code Section 3.04.144(B), upon written request, a renewal may be considered by the Planning Commission if no substantive change has occurred in conditions or circumstances pertinent to the planned development or its approval. Application for a renewal shall be made in writing to the Zoning Enforcement Official not less than thirty (30) days or more than one hundred twenty (120) days prior to expiration of the Planned Development approval. Denial of a request for renewal of the Project approval may be appealed. A lapse and failure to renew this project approval shall result in the removal of the P(PD) Planned Development overlay on the zoning map for the subject property.

## II. PERMITTED USE

- A. This Planned Development and Site Plan Review approval permits construction of a 42-unit multi-family residential building that includes 40 two-bedroom units and 2 three-bedroom units, at 1388 Bancroft Avenue. The proposed new building would be three-story construction. Assessor's Parcel Number 77-542-12-4.
- 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. The Zoning Enforcement Official may approve changes to approved plans or in 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. Revisions involving substantial changes in project design or conditions of approval shall be treated as new applications, to be reviewed as a new project.
- D. Car-sharing shall be deemed a permitted accessory use of the Planned Development. No employees or agents of a car-sharing business or organization shall perform vehicle services or operate a permanent business office on the subject property.
- E. Hosted and non-hosted short term rentals shall be prohibited.

## III. ADDITIONAL PLAN SUBMITTALS

- A. 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.

- B. Prior to issuance of building permits, all building plans and specifications shall be submitted for review and approval to the Zoning Enforcement Official to ensure the quality of the exterior design. Said plans and specifications shall indicate the exact type of stucco, windows and framing, front doors, door and window trim, deck and porch railings, gates, solid waste/recycling room door, and light fixtures to ensure that the new building's exterior materials and finishes meet the standards illustrated in the approved exhibits. In addition, a final paint colors board shall be submitted for the exterior of the building.
- C. Prior to issuance of building permits, the developer shall submit final details and specifications including, but not limited to: material samples for driveways, private walkways, and special building features, for review and approval by the Zoning Enforcement Official.
- D. Prior to issuance of building permits, the developer shall submit final landscape and irrigation plans for the review and approval of the Zoning Enforcement Official and Principal Engineer. Said plans shall include all setbacks, common areas (i.e., planter at podium level in northwest corner, raised pots), and planters adjacent to the driveway. At a minimum, the planting plan shall include trees with a minimum size of 15 gallons. The minimum size for the shrubs and vines shall be five gallons and the ground cover shall be one gallon or from flats with appropriate spacing for coverage. Said plans shall include details such as: 1) tree size, species and location; 2) shrubs and groundcovers; 3) installation specifications, including tree staking; 4) irrigation details; 5) water conservation techniques; and 6) maintenance programs. Final landscape and irrigation plans shall be prepared by a California licensed landscape architect and shall conform to the Model Water Efficient Landscape Ordinance as updated by the State of California Department of Water Resources.
- E. Prior to issuance of building permits, the developer shall submit final plans and details for the site lighting and specific street lighting details regarding location, candle power, and light levels (by submittal of a photometric study) for the review and approval of the City Engineer and Community Development Director. The plans and details shall show location, height, decorative features, and construction details showing materials and finishes to be used for construction. No site lighting may spill offsite or create glare offsite.
- F. Prior to issuance of any Certificate of Occupancy on the property, the improvements outlined above shall be completely installed to the satisfaction of the Community Development Director and the City Engineer.

#### **IV. BUILDING AND SAFETY SERVICES REQUIREMENTS**

- A. The project shall meet all Residential CalGreen requirements.
- B. Building permit plans shall include Accessible ready units.
- C. Building permit plans shall show Accessible path of travel from Accessible parking spaces.
- D. Building permit plans shall show all mechanical units and provide all the details and specifications to how and what each mechanical unit is servicing (i.e., mechanical venting).
- E. Building permit plans shall show occupancy and exiting that satisfies required Building and Fire Codes.
- F. Title 24 Building Energy Efficiency shall be satisfied.
- G. Geotechnical letter from Geotechnical Consultant shall be required verifying that the foundation plans comply to the geotechnical report prepared by Cornerstone Earth Group, dated May 20, 2016.
- H. Structural Calculations shall be provided.

**V. ENGINEERING AND TRANSPORTATION DEPARTMENT REQUIREMENTS**

- A. General Conditions:
  - 1. 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.
  - 2. 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.
- B. Geotechnical Conditions:
  - 1. The following conditions are based on information in the Geotechnical Report prepared by Cornerstone Earth Group, dated May 20, 2016:



- a) Approximately 2 feet of undocumented clayey to well-graded sand fill was encountered below the surface. This loose fill should be over-excavated and re-compacted within the proposed building footprint. Any undocumented fills encountered during the demolition of the northern building basement level should also be re-compacted prior to new fill placement.
- b) A portion of the building will straddle deeper fill that will be required to fill the existing basement. Deeper fill transitions should be over-excavated at an inclination of 3:1 or flatter and rebuilt with engineered fill to reduce the potential for differential movement beneath at-grade structures. Since undocumented fill will need to be over-excavated, this fill transition will be partially mitigated during site grading.
- c) The corrosion potential for buried metallic structures, such as metal pipes, is considered moderate. Metal pipes installed as part of the project should have special protection incorporated per the recommendations of JDH Corrosion Consultants.

C. Municipal Regional Stormwater Permit Provision C.3 (Clean Water Program) Conditions:

- 1. 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"
  - 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.
2. 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 requirements.
  3. Storm water treatment facilities for the project shall be designed per Alameda County Clean Water Program's C.3 Technical Guidance document, and per the recommendations in section 6.10 of the Geotechnical Investigation prepared by Cornerstone Earth Group, dated May 20, 2016.
  4. Because the project creates or replaces more than 10,000 SF of impervious surface, it is considered a Regulated Project according to Provision C.3.b of the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (Order No. R2-2015-0049, NPDES Permit No. CAS612008, adopted 11/19/2015). All requirements of the Stormwater Requirements Checklist shall be followed prior to issuance of a Grading and/or Building Permit.
  5. All proposed storm drain onsite and offsite inlets shall be marked "NO DUMPING, DRAINS TO BAY" as per the City of San Leandro Standard Plan Dwg. No. 204. All proposed storm drain inlets that are not within bioretention areas shall have "United Storm Water" trash capture devices.
  6. The applicant shall submit a detailed Operations and Maintenance (O&M) agreement in accordance with MRP section C.3.h. The O&M agreement shall be required prior to Grading Permit issuance.

D. Utility Conditions:

1. For the applicant's information, the potable water network that serves the site is owned and operated by East Bay Municipal Utility District (EBMUD). Please contact EBMUD at 866-403-2683 for more information about connections and water service.
2. A lighting plan and photometric study must be developed and submitted for approval along with the building permit application to assure sufficient illumination for the safety and security of the future building occupants.

E. Grading Conditions:

1. A Grading Permit will be necessary for the project. The requirements for said permit are indicated in San Leandro Municipal Code §7-12. The permit will be issued prior to or concurrent with the Building Permit.
2. The site will be subject to a Construction General Permit according to the *National Pollutant Discharge Elimination System* (NPDES) General Permit No. CAS000002. The general permit is applicable to construction sites that disturb on or more acres of land surface. The applicant will be required to register the project with the State Water Board's Storm water Multi-Application and Report Tracking System (SMARTS) website. A Qualified SWPPP Developer (QSD) and a Qualified SWPPP Practitioner (QSP) must be responsible for permit compliance. The SMARTS system will generate a Waste Dischargers Identification (WDID) number which must be printed on the grading and/or erosion control plans.

F. Off-Site Improvements Conditions:

1. Coordinate with AC Transit on the location of the proposed bus shelter on Bancroft Avenue.
2. The Applicant shall install an R3-1, "Activated Blank-Out" sign on the existing traffic signal pole at the southeast corner of Bancroft Avenue and Estudillo Avenue.
3. Prior to building permit issuance, the Applicant must enter into a Public Improvement Agreement with the City to guarantee installation of public improvements along the Joaquin Avenue, Bancroft Avenue and Estudillo Avenue property frontages. The value of these improvements shall be included in a detailed Engineer's Estimate subject to review by the City. The guarantee will be in a financial instrument approved by the City with a value equivalent to the Engineer's Estimate.
4. Any unused driveway approaches along the entire property frontage shall be removed and replaced with City Standard curb, gutter and sidewalk.

5. Except for those utilities along Bancroft Avenue, Estudillo Avenue, and Joaquin Avenue approved for an in-lieu fee, the Applicant shall locate all electric and communications utilities serving the site underground.
6. Any work in the Public Right-of-Way shall require an Encroachment Permit from the City of San Leandro Engineering and Transportation Department.

G. Other Conditions:

1. The Development Fee for Street Improvement (DFSI) is calculated for the project using the Fiscal Year 20-21 rate of \$1,532.64 per residential unit, for a total of \$64,370.88. A credit for the existing buildings based on the square footages provided by the Alameda County Assessor's office was also calculated using the Fiscal Year 20-21 rate of \$5.96 per square foot (Medical Office rate), for a credit of \$145,686.24. Taking the credit into account, no DFSI will be due for this project. These fees are subject to change on July 1 of each year and are not vested until building permit issuance.
2. The applicant shall pay an in-lieu fee for future undergrounding of utilities along Bancroft Avenue, Estudillo Avenue, and Joaquin Avenue, per the City's Underground Utility District Master Plan, adopted September 16, 1985, amended April 20, 1992. The fee is estimated to be in the amount of \$67,607.82, which is calculated using the Fiscal Year 20-21 fee rate of \$1,609.71 per residential unit. This fee is due at the time of Building Permit issuance. This fee is subject to change on July 1 of each year and are not vested until building permit issuance.
3. The Park Land Acquisition fee is calculated for the project using the Fiscal Year 20-21 rate of \$15,122 per multi-family residential unit, for a total of \$635,124 and is due at the time of Building Permit issuance. These fees are subject to change on July 1 of each year and are not vested until Building Permit issuance. Alternatively, the applicant can instead purchase and dedicate (or partner with other developers to purchase and dedicate) 0.45 acres of park land within the City limits.
4. The Park Improvement fee is calculated for the project using the Fiscal Year 20-21 rate of \$2,387 per multi-family residential unit, for a total of \$100,254 and is due at the time of Building Permit issuance. These fees are subject to change on July 1 of each year and are not vested until Building Permit issuance.

**VI. ALAMEDA COUNTY FIRE DEPARTMENT REQUIREMENTS**

- A. A fire alarm system is required for this project.
- B. Smoke detectors and carbon monoxide detectors shall be installed to comply with requirements set forth in the building and fire codes.

- C. Fire Department Knox box shall be installed and at the main entry and a key switch shall be installed on electric gate.
- D. The backflow preventer with the fdc shall not be obscured by plants and street trees. This backflow preventer device must remain visible and accessible.
- E. Building Plans shall show the location of the fire hydrant(s) and provide data from EBMUD showing that the required fire flow is achievable.
- F. The occupancy classification on the plans shall be updated for the Building Permit with an explanation of the designated categories.
- G. Building Plans shall provide clarifying details identifying how occupant loads are calculated.
- H. A standpipe connection may be required on the roof if warranted by landscaping.
- I. Building Plans shall show how the walkway is separated from the solar arrays on the roof.

## **VII. PUBLIC WORKS DEPARTMENT REQUIREMENTS**

- A. Applicant shall provide a plan for servicing bins on site in accord with the City's current Multi-Family Dwelling Enclosure Guidelines.
- B. Applicant shall comply with Alameda County Mandatory Recycling Ordinance No. 2012-01. For more information, see [www.RecyclingRulesAC.org](http://www.RecyclingRulesAC.org).
- C. The project is subject to Construction & Demolition Debris Recycling Ordinance per Chapter 3-7 of the San Leandro Municipal Code, which states: all asphalt and concrete and 50% of all other materials generated at a project site shall be recycled for projects with a valuation in excess of \$100,000. Permit applicants shall demonstrate compliance by completing and submitting an online Waste Management Plan using Green Halo Systems prior to permit issuance. Applicants shall submit recycling and disposal receipts online and submit the waste management report before scheduling the final inspection. Note: Project will not be finalized until all recycling and disposal tags have been registered into the Green Halo Systems.
- D. The property may be subject to a push/pull fee, based on information provided in the bin service plan.
- E. Project must comply with all City and State construction and demolition debris recycling requirements. Permit applicants must demonstrate compliance by completing and submitting an online Waste Management Plan using Green Halo Systems ([www.GreenHaloSystems.com](http://www.GreenHaloSystems.com)) prior to permit issuance. Applicants must submit recycling and disposal receipts online and submit the waste management report



before scheduling the final inspection. Note: Project will not be finalized until all recycling and disposal tags have been registered into Green Halo Systems.

- F. Trash room and enclosures must observe requirements of the current California Building Code regarding accessibility to solid waste collection containers for persons with disabilities (CCR Title 24, Part 2).
- G. Applicant must provide keys or cards to the franchised waste for any locked gates. If keys or cards are not provided, then the Applicant must ensure that all secured gates are open at 3:00am or other agreed time for collection.
- H. Applicant is subject to Alameda County Mandatory Recycling Ordinance #2012-01. For more information, visit [www.RecyclingRulesAC.org](http://www.RecyclingRulesAC.org).
- I. The property manager shall take responsible measures to secure refuse bins, clean and deodorize compost bin storage areas and to ensure the property and adjacent public right-of-way is free of litter and debris following pick-up.

#### **VIII. 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, wall or building on the project site. The permanent use of chain link or cyclone fencing shall be prohibited.
- C. **All walls, fences, and landscaping within a street 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. All exterior mechanical equipment such as air conditioning/heating units and individual radio/television antennas shall be screened from view so as not to be visible from adjacent properties or streets to the satisfaction of the Community Development Director. This condition shall not apply to wireless cable receivers that do not exceed three feet in diameter.
- E. The applicant shall work with the utility provider in painting and/or screening the ground mounted transformer located along Estudillo Avenue to the extent permissible by the utility provider.

#### **IX. 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. Post construction, the project site

and public right of way shall be well maintained and shall be kept free of litter, debris and weeds. Street trees and tree wells shall be maintained. 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 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 the adjacent public right of way shall be maintained by the property owner in a healthy, growing condition at all times. Irrigation heads and water lines shall be maintained to prevent leakage.
- D. During the construction phase, the site shall be enclosed with a security fence and shall be well maintained in a neat manner, free of weeds, litter and debris.
- E. The solid waste and recycle containers shall be kept inside the designated space and kept out of public view, except when necessary at scheduled times when the contents of the containers are picked up for disposal.
- F. There shall be no parking or storage of boats, trailers, camper tops, or inoperable vehicles on the project site. In addition, the parking area shall not be used for storage, converted to living area, or any other use that would obstruct or prevent its use for vehicle parking. Furthermore, there shall be no outdoor storage permitted in the common yard areas, with the exception that said areas can be furnished with plants and patio furniture.
- G. All trees shall be planted so that at maturity they are located far enough away from the sidewalk so that their branches are at least eight (8) feet above the sidewalk area and 14 feet above the roadway/vehicle traveled way.
- H. No temporary or unauthorized signs including but not limited to banners, streamers and pennants shall be placed on the property, unless approved by the City under a Temporary Sign Permit or Special Event Permit. The use of spotlights, feather signs, animated or inflatable signs, balloons, and lasers shall be prohibited at all times.
- I. Balconies and patio areas shall be kept in a neat and clean condition at all times and shall not be used for storage. Access to patio doors shall be maintained unobstructed for emergency access. No charcoal or solid fuel barbecue grills shall be permitted.
- J. Pet waste shall be promptly removed and properly disposed from all property sidewalks and landscaping. An outdoor pet waste disposal facility shall be provided and maintained for residents if pets are allowed on the premises.
- K. The property owner shall regularly maintain the parking lot and shall be responsible for the prompt clean up and removal of litter, oil stains and spilled vehicle fluids.

## X. CONSTRUCTION PROVISIONS

- A. Construction on the project site shall not commence prior to 7:00 a.m. and shall cease by 7:00 p.m., Monday through Friday, and shall not commence prior to 8 a.m. and shall cease by 7 p.m. Saturday and Sunday, unless otherwise approved by the Chief Building Official. There shall be no construction on Federal holidays. As provided in this City of San Leandro's Noise Ordinance (ORDINANCE NO. 2003-005), "construction" shall mean any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or on any private property, public or private right-of-way, streets, structures, utilities, facilities, or other similar property. Construction activities carried on in violation of this Article may be enforced as provided in Section 4-11-1130, 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 Bancroft Avenue, Estudillo Avenue or Joaquin Avenue from the project site during construction. 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's Engineering and Transportation Department prior to receipt of the grading permit.
- D. Truck hauling activities shall be restricted to 7:00 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 demolition and construction with a screened 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. Potable water and temporary sanitary facilities shall be provided to workers during construction activities. Temporary sanitary facilities shall be kept in a clean and odorless condition, secured, and located away from adjacent residences.
- K. Adjacent residents shall be provided with the contact information of the responsible site foreman or managing general contractor during periods of grading and construction.

## **XI. INCLUSIONARY HOUSING**

- A. To satisfy the Inclusionary Housing Requirement under Section 6.04.132 "Off-Site Alternatives" of the Inclusionary Housing Ordinance (Chapter 6.04 of the Zoning Code), the applicant shall provide 1) four long-term rent restricted units and 2) pay an in-lieu fee of \$67,276.00. Of the four long-term rent restricted units, two shall be for renter households at or below the 100% median household income and two units shall be for renter households at or below 120% moderate household income based on the HUD Area Median Income (AMI) limits for Alameda County.
- B. The proposed apartment building has 40,366 net rentable square feet. The City in lieu fee rate shall be \$5 per square feet of net rentable residential area (exclusive of parking, corridors, and other common areas). Therefore, the gross amount of the fee is \$201,830.00. The four units fulfill two-thirds (2/3) of the applicant's inclusionary housing production requirement, while the remaining one-third (1/3) shall be fulfilled by the applicant paying a pro-rated in-lieu fee equaling \$67,276.00 (1/3 x \$201,830.00). The in-lieu fee of \$67,276.00 shall be paid prior to or at the issuance of the Certificate of Occupancy.
- C. The applicant shall provide the four rent restricted units on-site at 1388 Bancroft, where the inclusionary units will be a minimum of two bedroom units each.
- D. Prior to building permit approval, the applicant shall submit an Inclusionary Housing Plan to the Community Development Director for review and approval as required under Section 6.04.128 "Compliance Procedures" of the Inclusionary Housing Ordinance (Chapter 6.04 of the Zoning Code). In addition, the applicant shall enter into an Inclusionary Housing Agreement with the City per Section 6.04.128.C.

## **XII. ENVIRONMENTAL MITIGATION MEASURES**

- A. All mitigation measures identified in the adopted Mitigated Negative Declaration shall be included and are hereby incorporated as Conditions of Approval. Said mitigation measures are listed in the Mitigation Monitoring Program (1388 Bancroft Avenue Project Initial Study/Mitigated Negative Declaration Section 4.0) and the developer shall comply with and implement all provisions of said Mitigation Monitoring Program. The applicant shall provide a copy of the Mitigation Monitoring Program to all construction contractors prior to commencement with demolition of the property. The developer shall be responsible for compensating the City of San Leandro for costs associated with the enforcement and monitoring of the mitigation measures prior to issuance of a Certificate of Occupancy.

## **XIII. PARKING MANAGEMENT**

- A. Resident parking spaces shall be actively managed for optimal utilization through a parking management program. The parking management program shall be submitted for review and approved by the City Council prior to issuance of a Certificate of Occupancy. On June 21, 2021 the City Council approved the parking management program subject to the following conditions: The City is to conduct two additional parking studies. The first one is to be conducted when school is in session to be completed by Dixon Resources Unlimited by the end of September. The second study is to be conducted by a separate consultant (not Dixon Resources Unlimited). The additional parking studies would provide information to staff and the developer, to make sure that the project's parking management program takes all reasonable steps for all on site spaces to be filled. After the first study is conducted and reviewed by staff, staff will determine whether adequate street parking is available when school is in session. If that is determined, then staff and developer will meet and confer to finalize a parking management program based on the second study's information. The parking management program that is based on the second study's information would be approved by the Community Development Director as provided in this Condition of Approval. The City shall have the authority to require modifications to the approved parking management program and/or impose additional conditions on both the project parking and on-street parking in order to address issues that may arise in the future, including but not limited to requiring resident parking permits for the use of surrounding public streets and/or placing restrictions on street parking. Such additional conditions shall be to the parking management program and not to this condition of approval. The Parking Management Program shall include a preferred parking plan.
- B. Parking spaces within the un-gated portion of the parking lot may be assigned or designated for car-sharing vehicles.
- C. The on-street parking space located nearest to the corner of Bancroft and Joaquin Avenue shall be sign posted for a 24 minute parking limit in order to accommodate loading and package delivery vehicles. The developer shall reimburse the City for the cost of street and curb painting and parking restriction signs installed by the City.



- D. Except during construction, the storage of containers, vehicle trailers or other equipment on public streets or within the parking lot shall be prohibited at all times.

#### **XIV. WIRELESS TELECOMMUNICATIONS FACILITY**

- A. The Planned Development approval shall allow the installation of one single slim line monopole consisting of fully screened antenna housed within a white cylindrical Radio Frequency-transparent radome concealment tube mounted on top of the building, as identified in the approved plans. Wireless facilities shall be wholly contained inside of the pole. The height and width of the monopole shall be in substantial conformance with the scaled dimensions identified on the approved exhibits. Unless otherwise regulated under State and Federal laws, the monopole height shall not exceed 15 feet six inches as measured from the roof or 60 feet when measured from grade and the monopole radome shall not exceed 20 inches in diameter. Final monopole design shall be reviewed for compliance with the approved Planned Development exhibits at the time of building permit submittal.
- B. Telecommunications utility and power equipment servicing the monopole shall be housed inside the building. All equipment and conduit serving the wireless telecommunications facility antenna shall be accommodated within the building's interior. No conduit or equipment shall be permitted to be mounted on the building's exterior walls. No conduit, panels or mechanical equipment may be mounted in a visible location or manner on the sides of the building.
- C. Noise from any mechanical equipment or generators servicing the wireless telecommunications facility shall be minimized and insulated from adjacent residential units and shall comply with the City's Noise Ordinance. Batteries shall be the preferred source of emergency power.
- D. Air conditioning condensate shall be directed to landscaped areas, where practicable, as a minimum best management practice.
- E. A stamped and signed radio-frequency compliance report prepared by a qualified RF engineer, manufacturer's specification sheets, and documentation that the equipment is in compliance with FCC standards shall be submitted with the building permit application. A copy of the compliance report and safety disclosures shall be maintained in the leasing office and made available to residents upon request.
- F. Final review and approval of the wireless telecommunications facility shall be conducted at the time of a building permit submittal. Final design shall be consistent with the approved Planned Development project plans and Conditions of Approval.

#### **XV. GENERAL CONDITIONS**

- A. Developer 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.
- B. Prior to issuance of building permits, the applicant shall pay school fees as mandated by the State of California.
- C. All mechanical equipment shall be designed and maintained to comply with City noise and screening standards.
- D. As per California Health and Safety Code §104495, smoking and vaping shall be prohibited within 25 feet of the tot lot. A no-smoking sign shall be prominently displayed outdoors in the vicinity of the tot lot and smoking shall be prohibited from all tenant patios located within 25 feet. All residents shall be notified of those areas where smoking and vaping is prohibited in accord with California Civil Code §1947.5.
- E. Outdoor loudspeakers and public announcement systems shall be prohibited from installation and use.
- F. The property shall comply with all City noise ordinance standards. The operation of any instrument, audio equipment, television set, machine or similar device between the hours of 10:00 p.m. and 8:00 a.m. in a manner as to be plainly audible at a distance of fifty (50) feet from the building shall be prohibited.
- G. On-site lighting shall be designed and located so as to not interfere with traffic on adjacent streets or shine above the horizontal plane or onto adjacent properties, subject to the review and approval of the Community Development Director. Dark sky compliant outdoor lighting plans shall be reviewed and approved with the building permit application.
- H. The property manager shall maintain a copy of these Conditions of Approval in the leasing office and shall provide a copy to residents of the building upon request.
- 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.

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