AGENDA

PUBLIC COMMENT PERIOD
(The public may speak on any item within the jurisdiction of the Zoning Administrator not listed on this agenda. Approximately 15 minutes is allocated for the Public Comment Period, and each speaker will be allowed approximately 3 minutes.)

HEARINGS:
1. **5349 Olive Drive Minor Subdivision (PL18330 – PM, AA, RT)** – Application for a three lot Minor Subdivision, a Minor Exception and a Tree Removal permit on a 0.98 acre site at 5349 Olive Drive. The General Plan designation is Low Density Residential; Zoning classification is RS10 (Single Family Residential, minimum lot size of 10,000); APN 117-140-017. CEQA: Categorically exempt under CEQA Guidelines Section 15315 “Minor Land Divisions” and Section 15332 “Infill Development Projects”. **Project Planner: Lorna Villa @ (925) 671-3176**

ADJOURNMENT

Next Zoning Administrator Meeting: February 13, 2019

In accordance with the Americans with Disabilities Act and California Law, it is the policy of the City of Concord to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require a copy of a public hearing notice, or an agenda and/or agenda packet in an appropriate alternative format; or if you require other accommodation, please contact the ADA Coordinator at (925) 671-3021, at least five (5) days in advance of the hearing. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

Correspondence and writings received within 72 hours of the scheduled Zoning Administrator meeting that constitute a public record under the Public Records Act concerning any matter on the agenda is available for inspection during normal business hours at the Permit Center located at 1950 Parkside Drive, Concord. For additional information contact the Planning Division at (925) 671-3152.

APPEALS

Decisions of the Zoning Administrator may be appealed to the Planning Commission. Appeals and the required filing fee must be filed with the City Clerk within ten (10) days of the decision.

If you challenge any of the foregoing described actions in court, an appeal first of said actions to the Zoning Administrator, Planning Commission, and/or City Council (as applicable) in the manner and within the time period established in Development Code Chapter 18.510 (Appeals and Calls for Review) is required, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Administrator and/or Planning Commission (as applicable) at, or prior to, said public hearing.
AGENDA ITEM NO. 1

REPORT TO ZONING ADMINISTRATOR

DATE: January 30, 2019

SUBJECT: 5349 Olive Drive Minor Subdivision (PL18330-PM, AA, RT)

Recommendation: Adopt Zoning Order 09-01 ZA approving a Tentative Parcel Map, Minor Exception, and Tree Removal application for a three-lot minor subdivision on a 0.98-acre site located at 5349 Olive Drive, APN: 117-140-017.

I. Introduction

A. Application Request

Application for a Tentative Parcel Map, Minor Exception, and Tree Removal for a three-lot minor subdivision on a 0.98-acre site.

B. Location

The project site is located at 5349 Olive Drive; APN: 117-140-017.

C. Applicant

TS Civil Engineering
Terence J. Szewczyk
1776 Technology Drive
San Jose, CA 95110

Owner
Travis Allen
5349 Olive Drive
Concord, CA 94521
II. **Background**

On July 19, 2018, TS Civil Engineering filed a Pre-Submittal meeting request for a minor subdivision of three lots for single-family homes on a 0.98-acre site located at 5349 Olive Drive. On July 31, 2018, the applicant met with Planning, Engineering, Building, and Public Works Division to review development standards and planning permit requirements for the proposed subdivision.

On September 17, 2018, TS Civil Engineering filed a Tentative Parcel Map to subdivide a 0.98-acre parcel into three lots, a Minor Exception to allow an 18.75' rear yard setback where 25 feet is required for an existing single family home, and a Tree Removal permit to remove a protected tree for the proposed subdivision.

On October 3, 2018, a neighborhood meeting was held to allow the applicant to present preliminary plans for the proposed Tentative Parcel Map. Five neighbors attended the meeting who commented on concerns related to drainage, replacement of the north property line fence, removal of trees and construction impacts.

On October 16, 2018, the Development Advisory Committee (DAC) reviewed the application and deemed it incomplete.

On November 9, 2018, revised plans were submitted to address the incomplete issues. The revised plans were reviewed by the DAC and deemed complete on December 7, 2018.

III. **General Information**

A. **General Plan**

The General Plan designation is Low Density Residential (LDR).

B. **Zoning**

The project is zoned RS-10 (Single Family Residential; minimum 10,000 square foot lot area).

C. **CEQA Status**

Pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970, as amended, and pursuant to Section 15315 "Minor Land Divisions," the project is classified as a Class 15 Categorical Exemption, and pursuant to Section 15332 "In-Fill Development Projects," the project is classified as a Class 32 Categorical Exemption, as the project is 1) consistent with the City’s General Plan and zoning; 2) occurs within city limits on a project site no more than five acres substantially surrounded by urban uses; 3) the project has no value as habitat for endangered, rare or threatened species; 4) there will be no significant effects relating to traffic, noise, air quality or water quality; and 5) the site can be adequately served by all required utilities and public services therefore, no further environmental review is required.
D. Site Description and Surrounding Land Uses

The approximately 0.98-acre site is located on the north side of Olive Drive between Kirker Pass Road and Auralillia Lane. The relatively flat, 121-ft. x 355-ft. rectangular shaped lot is developed with a one-story single family home located approximately 80 feet from the street frontage. Site vegetation consist of a few shrubs, a two-inch scrub oak, a 36-inch palm tree, and two dozen orchard trees that include: apple, orange, blood orange, and pomegranate trees. The trees do not qualify as protected trees based on the size and species, except for the palm tree.

The site is surrounded by properties developed with single-family homes consistent with the Low Density Residential land use designation under the General Plan and RS-10 zoning for the area.

IV. Project Description & Analysis

The project proposes to subdivide a 0.98-acre site into three parcels as follows:

Table 1: Proposed Parcels (See footnote 1 and 2 below)

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Gross Lot Area¹ sq. ft.</th>
<th>Net Lot Area² sq. ft.</th>
<th>Lot Width</th>
<th>Lot Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>15,107</td>
<td>12,610</td>
<td>100 feet</td>
<td>124 feet</td>
</tr>
<tr>
<td>B</td>
<td>12,179</td>
<td>10,165</td>
<td>100.65 feet</td>
<td>99 feet</td>
</tr>
<tr>
<td>C</td>
<td>12,100</td>
<td>12,100</td>
<td>100 feet</td>
<td>121 feet</td>
</tr>
</tbody>
</table>

Parcel A will include the existing single-story 1,886 square foot home at its current location approximately 80-feet from the south (Olive Drive) property line. No changes are proposed to the existing home under the proposed subdivision. Development plans for Parcel B and C are not part of this review and will require submittal of a separate Design and Site Development application as indicated in the conditions of approval. The existing and future homes will be access from Olive Drive by a 20-foot wide access easement along the west side of the site.

A. General Plan

The site’s General Plan designation of Low Density Residential is intended for single-family residential uses at densities of 2.5 – 10 dwelling units per net acre. The proposed subdivision will result in a net area of 0.80 acres. The three single-family homes proposed by the project would amount to a density of 3.75 dwelling units per net acre. Therefore, the project complies with the intended use and density designated by the General Plan.

B. Zoning and Development Regulations

¹ “Gross Lot area” means the total area included within the lot lines of a lot, generally expressed in terms of square feet or acres
² “Net Lot area” means the area of a lot excluding alleys, vehicular easements, driveway and areas to be included in the future street rights-of-way as established by easement, dedication, or ordinance.
The RS-10 zoning allows detached single-family homes on lots with a minimum 10,000 square feet of area. As noted in Table 2 below, the proposed lots are in substantial conformance with RS-10 standards and applicable requirements under the Concord Development Code and Concord Municipal Code. A Minor Exception is requested to allow an exception to the rear yard setbacks for Parcel A where the existing home will remain.

Table 2: Proposed Project details

<table>
<thead>
<tr>
<th>Standards</th>
<th>Required/Allowed</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area</td>
<td>10,000 sq. ft.</td>
<td>12,100 - 15,107 sq. ft. (Gross)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12,100 - 12,610 sq. ft. (Net)</td>
</tr>
<tr>
<td>Density (net)</td>
<td>2.5 - 10 du./ac.</td>
<td>3.3 du./ac.</td>
</tr>
<tr>
<td>Lot width (minimum)</td>
<td>100 ft.</td>
<td>100 ft.- 100.65 ft.</td>
</tr>
<tr>
<td>Lot depth (minimum)</td>
<td>85 ft.</td>
<td>99 ft. - 124.85 ft.</td>
</tr>
<tr>
<td>Lot coverage (maximum)</td>
<td>30%</td>
<td>14.9% (Parcel A)</td>
</tr>
<tr>
<td>Setbacks (minimum)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front yard</td>
<td>20 ft.</td>
<td>80 ft. (Parcel A)</td>
</tr>
<tr>
<td>Side yard</td>
<td>5 and 10 ft.</td>
<td>5 and 7 ft. (Parcel A)</td>
</tr>
<tr>
<td>Rear yard</td>
<td>25 ft.</td>
<td>18.75*(Parcel A)</td>
</tr>
<tr>
<td>Driveway length (minimum)</td>
<td>20 ft.</td>
<td>55 ft. (Parcel A)</td>
</tr>
<tr>
<td>Building height (maximum)</td>
<td>30 ft.</td>
<td>16ft. (Parcel A)</td>
</tr>
<tr>
<td>Parking spaces (Existing home)</td>
<td>2 spaces, one of which must be covered</td>
<td>2 garage spaces (Parcel A)</td>
</tr>
</tbody>
</table>

*MInor Exception required to allow development standard deviation provided through table 18.425.020. See discussion titled “Minor Exception”

C. Site Planning/Circulation

Access to the proposed site is provided by a 20-foot wide shared access, utility, and emergency vehicle easement located along the western property line. The easement extends into a hammerhead turn around for emergency vehicles on Parcels B and C to comply with fire access requirements. A one-foot wide landscape planter is proposed adjacent to the west property line. It is anticipated that the new homes on Parcels B and C will be oriented towards the access easement.

The proposed project meets the required 20-foot wide access easement for the creation of two additional lots as identified in Section 18.160.090(5) of the Development Code.

D. Parcel Map

Per the Municipal Code Section 17.10.080(b) City Action, the Zoning Administrator may approve a tentative parcel map after making the following findings:
1. The proposed map is consistent with the general plan, any applicable specific plan, any policy or guideline implementing the general plan, the Development Code, and all other applicable provisions of the Municipal Code.

The project falls within the density allowed under the General Plan’s Low Density Residential designation and is consistent with RS-10 lot standards and setbacks for the existing home. Although the project seeks a Minor Exception related to the rear setback for Parcel A, as allowed by Development Code Section 18.425.020, this exception is considered minor and would result in a lot that is consistent with the General Plan and RS-10 zoning. The project does not fall within a specific plan area.

2. The site is physically suitable for the proposed type and density of development.

The site is suitable for the proposed development because lot area is large enough for three parcels, compatible with surrounding development and exiting utilities can serve the homes.

3. The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The proposed subdivision and related improvements would result in a low density residential infill development consistent with the General Plan and zoning. There are no unique physical or environmental site conditions that will be affected by the project, such as hillside grading or significant tree removal that would result in substantial environmental damage. The site is developed with a single-family home and does not contain fish or wildlife habitats.

4. The design of the subdivision or the type of improvements will not cause serious public health problems.

The design of the subdivision and its related improvements are typical of residential development and will not cause a threat to human health or the environment.

5. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. This is a private subdivision with no public access through or use of the property.

E. Minor Exception

A Minor Exception is required to allow an 18.75 foot rear yard setback where 25 feet is proposed between the existing home and new rear property line for Parcel A. The requested deviation to the rear setback requirement is allowed through the exceptions provided in table 18.425.020 of the Development Code.
A Minor Exception may be approved, with or without conditions of approval, based on all of the following findings:

A. No practical alternative exists that will result in a superior project with regard to its appearance, relationship with existing buildings and improvements, visibility, and impacts to neighboring properties including privacy, noise, view, and lighting impacts.

The Minor Exception is requested due to the placement of the existing house. Relocating or removing the home on Parcel A to be closer to the street in order to comply with rear setback would not be practical, and would not result in a superior alternative in regard to the home’s appearance, visibility, and relationship to Olive Drive and surrounding homes. Other alternatives, such as adjusting the proposed property line for Parcel A would result in the need for additional exceptions to lot area and lot width for Parcels B and C.

B. Other provisions of the development code will not be compromised.

Aside for the requested minor exception to the rear yard setback of Parcel A, the three lots will comply with provisions of the Development Code related to lot area, width, and depth. The proposed tentative parcel map shows a schematic footprint for Parcels B and C that complies with the setbacks of the development code. Compliance with all standards related to development of Parcels B and C will be reviewed as part of a separate Design and Site Development permit.

C. No negative impact will result.

The decrease in the rear yard setback for Parcel A will not result in a negative impact to the site or abutting Parcel B. The future residence on Parcel B can be placed as close as 5 feet to the shared property line between Parcels A and B. However, the plans illustrate that a typical single family home can easily be accommodated on the site with a 22-foot side yard setback along the shared property line. Additionally, the decrease in rear yard setback will not result in a negative impact to surrounding homes, particularly for the homes along Olive Drive, by allowing the existing home will maintain the current 80-foot front yard setback.

D. The project will otherwise comply with all applicable development code standards and requirements.

Aside for the requested minor exception to the rear yard setback of Parcel A, the three parcels will comply with all applicable development code standards and requirements.

F. Fencing

The project proposes a new six-foot tall redwood fence along the west property line to replace the existing chain-link and wood fence. The existing wood fence along the north and east elevations is proposed to remain. The conditions of approval require the wood fence along the north property (which is leaning) line to be replaced and the fence along the east property line to be repaired as needed.
G. Tree Removal

The project proposes to remove a 36-inch palm tree. The palm tree is located along the west side of the site, approximately 140-feet from the street frontage. It is proposed for removal because the location interferes with the driveway easement and the species is not desirable species. Although the palm tree is not a native tree for this area, it is considered a protected tree because it has a diameter of 36-inches as measured 54-inches above the ground. Zoning Administrator approval of a Tree Removal permit is required to remove the protected tree. The findings required for approving a Tree Removal permit are listed below followed by an explanation of how the project meets each finding.

1. The tree removal is consistent with the provisions of Development Code Chapter 18.310, Tree Preservation and Protection, and will not be detrimental to the public health, safety or welfare.

The removal of a palm tree is not significant in terms of aesthetic or functional benefits to surrounding properties or community. Therefore the removal of the tree would not be detrimental to the public, health, safety, or welfare.

2. The tree removal is consistent with the appropriate criteria in Sections 18.310.070(A) and (B).

Sections 18.310.070(A) and (B) list criteria to consider in evaluating a Tree Removal permit, including tree health, physical conditions unique to the site, and project alternatives to allow for tree preservation. An analysis of the proposed tree removal against these criteria is provided below.

18.310.070 (A) - Criteria for Evaluation

1. The extent of the proposed building or development activity that does not require the removal of protected trees, relative to the extent of the proposed building or development activity that requires such removal.

The only tree proposed for removal is the 36” palm tree. The other fruit trees on the site do not qualify as protected trees due to their size and/or species.

2. Design features of the project in comparison with other existing or approved projects in Concord that have (or had) protected trees on their sites.

The Development of Parcels B and C will require submittal of a fully designed landscape plan for the front yard. Additionally, a front yard landscape plan and installation of three 24” box replacement trees will be planted on Parcel A to enhance existing landscaping.
3. *Factors that are unique to the site, such as topographic constraints, lot configuration and physical limitations.*

The placement of the existing house and driveway constrains the location of the new access easement to the west side of the property. The palm tree would be impacted by the new paved roadway width and is therefore proposed for removal.

4. *The overall health and structural condition of the potentially impacted protected trees.*

The palm tree’s yellowing fronds (i.e. foliage/leaves) and its location immediately adjacent to the proposed roadway warrants removal.

5. *The approximate age of each protected tree compared with the average life span for each species.*

Palm trees can live 100 years although the life span depends of the soil and surrounding conditions. The age of the palm tree proposed for removal is not known.

6. *The number of healthy protected trees that the site will support, with and without the proposed development.*

The removal of one palm tree will not impact the number of healthy protected trees that the site will support. The site will benefit from the development as construction of the new homes will require a fully designed landscape plan that will include trees.

7. *The effect of tree removal on soil stability/erosion, particularly near watercourses or on steep slopes.*

The removal of the proposed tree will not affect soil stability/erosion as the entire site is flat and will be graded and prepared in order to construct the access road. Additionally, the site is not near any watercourse or steep slopes.

8. *Whether any alternatives would allow for the preservation of the protected tree.*

Preservation of the tree is not recommended due to its species and placement.

**18.310.070(B) – Criteria for Removal**

1. *The age of the protected tree with regard to whether removal would encourage healthier, more vigorous growth of younger similar trees in the area.*
The removal of the tree will not impact the placement of additional trees in the area as trees for the new development will not be planted immediately adjacent to the access easement.

2. The number of existing protected trees in the area and the effect of removal on the public health, safety, and general welfare of the area.

The removal of the existing protected tree will not affect the public health, safety, and general welfare of the area as the tree is currently in poor condition.

3. The potential for the protected tree to become a public nuisance or interfere with utility service(s) and existing structures.

The condition of the existing tree could easily become a nuisance given the proximity of the existing overhead lines to the upper fronds of the tree.

4. Present and future shade potential with regard to solar heating and cooling.

The canopy of the palm tree is approximately 23 feet from the house and does not provide direct shade to the existing single family home. The tree would not benefit the project in terms of potential shade and solar heating/cooling because its location does not provide shade to any structures.

3. Measures have been incorporated into the project or permit to mitigate impacts to remaining trees or to replace trees that have been removed.

The conditions of approval require three replacement trees to be provided on Parcel A for the removal of the palm tree. The replacement trees shall be a minimum of 24” box tree. The required replacement trees shall be planted prior to recoration of the final map.

V. Public Contact

Notification was mailed to all owners and occupants of property within three-hundred (300) feet of the subject parcel, and has been published in the East Bay Times, as required by the Concord Municipal Code. This item has also been posted at the Civic Center and at the subject site at least 10 days prior to the public hearing.

VI. Summary and Recommendations

Staff finds the project to be consistent with the General Plan, and the Development Code. Staff recommends the Zoning Administrator open the public hearing, consider the staff report and presentation by the applicant, the public testimony, and close the hearing upon completion of public testimony. Staff further recommends the Zoning Administrator adopt ZA Order No. 19-01 ZA with conditions of approval, approving the Olive Drive Minor Subdivision, Minor Exception, and Tree Removal.
Prepared by:  

Lorna Villa  
Associate Planner  
(925) 671-3176  
lorna.villa@cityofconcord.org

Exhibits:  
A - Zoning Administrator Order No. 19-01 with Draft Conditions of Approval (Attachment A)  
B - Applicant’s Project Statement date stamp received September 17, 2018  
C - Project Plans date stamp received January 23, 2019
ZA ORDER NO. 19-01 ZA

OFFICE OF THE ZONING ADMINISTRATOR
CITY OF CONCORD
APPROVING A TENTATIVE PARCEL MAP, MINOR EXCEPTION AND TREE REMOVAL (PL18330-PM, AA, RT)
Applicant: TS Civil Engineering
Owner: Travis Allen
Project Name: Olive Drive Minor Subdivision

WHEREAS, on September 17, 2018, Terence J. Szewczyk of TS Civil Engineering ("Applicant") on behalf of Travis Allen submitted a Tentative Parcel Map, Minor Exception and Tree Removal application to subdivide a 0.98 acre site into three lots and to allow a deviation to the rear yard setback of Parcel A for property located at 5349 Olive Drive, APN 117-140-017 (referred to herein as the "project"); and

WHEREAS, on November 9, 2018, the project was resubmitted; and

WHEREAS, on December 7, 2018, the application was deemed complete; and

WHEREAS, on January 23, 2019, revised plans were resubmitted; and

WHEREAS, the Zoning Administrator, after giving all public notices required by State law and the Concord Municipal Code, held a duly noticed public hearing on January 30, 2019, on the proposed Tentative Parcel Map, Minor Exception and Tree Removal application; and

WHEREAS, at such public hearing, the Zoning Administrator considered all oral and written information, testimony, and comments received during the public review process, including information received at the public hearing, the oral report from City staff, and the written report from City staff dated January 30, 2019, application materials, and exhibits presented; and

NOW, THEREFORE, BE IT RESOLVED that the Zoning Administrator does hereby approve the Olive Drive Minor Subdivision, Minor Exception, and Tree Removal (PL18330-PM, AA, RT) applications subject to the attached Conditions of Approval referenced in Attachment "A", based on the following findings:

RECITALS

The recitals above are true and correct and incorporated herein by reference. The recitals constitute findings in this matter, and together with the Project Information, serve as an adequate and
appropriate evidentiary basis for the findings and actions set forth in this Order.

**CEQA**

Pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970 (and as amended); the project is classified as Categorically Exempt pursuant to Section 15335 “Minor Land Divisions”, and pursuant to Section 15332 “In-Fill Development Projects,” the project is classified as a Class 32 Categorical Exemption, as the project is 1) consistent with the City’s General Plan and zoning; 2) occurs within city limits on a project site no more than five acres substantially surrounded by urban uses; 3) the project has no value as habitat for endangered, rare or threatened species; 4) there will be no significant effects relating to traffic, noise, air quality or water quality; and 5) the site can be adequately served by all required utilities and public services, therefore no further environmental review is required.

**Tentative Parcel Map**

1. The proposed subdivision is consistent with the general plan, policies and guidelines implementing the general plan, the Development Code, and all other applicable provisions of the Municipal Code. The project falls within the density allowed under the General Plan’s Low Density Residential designation, is consistent with General Plan and Development Code policies related to residential development, and the applicable provisions of the Municipal Code. Although the project seeks an exception related to the rear yard setback as allowed by the Development Code, this exception is considered minor and would not result in adverse impacts on surrounding properties; and

2. The site is physically suitable for the proposed type and density of development. Parcels B and C meet all of the development standards of the applicable zoning district including setbacks, lot width, and lot size. Although a Minor Exception is requested to allow deviations provided through table 18.425.020, to the rear yard setbacks for Parcel A, all other development standards are met, and new development will be reviewed prior to the issuance of permits to ensure compliance with the development standards outlined in the RS-10 District; and

3. The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The site is
a developed infill parcel and there are no known sensitive species or habitats; and

4. The design of the subdivision or the type of improvements will not cause serious public health problems. The design of the subdivision and its related improvements are typical of residential development and are not deemed a threat to human health or the environment; and

5. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large for access through or use of property within the proposed subdivision. This is a private subdivision with no public access through or use of the property.

Minor Exception

6. No practical alternative exists that will result in a superior project with regard to its appearance, relationship with existing buildings and improvements, visibility, and impacts to neighboring properties including privacy, noise, view, and lighting impacts; and

7. Other provisions of the development code will not be compromised. Other provisions of the Development Code for Parcels B and C meet all of the development standards regarding lot width, lot depth and lot area; and

8. No negative impact will result; the proposed subdivision includes a 20-foot wide access road to the new lots. Improvements along Olive Drive include a 5-foot dedication to accommodate new sidewalk, curb, and gutter for public benefit; and

9. The project will otherwise comply with all applicable development code standards and requirements.

Tree Removal

10. The tree removal is consistent with the provisions of the Development Chapter 18.310, Tree Preservation and Protection, and will not be detrimental to the public health, safety or welfare. The 36-inch diameter palm tree is not significant in terms of aesthetic or functional benefits to surrounding properties or community. Therefore the removal of the tree would not be detrimental to the public health, safety, or welfare.

11. The tree removal is consistent with the appropriate criteria in Section 18.210.070(A) and (B). Sections 18.310.070(A) and (B) list criteria to consider in evaluating a Tree Removal permit, including
tree health, physical conditions unique to the site, and project alternatives to allow for tree preservation. An analysis of the proposed tree removal against these criteria is provided below.

18.310.070 (A) - Criteria for Evaluation

1. The extent of the proposed building or development activity that does not require the removal of protected trees, relative to the extent of the proposed building or development activity that requires such removal.

The only tree proposed for removal is the 36" palm tree. The other fruit trees on the site do not qualify as protected trees due to their size and species.

2. Design features of the project in comparison with other existing or approved projects in Concord that have (or had) protected trees on their sites.

The Development of Parcels B and C will require submittal of a fully designed landscape plan for the front yard. Additionally, a front yard landscape plan and installation of three 24" box replacement trees is required on Parcel A to enhance existing landscaping.

3. Factors that are unique to the site, such as topographic constraints, lot configuration and physical limitations.

The placement of the existing house and driveway constrains the location of the new access easement to the west side of the property. The palm tree would be impacted by the new paved roadway width and is therefore proposed for removal.

4. The overall health and structural condition of the potentially impacted protected trees.

The palm tree's yellowing fronds and its location immediately adjacent to the proposed roadway warrants removal.

5. The approximate age of each protected tree compared with the average life span for each species.

Palm trees can live 100 years although the life span depends of the soil and surrounding conditions. The age of the palm tree proposed for removal is not known.

6. The number of healthy protected trees that the site will support, with and without the proposed development.

The removal of one palm tree will not impact the number of healthy protected trees that the site will support. The site will benefit from the development as
construction of the new homes will require a fully designed landscape plan that will include trees.

7. **The effect of tree removal on soil stability/erosion, particularly near watercourses or on steep slopes.**

The removal of the proposed tree will not affect soil stability/erosion as the entire site is flat and will be graded and prepared in order to construct the access road. Additionally, the site is not near any watercourse or steep slopes.

8. **Whether any alternatives would allow for the preservation of the protected tree.**

Preservation of the tree is not recommended due to its species and placement.

18.310.070(B) – **Criteria for Removal**

1. **The age of the protected tree with regard to whether removal would encourage healthier, more vigorous growth of younger similar trees in the area.**

The removal of the tree will not impact the placement of additional trees in the area as trees for the new development will not be planted immediately adjacent to the access easement.

2. **The number of existing protected trees in the area and the effect of removal on the public health, safety, and general welfare of the area.**

The removal of the existing protected tree will not affect the public health, safety, and general welfare of the area as the tree is currently is poor condition.

3. **The potential for the protected tree to become a public nuisance or interfere with utility service(s) and existing structures.**

The condition of the existing tree could easily become a nuisance given the proximity of the existing overhead lines to the upper fronds of the tress.

4. **Present and future shade potential with regard to solar heating and cooling.**

The canopy of the palm tree is approximately 23 feet from the house and does not provide direct shade to the existing single family home. The tree would not benefit the project in terms of potential shade and solar heating/cooling because its location does not provide shade to any structures.

5. **Measures have been incorporated into the project or permit to mitigate impact to remaining trees or to replace trees that have been removed.**

The conditions of approval require three replacement trees to be provided on Parcel A for the removal of one palm tree. The replacement trees shall be a
minimum of 24” box trees. The replacement trees shall be planted prior to recordation of the final map.

Based on the above findings, on Wednesday, January 30, 2019, the Zoning Administrator approves said application subject to the attached Draft Conditions of Approval, referenced as Attachment “A”.

Michael P. Cass
Zoning Administrator

Attachment “A” – Draft Conditions of Approval
ATTACHMENT “A"

DRAFT CONDITIONS OF APPROVAL

OLIVE DRIVE MINOR SUBDIVISION, MINOR EXCEPTION, AND TREE REMOVAL APPLICATION
PL18330-PM, AA, RT
APN: 117-140-017

PERMIT DESCRIPTION

1. These Conditions of Approval apply to and constitute the approval of Olive Drive Minor Subdivision (PL18330-PM) Tentative Parcel Map (MS XXX-19) consisting of three (3) individual parcels on a 0.98 acre lot site with the following characteristics:

<table>
<thead>
<tr>
<th>Lot</th>
<th>Gross Lot Area</th>
<th>Net Lot Area</th>
<th>Lot Width</th>
<th>Lot Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parcel A</td>
<td>15,107</td>
<td>12,610</td>
<td>100</td>
<td>124.85</td>
</tr>
<tr>
<td>Parcel B</td>
<td>12,179</td>
<td>10,165</td>
<td>100.65</td>
<td>99</td>
</tr>
<tr>
<td>Parcel C</td>
<td>12,100</td>
<td>12,100</td>
<td>100</td>
<td>121</td>
</tr>
</tbody>
</table>

The Tentative Parcel Map filed for the parcel map application will vest the following: Utilities, roadway improvements, development standards for the zoning district specified on the parcel map, fees noted in these conditions of approval, and minor exception deviations noted on the parcel map.

2. These Conditions apply to and constitute the approval of a Minor Exception (PL18330-AA) for an exception to the Development Standards for Parcel A to allow a rear yard setback of 18.75’ where 25 feet is required.

3. These Conditions apply to and constitute approval of Tree Removal Permit (PL18330-RT) for the removal of one 36” diameter Palm tree.

4. The following Exhibits, dated January 23, 2019, date stamp received by the City of Concord, January 23, 2019, are approved and shall be incorporated as Conditions of Approval, except as modified by these conditions of approval.

<table>
<thead>
<tr>
<th>Plan</th>
<th>Date Prepared</th>
<th>Prepared by</th>
<th>Sheet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cover Sheet</td>
<td>1/23/19</td>
<td>TS Civil Engineering</td>
<td>C1</td>
</tr>
<tr>
<td>Existing Conditions Plan</td>
<td>1/23/19</td>
<td>TS Civil Engineering</td>
<td>C2</td>
</tr>
<tr>
<td>Subdivision Plan</td>
<td>1/23/19</td>
<td>TS Civil Engineering</td>
<td>C3</td>
</tr>
</tbody>
</table>
GENERAL CONDITIONS

5. The Conditions are the responsibility of the applicant and all contractors. Compliance shall occur as specified in the Conditions or at one of the following project milestones:
   a) With the submittal of Grading, Improvement, Landscape, or Building Plans.
   b) Prior to issuance of Encroachment, Grading, or Building Permits, whichever comes first.
   c) Prior to construction.
   d) On-going during construction.
   e) Prior to approval of the Parcel Map.
   f) Prior to occupancy approval.

If timing for compliance is not specified, it shall be determined by the Divisions listed after the Condition. *(PLNG, BLDG, ENGR)*

6. Where a plan or further information is required, it is subject to review and approval by the applicable City Department/Division, as noted at the end of each Condition. The Division listed first shall be the primary contact for implementation of that Condition. *(PLNG, BLDG, ENGR)*

7. The project shall comply with all applicable Federal and State laws and Concord Municipal Code (CMC) requirements. *(PLNG, BLDG, ENGR)*

8. Minor modifications that are found to be in substantial conformance with the approved plans such as colors, plant materials, or minor lot line adjustments, may be approved administratively. Major modifications shall be approved by the applicable decision making body. *(PLNG, ENGR)*

9. The Conditions of Approval shall be listed on a plan sheet that is included in the construction plan set (Grading, Utility, Landscape and Building Plans). *(PLNG, ENGR)*

10. Two annotated copies of the Conditions of Approval specifying how each applicable condition has been satisfied, shall be submitted as follows:
   a) At the time Grading, Utility, Landscape, and/or Building Plans are submitted for plan check, whichever comes first.
   b) Prior to occupancy approval. *(PLNG, ENGR)*

11. Submit three signed copies, one notarized, of the City’s “Property Maintenance Agreement” (Shared Roadway Maintenance Agreement), to ensure on-going repair, replacement and maintenance of all exterior improvements including buildings, parking areas, private roads, walkways, landscaping, irrigation, signs, fences, walls, and other improvements, prior to issuance of Grading or Building permits, whichever comes first. *(PLNG)*

12. The project site and area surrounding the site shall be fenced and maintained in a weed and litter free condition for the period prior to construction. *(BLDG, PLNG)*
ARCHITECTURAL

13. Prior to issuance of a building permit for Parcels B and C, the developer or property owner shall submit an application to the Planning Division for Design and Site Development Review to be reviewed and approved by the Design Review Board. The Planning Division shall notify all property owners within 300 feet of the Design Review Board meeting. (PLNG)

14. Within 30 days of recording the Tentative Parcel Map the applicant shall demonstrate to the Planning Division that condition of approval #13 has been recorded against Parcels B and C. (PLNG)

LANDSCAPING

15. Prior to the issuance of a building permit for Parcels B and C, the developer or property owner shall submit a Landscape Plans prepared by a Landscape Architect, registered by the State of California, for review and approval by the Design Review Board. The Plan shall be drawn on or consistent with the Grading, Improvement, Utility, and Stormwater Plans prepared by the Civil Engineer, with the following information:

a. A legend that lists all plant species (Latin and common name), including size, quantities, spacing, and ultimate height and width.

b. Specifications and details for planting, including staking of trees and planting in bio-retention or other stormwater treatment areas. Plants for bio-retention facilities should be compatible with temporarily flooded conditions.

c. Utility and Grading information on the base map, screened back.

d. Trees (minimum size 24-inch box size) and shrubs (minimum 5-gallon container size; accent or sub-shrubs may be 1-gallon container size).

e. Root control barriers and four-inch perforated pipes for parking lot trees, street trees, and trees within six inches of any paved area or curb.

f. Six-inch vertical concrete curbs around landscaped areas.

g. A soils and plant laboratory analysis with recommendations for fertilization and mulching to be incorporated into the planting specifications.

h. A Layout/Hardscape Plan showing the location and details of all non-plant improvements, with dimensions and call outs, showing finished grades, hardscape/paving treatment, planter details, arbors, trellises, fences, walls, trash enclosures, and other features.

i. Details for street trees in accordance with City Standard Plan S-38, “Street Tree Planting Detail” if applicable. (PLNG, ENGR)

16. Prior to recording of the parcel map the developer or property owner shall submit a landscape plan for Parcel A prepared by a Landscape Architect, registered by the State of California, for review and approval by the Planning Division for landscaping within the front yard setback area of Parcel A.
17. Any vegetation damaged or destroyed by construction activities shall be replaced with like or comparable plant materials, and if damage occurs off-site, the replacement plants shall be approved by the property owner and the Planning Division, prior to occupancy approval. *(PLNG)*

18. Submit a fence plan to the Planning Division showing the location, design, height, and construction details for the new six-foot tall redwood fence that shall be installed along the north and west property lines. The plan shall also identify the repairs proposed for the existing fence along the east property line. The new fence shall be installed prior to recordation of the tentative parcel map. *(PLNG, ENGR)*

19. Fences and walls shall be a maximum height of three feet in required front yards and sight visibility triangles, and a maximum height of six feet on side and rear property lines. Fences off-set twenty four inches or greater from retaining walls shall be considered as separate structures. *(PLNG) CMC*

**TREE PRESERVATION**

20. The 36’ palm tree located on the west side of the property has been specifically designated for removal. *(PLNG)*

21. The removal of the palm tree shall be mitigated by planting three 24-inch box trees within the front yard of Parcel A. A landscape plan identifying the location, size, species, and irrigation details of the replacement trees shall be submitted to the Planning Division for review and approval prior to recordation of the tentative parcel map. The trees shall be installed prior to issuance of a site improvement permit for the new access road. *(PLNG)*

**LIGHTING**

22. Show all exterior lighting including: building fixtures, walkway lighting, parking lot lighting, and street lights on the Site, Utility, Landscape, and Building plans, prior to the issuance of any permits. The height and style of fixtures shall be shown. Energy-saving fixtures shall be used and noted on the plans. *(PLNG, ENGR, BLDG)*

23. Submit a Photometric plan for review and approval, showing the location of all light sources, streetlight spacing, intensity of luminance, and uniformity ratio, in accordance with the City’s specifications, with the Improvement, Utility, or Building Plans, whichever comes first. The photometric analysis shall be reviewed by Engineering Services Division for the determination of compliance. The photometric plan shall show zero spill over at the property lines where the new street lights will be installed. *(ENGR, TRANS, BLDG, PD, PLNG)*
STREET IMPROVEMENTS

24. Dedicate 5' ft. of right-of-way to the City along Olive Drive frontage, to accommodate for the new sidewalk, curb and gutter and street widening, prior to the recording of the Parcel Map or issuance of permits, whichever comes first. (ENGR)

25. Construct improvements along the frontage on Olive Drive including but not limited to: pavement replacement 2' feet wide measured perpendicular from fog line; pavement widening; wheel chair ramps; construction of concrete curb, gutter and sidewalk; ADA compliant concrete driveway approach; storm drainage system; conforms to existing improvements; and repair/replacement of deficient frontage improvements as determined by the City Engineer, prior to occupancy approval or Acceptance of Improvements. (ENGR)

26. Install slurry seal on Olive Drive from lip of gutter to street centerline, after completion of utility undergrounding and frontage improvements, prior to the Acceptance of Improvements. (ENGR)

27. Any trenching for underground utilities shall comply with the modified City Standard Detail S-17 for pavement repair and possible slurry placement. (ENGR)

28. Construct all public facilities in accordance with the current Americans with Disabilities Act (ADA), including driveways and curb ramps. (ENGR)

NOISE

29. A site-specific Noise study shall be prepared prior to issuance of a Building Permit to identify measures to meet the following criteria identified in the General Plan Noise Element:

a. Indoor noise levels not to exceed 45 dBA CNEL.
b. Private outdoor yard noise levels not to exceed 60 dBA CNEL. (PLNG)

30. An Acoustical Engineer shall review the Building Plans and develop specific Sound Transmission Class (STC) rating requirements to ensure interior noise levels meet the City standard. The Building Official shall verify that Sound Transmission Class (STC) ratings for residential windows and sound-rated wall construction comply with the interior noise limits, prior to the issuance of Building Permits. (PLNG, BLDG)

31. Noise producing site preparation and construction activities shall be limited to the days and hours as set forth below:
Monday through Friday 7:30 a.m. to 6:00 p.m.

Construction on Saturdays may be allowed only upon prior approval by the Building, Engineering, and Planning Divisions. No changes to these construction hours shall be allowed without the prior written consent of the City. A contact person shall be available during all construction activities in the evening and on weekends to respond to complaints and take actions necessary to reduce noise. (BLDG, ENGR, PLNG)

CONSTRUCTION ACTIVITIES

32. Contact Engineering Services to arrange for a Pre-Construction Meeting prior to issuance of Grading or Building Permits, whichever comes first. (ENGR)

33. Implement a dust and construction noise control plan. Submit the plan to Engineering Services for review and approval prior to issuance of the Grading Permit. (ENGR)

34. Construction equipment shall not be serviced at the site at any time. During construction no deliveries shall be made to the site and no delivery vehicles (including gasoline tanker trucks) shall enter the site between 6:00 p.m. and 7:30 a.m. on weekdays, and between 5:00 p.m. and 8:00 a.m. on weekends and federal holidays. Delivery vehicles shall have their engines turned off during unloading. (BLDG, ENGR, PLNG)

35. Employ the quietest construction equipment available, to muffle noise from construction equipment and keep all mufflers in good working order in accordance with State law. (BLDG, ENGR, PLNG)

36. Implement the following measures during construction:

c. Gather all construction debris on a regular basis and place them in a dumpster or other container that is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution.

d. Remove all dirt, gravel, rubbish, refuse, and green waste from the street pavement, and storm drains adjoining the project site. During wet weather, avoid driving vehicles off paved areas.

e. Broom sweep the public street pavement adjoining the project site on a daily basis. Caked-on mud or dirt shall be scraped from these areas before sweeping.

f. Install filter materials (e.g., sandbags and filter fabric) at the storm drain inlet nearest the downstream side of the site in order to preclude any debris or dirt from flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and to prevent street flooding. Dispose of filter particles in an approved trash receptacle.
g. Create a contained and covered area on the site for the storage of bags, cement, paints, flammable, oils, fertilizers, pesticides, or any other materials used on the site that have the potential for being discharged to the storm drain system by being windblown or in the event of a material spill.

h. Never clean items such as machinery, tools, and brushes or rinse containers in a street, gutter, or storm drain.

i. Ensure that concrete, gunite, plaster, or similar supply trucks do not discharge wash water into street gutters or drains. (ENGR, BLDG)

37. No equipment shall be started or staging area be established on the streets or the site before or after the specified hours of construction. (ENGR, BLDG)

38. Ensure that no debris or construction scrap material is placed on any adjoining lot, open space area, or street, and that any such material stored on an adjoining site shall be completely removed and the site cleaned, prior to occupancy approval. (ENGR, BLDG)

39. At no time shall campers, trailers, motor homes, or any other vehicle be used as living or sleeping quarters on the construction site unless authorized for site security. (ENGR, BLDG)

40. There shall be no parking of construction equipment or construction worker’s vehicles on residential streets at any time; all vehicles shall be maintained on-site. (ENGR, BLDG)

41. Portable toilets used during construction shall be kept as far as possible from adjacent properties and shall be emptied on a regular basis as necessary to prevent odor. (ENGR, BLDG)

42. Identify truck routes for the import or export of cut/fill material and/or construction debris for review and approval by the City Engineer prior to the issuance of permits. Repair any damage to City streets (private and public) caused by activity associated with this project. (ENGR)

43. In the event of the encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading and/or excavation shall cease, the find shall be left untouched, and the City Planning Division shall be immediately notified. The County Coroner and the Native American Heritage Commission shall also be notified and the procedures required in CEQA §15064.5 shall be followed. This requirement shall be noted on the Grading and Building Plans, prior to issuance of permits. (PLNG, ENGR, BLDG)

44. In the above event, retain a qualified professional archaeologist certified by the Register of Professional Archaeologists or paleontologist with a degree(s) in paleontology or geology, to evaluate and make recommendations as to disposition, mitigation and/or salvage. The recommendation shall be implemented before work may proceed. The applicant shall be responsible for all costs associated with the professional investigation and implementation. (PLNG, ENGR, BLDG)
CONSTRUCTION PLAN REVIEW/PRE-PERMIT REQUIREMENTS

45. Submit electronic copy of Preliminary Title Report, prepared within three months prior to plan submittal. (ENGR)

46. The proposed buildings are within the 100-year Floodplain Zone X. At a minimum, comply with the City of Concord Municipal Code requirements in establishing building finished floor elevations. The Grading Plan shall be referenced to the same elevation datum as the FEMA map, and shall show the finished floor elevations of the proposed buildings, 100-year Base Flood Elevations (BFE), and building setback line per CMC. (ENGR) CMC

47. The Improvement Plans shall show frontage improvements including but not limited to: drainage improvements, curb, gutter and sidewalk per City Standard Detail S-10, and driveway construction per City Standard Detail S-14 and repair/replacement of deficient frontage improvements as determined by the City Engineer. Any unusable existing driveway shall be replaced with standard curb, gutter, and sidewalk per S-10 above. Any trenching for utility installation shall comply with the modified City Standard Detail S-17 for pavement repair and possible slurry placement. (ENGR)

48. The Improvement Plans shall show plan and profile of all proposed street, drainage and sewer improvements and details for curb, gutter, sidewalk, and driveway construction. (ENGR)

49. Design improvements in accordance with the City Standard Plans S-34 and S-36 for sight distance, sidewalk, back up, fencing, geometrics at intersection and corner setback requirements, prior to the Acceptance of Improvements. Plans shall be subject to review and approval by Engineering Services. (ENGR)

50. Obtain an Encroachment Permit from the City prior to performing any work within the public right-of-way or public easements. (ENGR) CMC

SUBDIVISIONS/SITE DEVELOPMENT PLANS

51. The Tentative Map or preliminary Civil Plan prepared and received by the Planning Division for the planning application is not approved for construction. Submit Grading, Erosion Control, Improvement, and Stormwater Control Plans prepared by a Registered Civil Engineer to Engineering Services for review and approval prior to issuance of an Encroachment Permit and Grading Permit. (ENGR)

52. The Parcel Map shall be prepared by a qualified Civil Engineer or Licensed Land Surveyor and shall be subject to review and approval by Engineering Services. (ENGR)
53. If building occupancy occurs in phases, all physical improvements shall be in place prior to occupancy per an approved phasing plan. No individual unit/house shall be occupied until the adjoining area is made safe, accessible, provided with all reasonable services and amenities, and completely separated from any remaining construction-related activity. (BLDG, PLNG, ENGR)

GRADING/EROSION CONTROL/GEOLOGIC

54. Submit a geologic investigation to demonstrate that proposed buildings will not be constructed across active faults. A licensed geologist must prepare an evaluation and written report. If an active fault is found, a structure for human occupancy cannot be placed over the trace of the fault and must be set back from the fault (generally 50 feet). (ENGR)

55. Submit a Geotechnical Report with the Grading Plans and Building Plans, pursuant to CMC Chapter 16.10 that addresses and provides recommendations for grading, drainage, walls, building foundations, and pavement structural sections. (ENGR)

56. All grading shall require a Grading and Drainage Plan prepared by a registered Civil Engineer, a Soils Report prepared by a registered Geotechnical Engineer and receipt of a Grading Permit approved by the City Engineer. The Grading Plans and Soils Report shall require review by the City’s Geotechnical consultant with all costs to be borne by the applicant. (ENGR)

57. Contour grading techniques shall be employed throughout the project to achieve a more natural appearance, even where this will increase the amount of grading. Tops of cuts or toes of fills adjacent to existing public rights-of-way or easements shall be set back two feet minimum from said rights-of-way and easements. All cut-and-fill slopes in excess of five feet in height shall be rounded both horizontally and vertically. (ENGR)

58. Grading on adjacent properties shall require written approval from the affected property owners. (ENGR)

59. On-site finish grading work shall require drainage to be directed away from all building foundations at a minimum slope of 2 percent and a maximum slope of 20 percent toward approved drainage facilities or swales. Non-paved drainage swales shall have a minimum slope of 1 percent. (ENGR)

60. The project engineer shall inspect the finished grading and certify that it conforms to the compaction and elevations shown on the Grading Plan and Soils Report. (ENGR) CMC
61. At all times seasonally appropriate erosion control measures shall be implemented per plans approved by the City Engineer for all grading work at all times. Wet season measures shall be in place October through April at a minimum and when rain is otherwise predicted. At the time of approval of the Improvement and/or Grading Plans, an approved Erosion Control Plan prepared by a registered Civil Engineer shall be filed with the City Engineer. \(\textit{ENGR}\)

62. Submit Grading, Erosion Control, Improvement, and Stormwater Control Plans to Engineering Services for review and approval prior to the issuance of Grading, Encroachment, and Building Permits. Where applicable, evidence of compliance with the State General Construction Permit shall be provided. \(\textit{ENGR CMC}\)

63. Comply with the applicable provisions of the Grading Ordinance and the Storm Water Management and Discharge Control Ordinance. \(\textit{ENGR CMC}\)

64. Design improvements in accordance with the City Standard Plans S-34 and S-36 for sight distance, sidewalk, back up, fencing, geometrics at intersection, and corner setback requirements, prior to the acceptance of improvements. Plans shall be subject to review and approval by Engineering Services. \(\textit{ENGR CMC}\)

65. Designate the private streets as a required fire access lane thereby prohibiting parking on \textbf{(one or both sides)} of the street at all times. Signs and/or curb striping shall be installed according to the regulations established by the Contra Costa County Fire Protection District, the Concord Police Department, and Engineering Services. The signs shall include, the Police Department telephone number and a notification that a citation may be issued for the violation with vehicle removal at the owner’s expense. \(\textit{ENGR, CCCFPD}\)

\section*{Utilities}

66. New electrical transformers shall be placed underground or screened from view. \(\textit{PLNG, ENGR}\)

67. No above ground utility facilities/structures shall be located between the face of curb and back of sidewalk in the public right-of-way. \(\textit{ENGR}\)

68. All new utilities shall be constructed underground prior occupancy approval. \(\textit{ENGR}\)

69. Undergrounding of all existing overhead utilities along \textbf{Olive Drive} including aerial street crossings shall be required pursuant to CMC Section 13.10.130. All new utilities shall be constructed underground prior to issuance of occupancy approval. \(\textit{ENGR}\)
70. Comply with the City of Concord sewer design flow criteria and sewer construction requirements of the Central Contra Costa Sanitary District. *(ENGR)*

71. Submit to Engineering Services sanitary sewer calculations with the Improvement Plans stamped and signed by a Registered Civil Engineer for review. *(ENGR)*

72. Coordinate all facility adjustments, relocations, or additions to utility services with the appropriate utility companies. *(ENGR)*

73. Utility areas, electrical and gas meters shall be architecturally screened from view. *(PLNG)*

74. The location of all outdoor, above-ground and/or at-grade pad mounted transformers, utility equipment, electrical and gas meters, vaults, irrigation control boxes, back flow prevention devices, and the like shall be subject to approval by Planning and Engineering Services prior to the issuance of the Grading or Building Permit, whichever comes first. All such equipment shall be screened from view either architecturally or with landscaping and painted forest green or other approved color as approved by the Planning Division. Any changes to the approved Utility Plans, including location or screening details shall be reviewed and approved by the Planning Division. *(PLNG, ENGR)*

75. Provide cable companies a set of approved site diagrams in electronic format showing the joint trench layout for dry utilities for cable service to be provided to the site. *(ENGR)*

76. Connect all buildings to the sanitary sewer collection facilities of the City, and pay all current sewer connection and service fees prior to occupancy approval. *(ENGR) CMC*

**DRAINAGE/STORMWATER C.3 REQUIREMENTS**

77. Submit a Stormwater Control Plan (SWCP) prepared in accordance with the current Contra Costa Clean Water Program Stormwater C.3 Guidebook for review and approval by Engineering Services prior to issuance of any permit. The SWCP shall be prepared and certified by a Civil Engineer, registered in the State of California, demonstrating an understanding of the design of treatment measures for water quality and groundwater protection principles applicable to the project site. *(ENGR)*

78. Execute any agreements identified in the SWCP which pertain to the transfer of ownership, right-of-entry for inspection or abatement, and/or long-term maintenance of stormwater treatment or hydrograph modification BMPs, prior to occupancy approval. *(ENGR)*

79. Prevent site drainage from draining across sidewalks and driveways in a concentrated manner. *(ENGR)*
80. Install City of Concord “No Dumping, Drains to Creek” curb marker (English and Spanish version) on all catch basins. (ENGR)

81. Include erosion control/storm water quality measures on the final Grading Plan that specifically address measures to prevent soil, dirt, and debris from entering the storm drain system. Such measures may include, but are not limited to, hydroseeding, hay bales, sandbags, and siltation fences and are subject to review and approval of the City Engineer and Director of Building Inspection. If no Grading Plan is required, necessary erosion control/storm water quality measures shall be shown on the Site Plan submitted for an on-site permit, subject to review and approval of the Director of Building Inspection. The applicant shall be responsible for ensuring that the contractor is aware of and implements such measures. (ENGR, BLDG)

82. Sweep or vacuum the parking lot(s) a minimum of once a month and prevent the accumulation of litter and debris on the site. Corners and hard to reach areas shall be swept manually. If sidewalks and/or the parking lot are pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged into the storm drain. If any cleaning agent or degreaser is used, wash water shall be collected and discharged to the sanitary sewer, subject to the approval of the Central Contra Costa Sanitary District. (ENGR)

83. Ensure that the area surrounding the project such as the streets stay free and clear of construction debris such as silt, dirt, dust, and tracked mud coming in from or in any way related to project construction. Areas that are exposed for extended periods shall be watered regularly to reduce wind erosion. Paved areas and access roads shall be swept on a regular basis. All trucks shall be covered. (ENGR)

84. Clean all on-site stormdrain facilities a minimum of twice a year, once immediately prior to October 15 and once in January. Additional cleaning may be required if found necessary by the City Engineer/Director of Building Inspection. (ENGR, BLDG)

SOLID WASTE/RECYCLING

85. Comply with CMC Chapter 8.20, Solid Waste, Article III, Construction and Demolition (C&D) Waste Recycling, Sections 8.20.330 through 8.20.450, as applicable. (BLDG)

86. Design and implement City approved Source Reduction/Recycling Plan and demonstrate that interior and exterior refuse enclosures have been sufficiently designed and located for the storage and pick up of recyclable materials in accordance with CMC Section 8.20.260, Source reduction/recycling plans required, prior to issuance of a Building Permit. (PW)

87. Trash bins and refuse shall be stored within approved trash enclosure and the doors shall be closed at all times except when the bins are being emptied. (CE)
AGREEMENTS, FEES, BONDS

88. All fees noted below are the fees currently in effect as of April 25, 2017 per the Resolution of Fees and Charges. The fees and charges are reviewed annually as part of the budget public hearing process. Fee adjustments are based on a number of factors and vary depending on the type of fee:

Service-based fees are adjusted annually based on the San Francisco-San Jose-Oakland Area Consumer Price Index;

Improvement based fees (also called impact fees) are adjusted annually based on Engineering News Record Construction Cost Index (San Francisco Bay Area); and the (ENGR)

89. Provide a $1,000 cash deposit to the Planning Division to cover Condition Compliance, at the time of submittal of plans and documents to Engineering Services or the Building Division for plan check. Planning staff's time will be charged to this deposit for work performed to implement the Conditions of Approval, from the time of project approval to occupancy approval. The deposit will be placed in a refundable account and any unused funds will be returned upon completion. If the initial deposit is insufficient to cover actual costs, an additional deposit will be required. (PLNG)

90. Pay a Document Imaging fee to reimburse the City for implementation of the Document Imaging and File Retention programs, prior to issuance of Grading or Building Permits. (PLNG)

91. Enter into a Maintenance Agreement acceptable to the City prior to the approval of the Parcel Map, agreeing to provide for proper maintenance of the private street, storm drain outside of the public street right of way, street lights and other privately maintained improvements pursuant to CMC Section 17.35.190 “Streets”. (ENGR)

92. All improvement agreements required in connection with said plans shall be submitted to and approved by the City and other agencies having jurisdiction over said project prior to approval of the Parcel Map or issuance of the Building or Grading Permit, whichever comes first. (ENGR)

93. All required faithful performance bonds and labor materials bonds in a penal amount equal to 100 percent of the approved estimates of construction costs of improvements shall be submitted to and approved by the City and other agencies having jurisdiction prior to approval of the Parcel Map or issuance of the Building or Grading Permit, whichever comes first. (ENGR)

94. Site Development Permit Application:
j. Pay the Filing Fee at the time of submittal of permit application, improvement plans and supporting documents to City Engineering Services for review. Provide a restoration security before issuance of the Encroachment Permit. The security shall be in an amount sufficient to restore existing public improvements to a serviceable condition should development improvement activity cause damage. The amount of the security shall be determined by, and be in a form acceptable to the City Engineer.

k. Pay Grading Fees at submittal of a Grading Permit application. The current fee is determined based on cubic yardage of cut and fill combined.

l. Provide a $3,000 cash deposit for Erosion Control prior to issuance of Grading Permit. The deposit will be placed in a refundable account. Any unused funds will be returned at project completion. If the initial deposit is insufficient to cover actual costs, an additional deposit in an amount determined by the City Engineer will be required.

m. Pay the Improvement Plan review fee at the time of submittal of Improvement Plans and supporting documents to Engineering Services for review.

n. Pay the Construction Inspection fee prior to issuance of the Construction Permits. The current fee is based on estimated cost of constructing the required improvements to support the subdivision.

95. Parcel Map Application:

o. Pay the Parcel Map review fee at the time of submittal of Parcel Map documents to Engineering Services for review. Pay the Parcel Map filing fee.

p. Pay the Drainage Acreage Fee prior to approval of the final map. The current fee is $4,211.00/acre. (Drainage Area 50).

q. Pay the Parkland Fee prior to approval of the final map. The current fee is $16,961.00 per living unit for Low Density Designation.

r. Pay new parcel fee of $256.00 per parcel prior to the approval of the Parcel Map.

s. Provide a $1000 deposit for archiving permanent records prior to approval of the Parcel Map. Actual fees will be charged following completion of work.

96. Sewer Connection Permit:

 t. Pay Sanitary Sewer connection fee. The current sewer connection fee is $5,043.00 per single-family dwelling unit and shall be paid prior to approval of the Parcel Map.

u. Pay the current sewer service fee prior to approval of the Parcel Map. The current fee is $547.00 per year and is pro-rated by the month that connection is made. (ENGR)

97. Traffic Mitigation Fee:

Pay Offsite Street Improvement Program (OSIP) fee less possible fee credit. The OSIP fee shall be the fee in effect at the time of approval of the Parcel Map. The current OSIP Fee is $3,251.00 per single-family dwelling unit and shall be paid prior to Acceptance of the Parcel Map. (ENGR)
98. Comply with the requirements of the Contra Costa County Health Department for the abandonment of existing septic tanks or wells. *(ENGR) CMC*

99. Comply with the requirements of the Contra Costa County Fire Protection District. Submit complete sets of plans and specifications to the Fire District for review and approval at:

   Contra Costa County Fire Protection District
   
   2010 Geary Road
   
   Pleasant Hill CA 94523

   Plan review fees are assessed at that time. The City is not responsible for the collection of fees or enforcement of requirements imposed by the Fire District. *(CCCFPD)*

100. The applicant shall hold harmless the City, any agency or instrumentality thereof, and its/their respective agents, officers, officials, volunteers, and employees from and against any and all administrative and/or legal claims, actions or proceedings to attack, set aside, void, or annul approval of the project, including without limitation, any related application, permit, certification, condition, environmental determination, other approval, compliance or failure to comply with applicable laws and regulations, and/or processing methods ("Challenge"), with the exception of a Challenge arising out of the City's sole negligence or willful misconduct. The City shall have the right to pre-approve any material decision involved in defending any such Challenge, including settlement, and may (but is not obligated to) participate in the defense of any Challenge. If applicant does not promptly defend any Challenge, City may (but is not obligated to) defend such Challenge as City, in its sole discretion, determines appropriate, all at applicant's sole cost and expense. The applicant shall bear any and all losses, damages, injuries, liabilities, costs, and expenses (including, without limitation, staff time and in-house attorney's fees on a fully-loaded basis, attorney's fees for outside legal counsel, expert witness fees, court costs, and other litigation expenses) arising out of or related to any Challenge ("Costs"), whether incurred by Developer, City, or awarded to any third party, and shall pay to the City upon demand any Costs incurred by the City. No modification of the project, any application, permit, certification, condition, environmental determination, other approval, change in applicable laws and regulations, or change in processing methods shall alter the applicant's indemnity obligation. Pursuant to Government Code Section 66474.9, the applicant's indemnification obligation with respect to any claim, action or proceeding to attack, set aside, void, or annul an approval of City concerning a subdivision (tentative, parcel, or Parcel Map application or approval) shall be limited to actions brought within the time period provided for in Government Code Section 66499.37, unless such time period is extended for any reason. The City shall promptly notify applicant of any Challenge, and shall cooperate fully in the defense. *(CA)*

101. The permit and approval shall expire in two year(s) from the date on which they became effective unless construction permits are obtained and work has begun. All permits approved
concurrently with a Tentative Map shall be valid for the life of the map. The effective date of the permit and approval is **February 10, 2019. (PLNG)**

102. A request for a time extension from the expiration date of **February 10, 2021** can be considered if an application with required fee is filed at least 10 days before the original expiration date, otherwise a new application is required. A public hearing will be required for all extension applications, except those involving only Design Review. Extensions are not automatically approved. Changes in conditions, City policies, surrounding neighborhood, and other factors permitted to be considered under the law, may require, or permit denial. (PLNG)
September 11, 2018
Job No. 17-271

Lorna Villa – Associate Planner
City of Concord Planning Division
1950 Parkside Drive
Concord, CA 94519

Subject: Minor Exception – Rear Setback on 5349 Olive Drive, Concord, Parcel A
Project: 3 lot Subdivision Tentative Map

Dear Lorna:

Pursuant to the Minor Exception – Application Checklist, we are submitting written justification to support the following statements:

A. No practical alternative exists
   Given the immense area required for the Fire Department Shunt Turnaround, Parcels B and C must be oversized by 2100 SF each to attain the conforming 10,000 SF minimum lot size required by the RS-10 zoning.

Within this era of global warming, there is unfortunately no logical argument that can be made with local fire officials to compromise on the excessive impervious coverage and otherwise wasted land area. The statistical probability of needing a ladder truck at this suburban location is negligible and doesn’t justify this immense turnaround. Unfortunately, Fire Marshals are not schooled in probability and statistics and the application of a factor of safety. Consequently, the Fire Code exception process of “Alternate Means of Compliance” is not an option here to reduce the “shunt” design.

1) So having stated all of the above, it is clear that no practical alternative exists that will result in a superior project with regard to its appearance, relationship with existing buildings and improvements, visibility, and impacts to neighboring properties including privacy, noise, view, and lighting impacts (see discussion below).
2) No other provisions of the zoning or subdivision code will be compromised.

3) The reduction in setback will not result in a negative impact on the adjoining lot since the conceptual house footprint will be adequate to provide compensation for the 6.25’ setback reduction to 18.75’, where 25’ is required. The actual wall to wall separation of the two residences will be 43’ where only 30’ is required by code. The exception is internal to the subdivision and the existing residence on Parcel A is only one-story. Thus privacy will not be impacted given the large separation from the new two-story residence on Parcel B.

4) The project will otherwise comply with all applicable Development Code standards and requirements.

Given the oversized 15,107 SF area of Parcel A where only 10,000 SF is required, there are many opportunities to create rear yard type uses within the front area of the residence. That is not to say that the front setback will be compromised.

We look forward to your consideration.

Sincerely,

[Signature]

TS/CIVIL ENGINEERING, INC.
Terence J. Szewczyk, P.E. C35527
Principal Engineer
EXHIBIT C

TENTATIVE PARCEL MAP
5349 OLIVE DRIVE SUBDIVISION
MINOR SUBDIVISION (MS XXX-XX)
CITY OF CONCORD
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

GENERAL INFORMATION

DIMENSIONS: 210.2 x 210.2
CIVIL ENGINEER: TERRY J. ZIELINSKI
ASSOCIATE: J. S. ZIELINSKI
MARIO ZIELINSKI & ASSOCIATES INC.
BRENTWOOD, CA 94513

PROJECT ADDRESS:
5349 OLIVE DRIVE
CONCORD CA 94520

PARCEL SIZE:
GROSS: 43,018 SQ FT (3,989 AC)
NET: 30,398 SQ FT (2,765 AC)

EXISTING ZONING:
RS-10

GENERAL PLAN DESIGNATION:
LOW DENSITY RESIDENTIAL

NUMBER OF UNITS:
9 PARCELS

TV: 3.5 (UNLIVEABLE)

LOT SIZES:
MINIMUM:
10% (MINIMUM)

FEMA FLOOD DESIGNATION:
SITE NOT SUBJECT TO 100 YEAR FLOODING

LEGEND

PROPERTY LINE
PRIVATE DRIVE
PRIVATE ROAD
PRIVATE STAIRWAY
PRIVATE WALKWAY
PRIVATE FLIGHT OF STAIRS
PUBLIC ROAD
PUBLIC STAIRWAY
PUBLIC WALKWAY
PUBLIC FLIGHT OF STAIRS
BUILDING "NO BUILD"
BUILDING "BUILD"
BUILDING "FULL BUILD"
BUILDING "PART BUILD"
BUILDING "FLUSH AT GRADE"
BUILDING "FLUSH AT LEVEL"
BUILDING "FLUSH AT SLOPE"
BUILDING "FLUSH AT SLOPE"
BUILDING "10' TO 20'"
BUILDING "20' TO 30'"
BUILDING "30' TO 40'"
BUILDING "40' TO 50'"
BUILDING "50' TO 60'"
BUILDING "MORE THAN 60'"
BUILDING "FLUSH AT SLOPE"
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