

# ATTACHMENT 1

## FINDINGS AND CONDITIONS

JUNE 26, 2008

### 2748 San Pablo Avenue

#### Modification 08-7000005 (modifies Use Permit 06-10000119)

##### CEQA FINDING

1. The proposed modifications would add three dwelling units to an approved project that was found to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the CEQA Guidelines ("In-Fill Development Projects"). The modifications do not create any new significant environmental impacts, and the project as modified would still meet the qualifications of Section 15332. Therefore no further CEQA review is required for the modifications.

##### GENERAL NON-DETRIMENT FINDING

2. Pursuant to Berkeley Municipal Code Section 23B.32.040, the Zoning Adjustments Board finds that the proposed modifications to an approved mixed-use building to increase the number of dwelling units from 20 to 23, and the parking spaces from 24 to 27, with no exterior changes, under the circumstances of the particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City, for the following reasons:
  - The proposed increase in dwelling units complies with all applicable development standards. As noted in the project description and in Table 3, the number of parking spaces has been increased to 27 to meet the minimum requirements for the new dwelling units. The approved project includes enough usable open space to accommodate the additional units. The changes would not affect the project's inclusionary requirements because the applicant elected to pay an in-lieu fee rather than providing inclusionary units.
  - The substitution of six one-bedroom units for three two-bedroom units is an appropriate change because there is a shortage of smaller units for sale. The one-bedroom units, although smaller than the approved two-bedroom units, are still relatively generous in size in comparison with many other projects.

### OTHER REQUIRED FINDING

3. **(Compatibility with C-W Purposes and West Berkeley Plan)** Pursuant to Berkeley Municipal Code Section 23E.64.090.B, the Zoning Adjustments Board (ZAB) finds that the proposed modifications are compatible with the purposes of the C-W District and with the surrounding uses and buildings, and consistent with the adopted West Berkeley Plan, because the ZAB made these findings for the approved project, and the modifications do not alter the approved project in any way that would nullify the ZAB's previous findings.

### CONDITION OF APPROVAL

Pursuant to BMC Section 23B.32.040.D, the Zoning Adjustments Board attaches the following conditions to this Permit:

1. All conditions of Use Permit 06-10000119 shall remain in effect, except that Condition 29 shall be modified to read: "The project shall conform to the plans and statements in the Use Permit, received April 9, 2008."