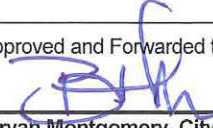




## STAFF REPORT

**Date:** January 10, 2017  
**To:** Bryan Montgomery, City Manager  
**From:** Joshua McMurray, Planning Manager

Approved and Forwarded to City Council:  
  
Bryan Montgomery, City Manager

**SUBJECT:** Request for Design Review (DR03-16) for a new facade and remodel of an existing 717 square foot building and a 705 sq. ft. addition to the rear of the building, Variance (VA 02-16) for a reduction in the rear yard setback on a 0.04-Acre Site Located at 3530 Main Street (APN'S: 037-160-023), and an Amendment to the Real Property Purchase Agreement dated June 28, 2016

### Summary

The applicant is requesting Design Review (DR 03-16) approval for a new facade and remodel of an existing 717 square foot building. The applicant is proposing a 705 sq. ft. addition to the rear of the building. The front of the building has already been removed in association with the Main Street Improvement Project. The applicant is requesting a Variance (VA 02-16) to place the rear addition at a 0 foot setback where 10 feet would be the minimum required setback. The applicant is also requesting an Amendment to the Real Property Purchase Agreement dated June 28, 2016 that would amend Section 3 of the agreement to allow for a new completion date of September 1, 2017. The project site is designated Commercial Downtown in the Oakley 2020 General Plan and zoned Downtown Specific Plan (SP-4). The Project is located at 3530 Main Street (APN: 037-160-023).

Staff recommends the City Council adopt the Resolution approving the Design Review (DR03-16) for a new facade and remodel of an existing 717 square foot building, Variance (VA 02-16) for a reduction in the rear yard setback on a 0.04-Acre Site Located at 3530 Main Street (APN'S: 037-160-023), and an Amendment to the Real Property Purchase Agreement dated June 28, 2016, as conditioned.

### Background

On June 28, 2016, the City Council approved a Real Property Purchase Agreement with the property owner of 3530 Main Street. The Agreement outlined the purchase of portions of the front and rear of the property. The front of the property was purchased for right of way improvements associated with the Main Street Realignment Project, which required the removal of a portion of the existing building. That removal has taken place in compliance with the terms of the agreement. The rear portion of the property is needed for the future train platform and kiss and ride area that has been discussed over the past few years. The

City is currently progressing with the Main Street Realignment Project and this Design Review and Variance application is consistent with the terms of the agreement.

One of the terms of the agreement, contained within Section 3, requires the applicant to install a new, permanent facade on the building within 180 days of August 31, 2016 (the approximate date in which the demolition and temporary facade installation was completed). That would require the new facade work to be completed by February 27, 2017. After speaking with the applicant it was evident that the facade of the building is intrinsically tied into the building renovation, as well as the proposed outdoor patio/seating area. It does make sense to push that original completion date back to tie the facade work completion with the completion of the project as a whole which will benefit the Applicant and the City equally. In light of this, the applicant had agreed to complete the work by September 1, 2017. Staff has attached an amended agreement to this report that reflects the new completion date as discussed.

On October 4, 2016, the applicant submitted an application for Design Review (DR 15-16) and Variance (VA 01-16). On November 2, 2016 the application was deemed complete and scheduled for a public hearing. The review and analysis of this Review application for the proposed project has been based upon the Oakley 2020 General Plan, the Downtown Specific Plan, the applicable development standards of the Zoning Ordinance and the Commercial Design Guidelines.

### **General Plan/Zoning Compliance**

The site is designated Commercial Downtown in the Oakley 2020 General Plan, and classified as SP-4 ([Downtown Specific Plan](#)) District on the City of Oakley Zoning Map. The SP-4 is further divided into three subareas, and the subject site is located within the "Downtown Core" area. Although this property was originally intended to be acquired and used as right-of-way for the Main Street Realignment as originally contemplated in the Downtown Specific Plan, the focus of this building now shifts to creating a tenant space that is viable and that will complement the future plaza area associated with the train platform project. As discussed in the analysis below, the project as proposed meets the spirit and intent of the DSP and is consistent with the community's vision as outlined in the DSP.

### **Project Description**

The project consists of a remodel of an existing 717 square foot building along with a 707 square foot addition to the rear of the building. The work includes a new brick facade and storefront, windows on the west and east walls of the building, a new canopy that extends into the right of way to the south and into City owned property to the west, an outdoor seating area defined by decorative railing and a new exterior bathroom. The property is approximately 0.04-acres in size.

The project consists of the following two entitlements:

### Design Review

The Design Review Ordinance has different levels of Design Review procedures for review and approval of a Design Review Permit. Oakley Municipal Code (OMC) section [9.1.1604\(c\)\(2\)\(i\)](#) requires that any new commercial structure be heard and approved by the Planning Commission<sup>1</sup>. The proposed new building and site development fit the criteria above and require Design Review.

### Variance

An application for a Variance Permit is an application to modify zoning regulations as they pertain to lot area, lot building coverage, average lot width, lot depth, side yard, rear yard, setback, auto parking space, building or structure height, or any other regulation pertaining to the size, dimension, shape or design of a lot, parcel, building or structure, or the placement of a building or structure on a lot or parcel. The OMC further requires that the following three [findings](#) be made when approving a Variance:

1. That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located;
2. That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district;
3. That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located.

### Analysis

#### Land Use Compatibility

The project site consists of one parcel that is square shaped and is approximately 0.04-acres. The properties are within the Downtown Specific Plan. The parcel is within the "Downtown Core" area, which encourages pedestrian oriented buildings with tenants that offer a variety of uses that support walkable downtowns. The property is bordered by the BNSF Railroad to the north, Main Street to the South and properties that are both designated Commercial Downtown and zoned Downtown Specific Plan to the east and west. The property to the east is currently undeveloped but is the location of the Nature Properties 2-story mixed-use project, while the property to the west is currently vacant and

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<sup>1</sup> City Council acts as the Planning Commission per Ordinance No. 06-09

City owned but is the site of a potential plaza area, which would be part of a larger train platform/park and ride project that is currently being studied.

This project would have several benefits to the community. The first benefit would be the overall aesthetics of Main Street when entering the Downtown from the east. This new building, along with the frontage improvements, will provide a brand new, high-quality “front door” to the Downtown as you take the bend at the Main Street and Second Street intersection when heading west. The new building will also provide a new, quality commercial tenant space. Lastly, the project would generate property and sales tax revenue for the City.

The applicant has not identified any tenants for the future building. There continues to be interest by prospective tenants in the downtown and Staff has committed to working with the applicant to find tenants for the new retail space.

#### Building/Site Design

The proposed building uses brick as its primary facade material to provide for a more historic architectural design in line with Oakley’s history. The facades use relief and articulation both along the facade and the roof line to further the theme of the project. Multiple awnings and window/storefront design with transom windows above the two storefront doors add to the overall look. The parapet roof along both the front and the rear of the building are intended to provide for a more historic look and feel as well, making the renovated building look like it has been there for years. A rendering of the South (view of building from Main Street), elevation for the project is provided below.



The remaining site improvements include a metal canopy that extends into the right-of-way to the south and the future plaza area to the west and east, a covered patio area with

decorative metal railing, an exterior bathroom and a trash enclosure. There are several conditions placed within the resolution that require further information to be submitted like detailed plans showing the type of decorative metal railing, and information about the trash enclosures and other site improvements prior to them being constructed.

Staff is proposing a few modifications to the plans for consideration and conditions in the attached resolution reflect these requested changes as follows:

- The north and south parapet walls are too thin and need to be built out too add some bulk, more in line with rest of the building.
- Revise the North elevation to include storefront doors and transom windows.
- The metal railing around the outdoor seating area shall be decorative and historic looking.
- The wood fence around the mechanical equipment needs to be replaced with a more permanent structure.
- The outdoor furniture shall have a more historic look.

The building and site improvements have been reviewed and they do comply with both the development regulations and the spirit and intent of the Downtown Specific Plan Design Guidelines.

#### Setback Variance

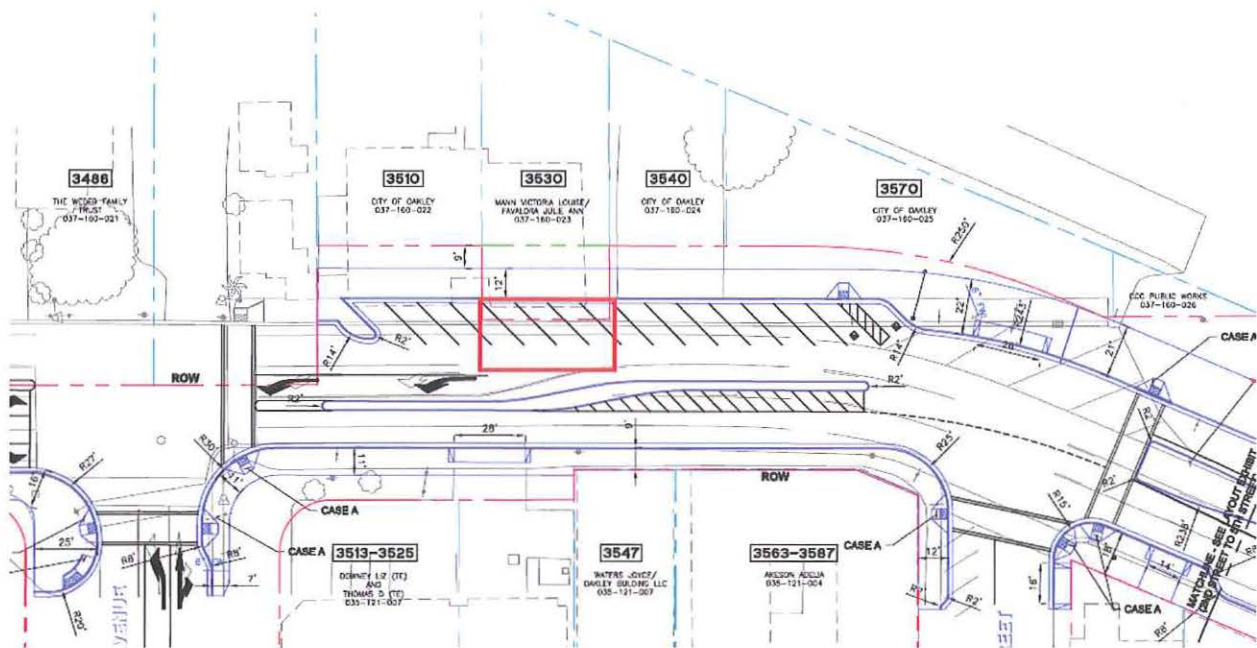
The applicant has requested a Variance for the rear yard setback of the project. The minimum rear yard setback required is a 10-foot setback, where the applicant is proposing a 0-foot setback. As mentioned earlier, the rear of the property was acquired by the City for a future kiss and ride to be used in conjunction with the train platform to the north of the project site. The attached site plan (Sheet A101 of the plan set) shows the rear of the building at the rear property line, with a 1 foot 6 inch overhang of the canopy as shown on the Roof Plan (Sheet A201 of the plan set).

Although the plans do not show anything behind the proposed addition at the rear of the property, a kiss and ride loop to be used in conjunction with the future train platform is anticipated in this location. The exhibit on the next page shows that area and also outlines the project site in red. The building will be situated somewhat in the middle of the plaza area. The proposed 0-foot setback is appropriate in this location, and although the building will be constructed at the rear property line there will still be a sidewalk and landscaping that surrounds the plaza area. This will ensure there is adequate room for pedestrian movement and vehicle visibility in and around the kiss and ride. Staff has provided complete findings justifying the variance in the attached Resolution.



### Circulation/Parking

The proposed project will be accessed off Main Street, using the newly constructed sidewalk that will be installed as part of the Main Street Alignment Project. The project does not have any off-street parking spaces proposed as the site is only 0.04-acres. The Downtown Specific Plan provides guidance and allows the City discretion on how to lessen parking standards in the downtown. Furthermore, the Core Area of the Downtown Specific Plan allows projects to use on-street parking to count towards the parking requirements of a specific project. In this case, the approximately 1,700 square foot building will require 4 parking spaces. The project frontage will be developed with 4 angled parking spaces as shown on the following page. The project complies with parking as outlined within the Downtown Specific Plan.



### **Citizen Planning Advisor Comments**

The Oakley Citizen Planning Advisors received copies of the Applicant's Plans via email on October 14, 2016. Per City Council Resolution 15-14, which established the Citizen Planning Advisors, Staff has attached the comments received from the Citizen Planning Advisors to the Staff Report. Although the process does not necessarily have Staff respond directly to each of the individual comments, Staff did review them and many of the comments are addressed in this report's "Analysis" section or the conditions of approval, and Staff is prepared to address them at the City Council's discretion.

### **Environmental Review**

This project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 – In-Fill Development Projects. No further environmental review is required for this project.

### **Findings**

Draft findings are included in the attached resolution. These findings address both the Design Review and Variance applications.

### **Recommendation**

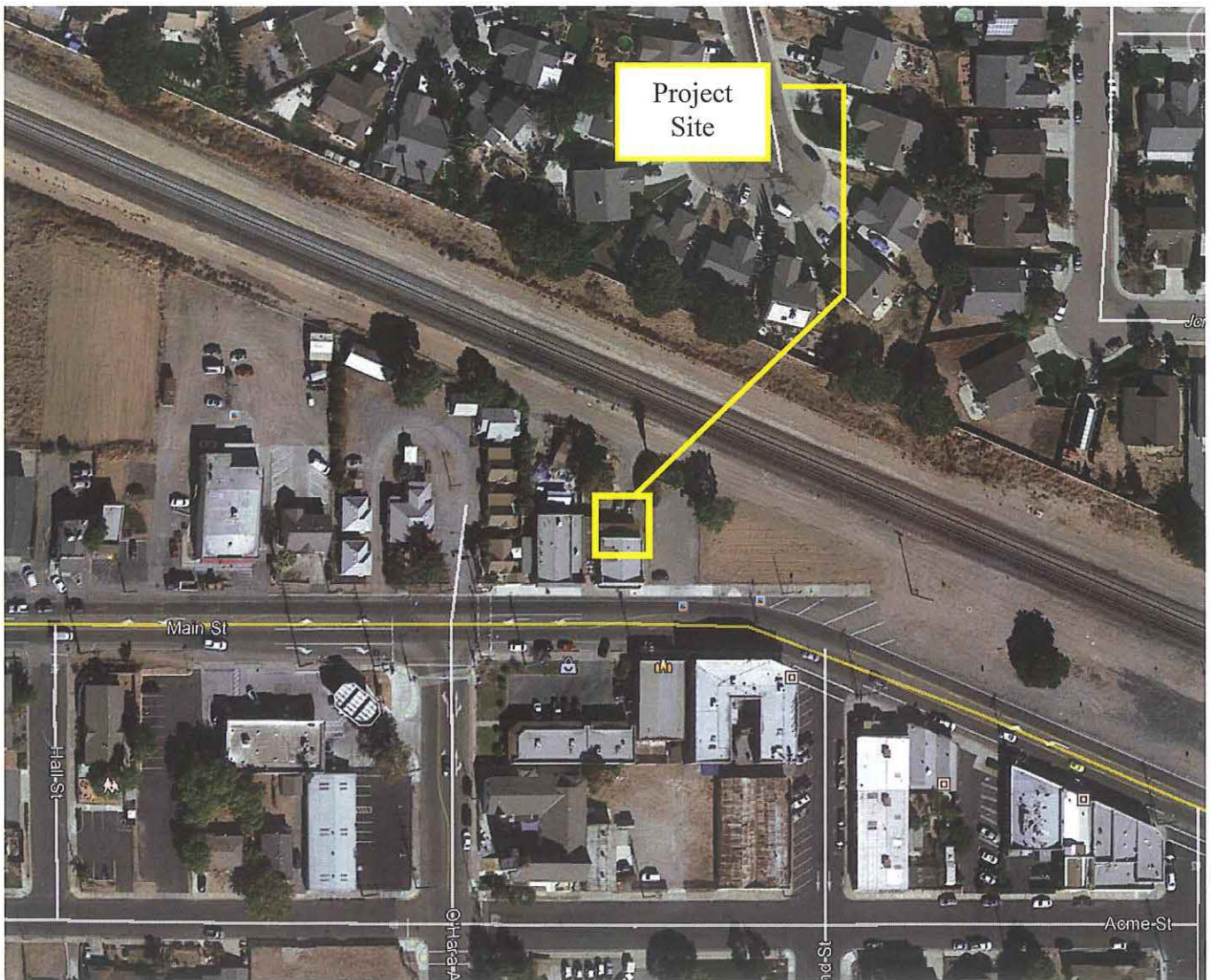
Staff recommends the City Council adopt the Resolution approving the Design Review (DR03-16) for a new facade and remodel of an existing 717 square foot building, Variance (VA 02-16) for a reduction in the rear yard setback on a 0.04-Acre Site Located at 3530 Main Street (APN'S: 037-160-023), and an Amendment to the Real Property Purchase Agreement dated June 28, 2016, as conditioned.

**Attachments**

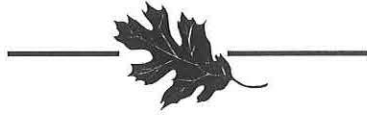
1. Vicinity Map
2. Public Hearing Notice
3. Plan Set
4. Proposed Resolution
5. Proposed Amendment to the Real Property Purchase Agreement dated June 28, 2016
6. Citizen Planning Advisor Comments



3530 Main Street  
Design Review (DR 03-16) and Variance (VA 02-16)  
Vicinity Map  
(APN's: 037-160-023)



# OAKLEY



## CALIFORNIA

City of Oakley  
3231 Main Street  
Oakley, CA 94561  
[www.oakleyinfo.com](http://www.oakleyinfo.com)

### NOTICE OF PUBLIC HEARING

Notice is hereby given that on **January 10, 2017** at 6:30 p.m., or as soon thereafter as the matter may be heard, the City Council of the City of Oakley will hold a Public Hearing at the Council Chambers located at 3231 Main Street, Oakley, CA 94561 for the purposes of considering an application for the **3530 Main Street Design Review (DR 03-16), Variance (VA 02-16) and an Amendment to the Real Property Purchase Agreement dated June 28, 2016**

**Project Name:** 3530 Main Street Design Review (DR 03-16) and Variance (VA 02-16)

**Project Location:** 3530 Main Street, APN 037-160-023

**Applicant:** Juli Del Barba-Favalora, 300 Brownstone Road, Oakley, CA 94561

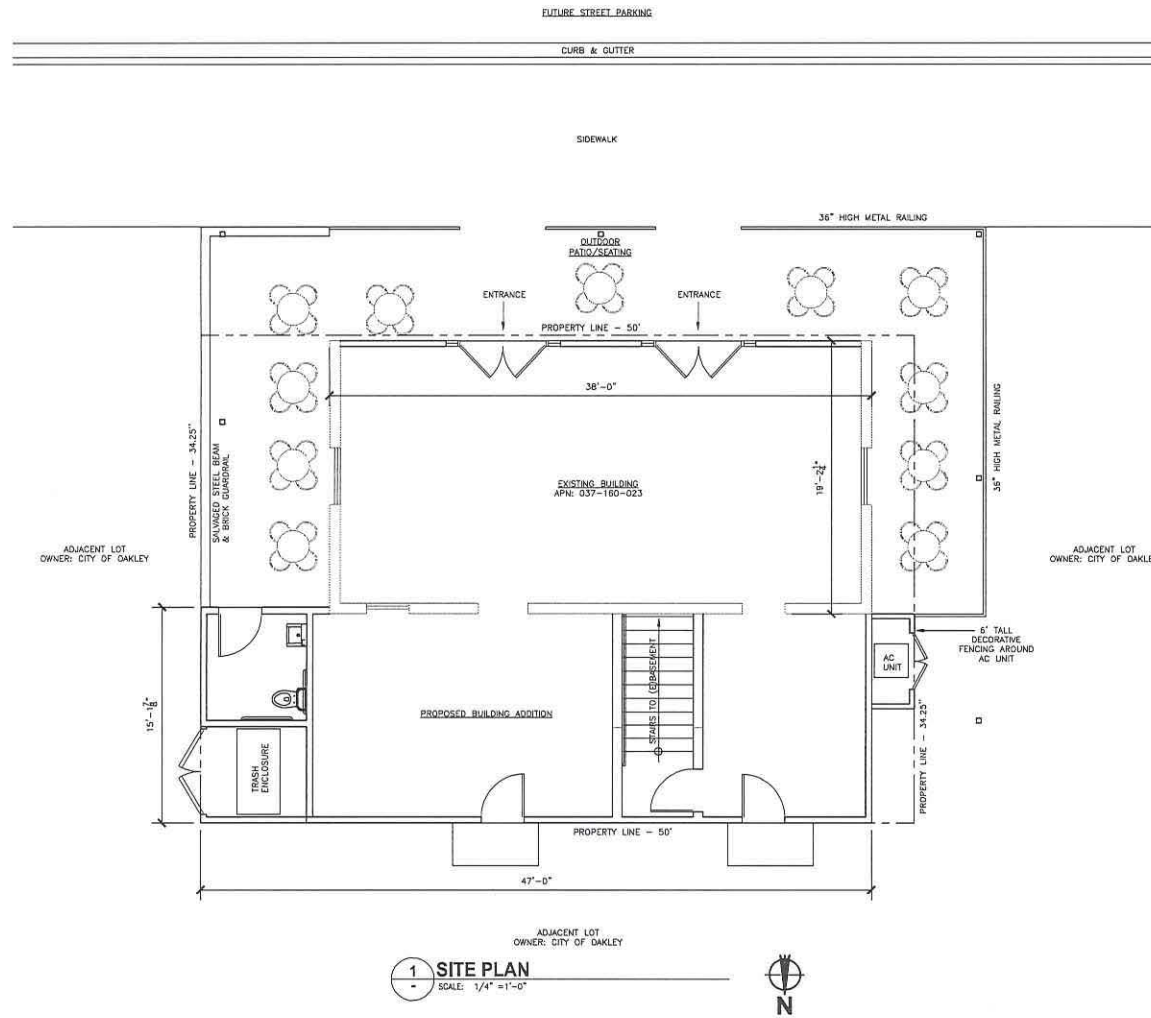
**Request:** This is a public hearing on a request for Design Review (DR 03-16) approval for a new façade and remodel of an existing 717 square foot building. The applicant is proposing a 705 sq. ft. addition to the rear of the building. The front of the building has already been removed in association with the Main Street Improvement Project. The applicant is requesting a Variance (VA 02-16) to place the rear addition at a 0 foot setback where 10 feet would be the minimum required setback. The applicant is also requesting an Amendment to the Real Property Purchase Agreement dated June 28, 2016. The project site is designated Commercial Downtown in the Oakley 2020 General Plan and zoned Downtown Specific Plan (SP-4). The Project is located at 3530 Main Street (APN: 037-160-023).

**CEQA:** This project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 – In-Fill Development Projects. No further environmental review is required for this project.

The Staff Report and its attachments will be available for public review, on or after **December 22, 2016** at City Hall, 3231 Main Street, Oakley, CA 94561 or on the City's website [www.oakleyinfo.com/city-meetings/](http://www.oakleyinfo.com/city-meetings/).

Interested persons are invited to submit written comments prior to and may testify at the public hearing. **Written comments may be submitted to Joshua McMurray, Planning Manager at the City of Oakley, 3231 Main Street, Oakley, CA 94561 or by email to [mcmurray@ci.oakley.ca.us](mailto:mcmurray@ci.oakley.ca.us).**

**NOTICE IS ALSO GIVEN** pursuant to Government Code Section 65009(b) that, if this matter is subsequently challenged in Court by you or others, you may be limited to raising only those issues you or someone else has raised at a Public Hearing described in this notice or in written correspondence delivered to the City of Oakley City Clerk at, or prior to, the Public Hearing.



**PROJECT DATA**

OWNER: JULI DEL BARBA-FAVALORA  
 300 BROWNSTONE ROAD  
 OAKLEY, CA 94661  
 (925) 813-5741

APN: 037-160-023

LOT SF: 1,712 SF

BUILDING SF: 1,422 SF

**APPLICABLE CODES**

CALIFORNIA BUILDING CODE, 2013 EDITION (ADOPTS THE INTERNATIONAL BUILDING CODE, 2012 EDITION WITH STATE AMENDMENTS)

CALIFORNIA RESIDENTIAL CODE, 2013 EDITION (ADOPTS THE INTERNATIONAL RESIDENTIAL CODE, 2012 EDITION WITH STATE AMENDMENTS)

CALIFORNIA PLUMBING CODE, 2013 EDITION (ADOPTS UNIFORM PLUMBING CODE, 2012 IAPMO EDITION WITH STATE AMENDMENTS)

CALIFORNIA MECHANICAL CODE, 2013 EDITION (ADOPTS THE UNIFORM MECHANICAL CODE, 2012 IAPMO EDITION WITH STATE AMENDMENTS)

CALIFORNIA ELECTRICAL CODE, 2013 EDITION (ADOPTS THE NATIONAL ELECTRICAL CODE, 2011 EDITION WITH STATE AMENDMENTS)

2013 CALIFORNIA REFERENCED STANDARDS CODE

2013 CALIFORNIA ENERGY CODE

2013 CALIFORNIA GREEN BUILDING STANDARDS CODE

CITY OF OAKLEY MUNICIPAL CODE

**VICINITY MAP**



**SHEET INDEX**

A101	SITE PLAN, PROJECT INFORMATION
A201	FLOOR & ROOF PLAN
A301	EXTERIOR ELEVATIONS
A302	EXTERIOR ELEVATIONS
A303	COLOR ELEVATIONS - MATERIAL BOARD

Design By: **Jeremy J. Ward**  
 134 Summit Court, Pittsburg, CA 94565  
 Telephony (925) 843-0204  
 Sign: *[Signature]*

**BUILDING RENOVATION**  
 3530 MAIN STREET  
 OAKLEY, CA

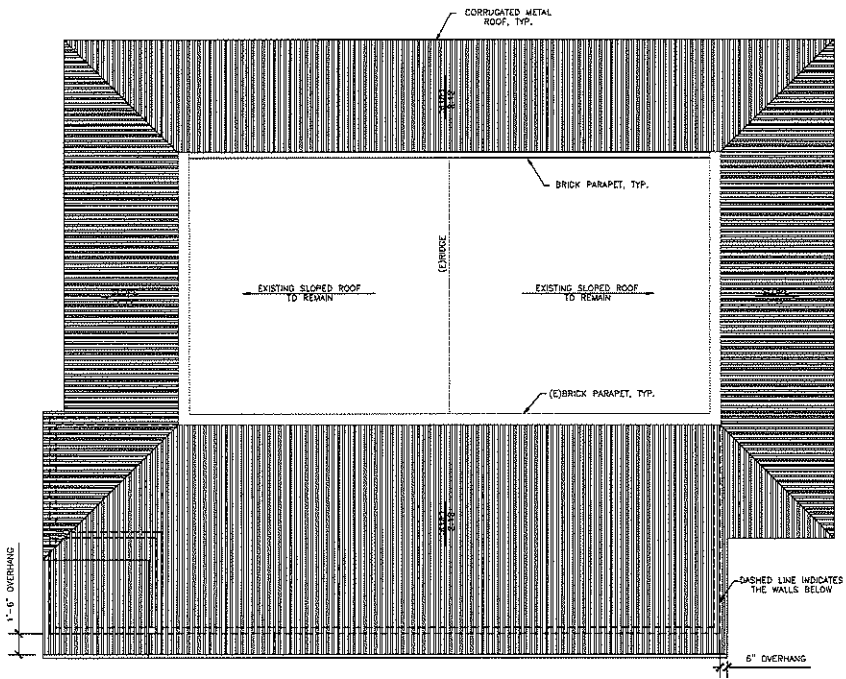
JW-2016-91

Rev	Date	By	Notes

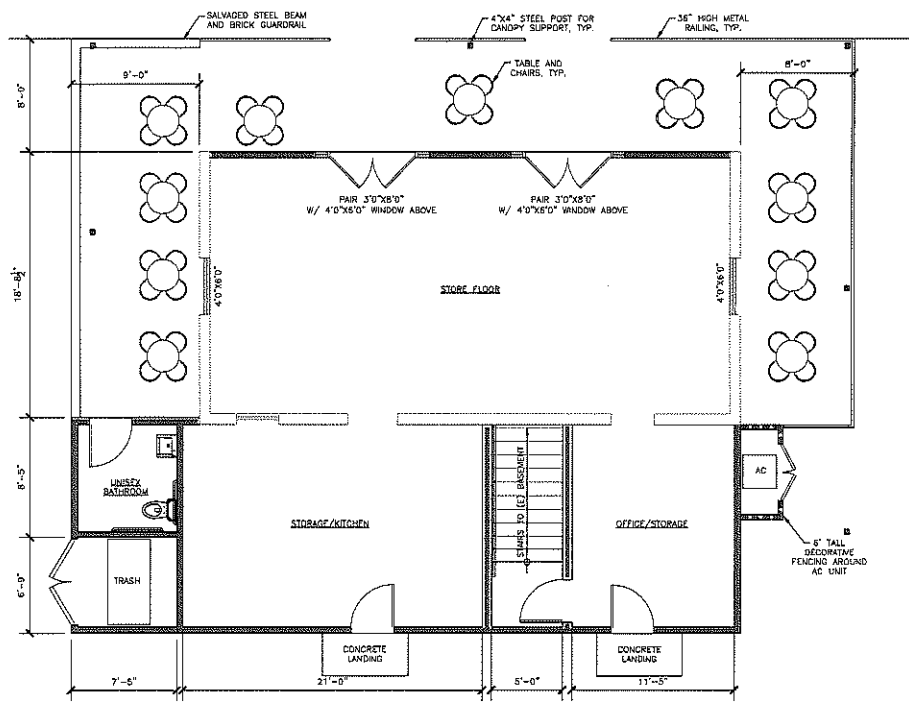
**SITE PLAN, PROJECT INFORMATION**

DATE: 9/26/16 SCALE: AS NOTED DRAWN BY: ILW

**A101**



2 ROOF PLAN  
SCALE: 1/4"=1'-0"



1 FLOOR PLAN  
SCALE: 1/4"=1'-0"

Design By: **Jeremy L. Ward**  
134 Sutter Court, Pittsburg, CA 94565  
Telephone (925) 843-0204  
Sign: *[Signature]*

**BUILDING RENOVATION**  
3530 MAIN STREET  
OAKLEY, CA

JW-2016-91

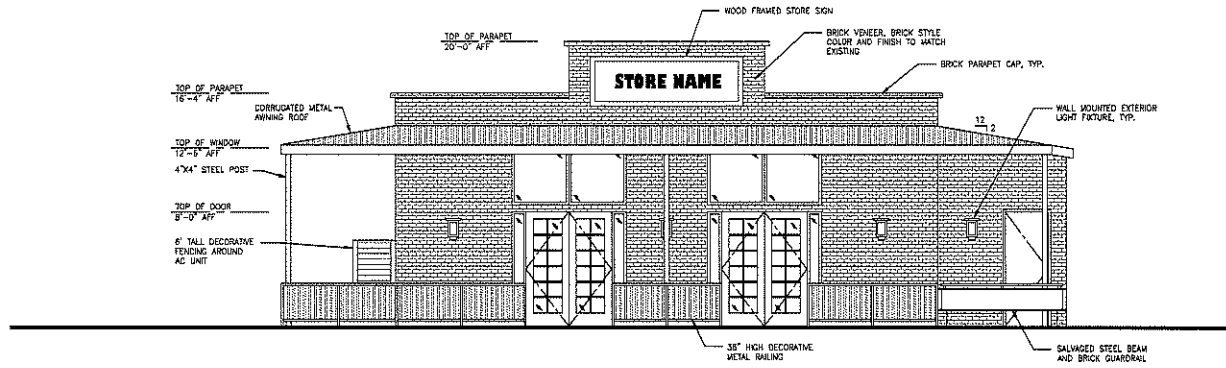
REVISIONS

NO.	DATE	DESCRIPTION

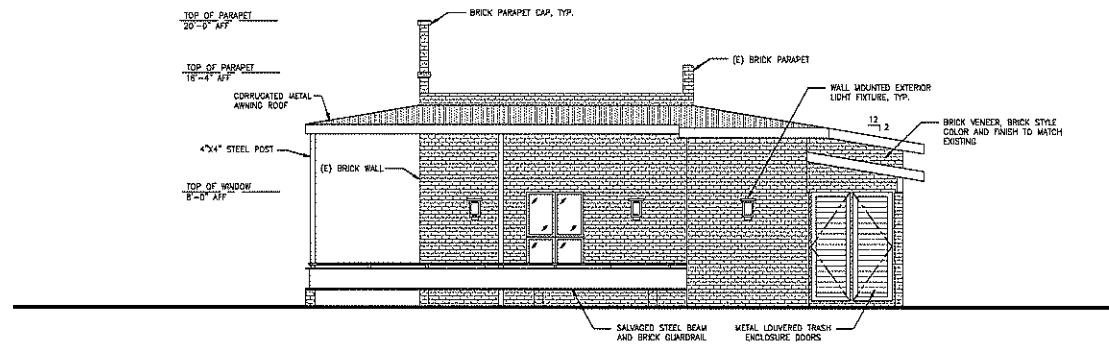
DATE: 12/26/16  
SCALE: AS NOTED  
DRAWN BY: LLW

**FLOOR & ROOF PLANS**

A201



1 FRONT ELEVATION - SOUTH  
SCALE: 1/4"=1'-0"



2 SIDE ELEVATION - EAST  
SCALE: 1/4"=1'-0"

Design By: **Jeremy J. Ward**  
134 Stuart Court, Pittsburg, CA 94565  
Telephone (925) 813-0204

Sign: *[Signature]*

**BUILDING RENOVATION**  
3530 MAIN STREET  
OAKLEY, CA

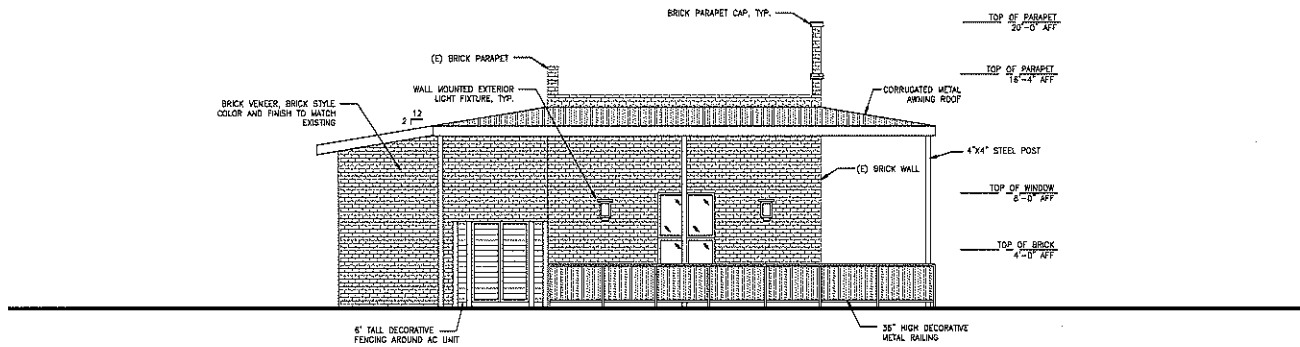
JW-2016-91

NO.	DATE	DESCRIPTION	BY

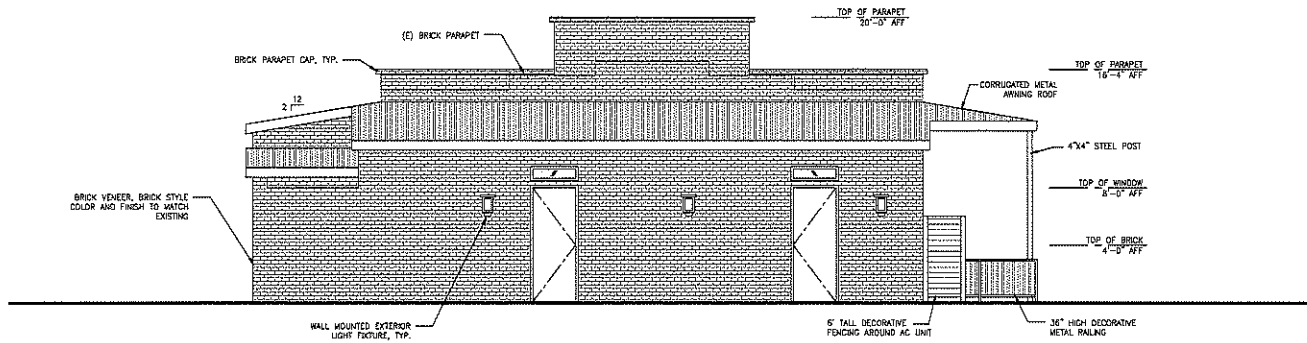
**EXTERIOR ELEVATIONS**

DATE: 9/26/14  
SCALE: AS NOTED  
DRAWN BY: LLW

A301



1 SIDE ELEVATION - WEST  
SCALE: 1/4"=1'-0"



2 REAR ELEVATION - NORTH  
SCALE: 1/4"=1'-0"

Design By: Jeremy L. Ward  
134 Summit Court, Folsom, CA 94565  
Telephone (916) 443-0294

Sign: *[Signature]*

BUILDING RENOVATION  
3530 MAIN STREET  
OAKLEY, CA

JW-2016-91

Rev	Date	By	Scale	Notes
0	5/20/16	Jeremy Ward		

EXTERIOR ELEVATIONS

DATE: 5/20/16 SCALE: AS NOTED DRAWN BY: J.L.W.

A302



WOOD FENCE,  
COLOR: CLEAR STAIN

3 SIDE ELEVATION - WEST  
SCALE: 1/4"=1'-0"



METAL DOOR & FRAME,  
COLOR: ANODIZED "BLACK"

1 FRONT ELEVATION - SOUTH  
SCALE: 1/4"=1'-0"



METAL DOOR & FRAME,  
COLOR: ANODIZED "BLACK"

WALL MOUNTED EXTERIOR  
LIGHT FIXTURE, COLOR:  
ANODIZED "BLACK"

36" HIGH DECORATIVE  
METAL RAILINGS, COLOR:  
ANODIZED "BLACK"

4 REAR ELEVATION - NORTH  
SCALE: 1/4"=1'-0"



SALVAGED STEEL BEAM  
COLOR: ORIGINAL "RED"

METAL LOUVERED TRASH  
ENCLOSURE DOORS, COLOR:  
ANODIZED "BLACK"

2 SIDE ELEVATION - EAST  
SCALE: 1/4"=1'-0"

Design By: Jeremy L. Ward  
134 Sutton Court, Pittsburg, CA 94565  
Telephone (925) 833-0204

Sign: *[Signature]*

BUILDING RENOVATION  
3530 MAIN STREET  
OAKLEY, CA

JW-2016-91

Rev	Date	Change	By

COLORED ELEVATIONS  
MATERIAL BOARD

DATE: 02/26/16  
SCALE: AS NOTED  
DRAWN BY: LLW

A303

## RESOLUTION NO. XX-17

**A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL MAKING FINDINGS AND APPROVING THE REQUEST FOR DESIGN REVIEW (DR03-16) FOR A NEW FACADE AND REMODEL OF AN EXISTING 717 SQUARE FOOT BUILDING AND A 705 SQ. FT. ADDITION TO THE REAR OF THE BUILDING, VARIANCE (VA 02-16) FOR A REDUCTION IN THE REAR YARD SETBACK ON A 0.04-ACRE SITE LOCATED AT 3530 MAIN STREET (APN'S: 037-160-023)**

**WHEREAS**, on October 4, 2016, Juli Del Barba-Favalora ("Applicant"), submitted an application for a requesting Design Review (DR 03-16) approval for a new facade and remodel of an existing 717 square foot building. The applicant is proposing a 705 sq. ft. addition to the rear of the building. The front of the building has already been removed in association with the Main Street Improvement Project. The applicant is requesting a Variance (VA 02-16) to place the rear addition at a 0 foot setback where 10 feet would be the minimum required setback. The 0.04-acre project site is designated Commercial Downtown in the Oakley 2020 General Plan and zoned Downtown Specific Plan (SP-4). The Project is located at 3530 Main Street (APN: 037-160-023). ("Project"); and

**WHEREAS**, on November 2, 2016, the project application was deemed complete per Government Code section 65920 et. seq; and

**WHEREAS**, the project is designated as *Commercial Downtown* in the Oakley 2020 General Plan, and zoned SP-4 (Downtown Specific Plan) District; and

**WHEREAS**, on or before December 21, 2016, the Notice of Public Hearing for the project was posted at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, outside the library at Freedom High School located at 1050 Neroly Road, and at the project site. The notice was also mailed out to all owners of property within a 500-foot radius of the subject property's boundaries, to outside agencies, and to parties requesting such notice; and

**WHEREAS**, the project is exempt from further environmental analysis under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15332, "Class 32 – In-Fill Development Projects"; and

**WHEREAS**, on January 10, 2017, the City Council opened the public hearing at which it received a report from City Staff, oral and written testimony from the public and applicant, and deliberated on the project. At the conclusion of its deliberations, the City Council took a vote and adopted this resolution to approve the project, as conditioned, and

**WHEREAS**, if any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of these Findings, or their



application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City; and

**WHEREAS**, these Findings are based upon the City's General Plan, the Downtown Specific Plan, the City's Zoning Ordinance, the City's Commercial and Industrial Design Guidelines, and the information submitted to the City Council at its January 10, 2017 meeting, both written and oral, including oral information provided by the applicant, as reflected in the minutes of such meetings, together with the documents contained in the file for the project (hereinafter the "Record"); and

**NOW, THEREFORE, BE IT RESOLVED THAT**, on the basis of the above findings of fact and the entire Record, the City Council makes the following additional findings in support of the approvals:

- A. In regards to the application requesting Design Review (DR 03-16) approval for a new facade and remodel of an existing 717 square foot building. The applicant is proposing a 705 sq. ft. addition to the rear of the building on a 0.04-acre parcel located at 3530 Main Street (APN: 037-160-023):
1. The design, appearance, and manner of development of all properties within the City have a substantial relationship with the characteristics of public and private places that make a community visually interesting, functional, and a source of community pride. The site for the proposed project is adequate in size and shape to accommodate the use in a manner complementary with the land and uses in the area in that the site is approximately 0.04-acres and the Downtown Specific Plan (SP-4) Zoning along with the Oakley Municipal Code allows for the proposed development with the approval of a Design Review application. The new building and site improvements will provide a significant aesthetic upgrade to the property and the surrounding area, and help facilitate the economic development activities of the City;
  2. Development within the City should be in a manner that is of high quality and allow for flexibility of unique solutions to enhance a project's design so that it can be successfully integrated into the existing fabric of the City, while preserving the City's human scale and sense of place.
  3. The quality of life and stabilization of property values are enhanced by project design that meets the criteria set forth in the Downtown Specific Plan, Oakley Design Guidelines, Zoning Ordinance, and General Plan, as applicable. The proposed project will be arranged, designed, constructed, operated, and maintained so as to be compatible with the intended character of the area and will not change the essential character of the area that is intended by the General Plan and the applicable zoning ordinances in that the proposed project for the new facade and remodel of an existing 717 square foot building and the 705 sq. ft. addition to the rear

of the building are permitted in the Downtown Specific Plan. This project would have several benefits to the community. The first benefit would be the overall aesthetics of Main Street when entering the Downtown from the east. This new building, along with the frontage improvements, will provide a brand new, high-quality "front door" to the Downtown as you take the bend at the Main Street and Second Street intersection when heading west. The new building will also provide a new, quality commercial tenant space. Lastly, the project would generate property and sales tax revenue for the City.

4. Design review is necessary to enhance project design, ensure quality development, maintain or enhance property values, and add to the visual character of the community and public health, safety, and welfare of Oakley residents. The proposed project provides for continued growth and orderly development of the community and is consistent with the various elements and objectives of the General Plan in that it provides a place for new businesses which will bring jobs to the City. The use of the site are a result of Oakley's zoning that allows for commercial lots that can accommodate this type of project; and

B. In regards to the application requesting a Variance (VA 02-16) to place the rear addition at a 0 foot setback where 10 feet would be the minimum required setback:

1. Approval of the variance would not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in that the existing lot only 0.04-acres in size. The minimum rear yard setback required is a 10-foot setback, where the applicant is proposing a 0-foot setback. As mentioned earlier, the rear of the property was acquired by the City for a future kiss and ride to be used in conjunction with the train platform to the north of the project site. The attached site plan (Sheet A101 of the plan set) shows the rear of the building at the rear property line, with a 1 foot 6 inch overhang of the canopy as shown on the Roof Plan (Sheet A201 of the plan set). Although the plans do not show anything behind the proposed addition at the rear of the property, a kiss and ride loop to be used in conjunction with the future train platform is anticipated in this location. The building will be situated somewhat in the middle of the plaza area. The proposed 0-foot setback is appropriate in this location, and although the building will be constructed at the rear property line there will still be a sidewalk and landscaping that surrounds the plaza area. This will ensure there is adequate room for pedestrian movement and vehicle visibility in and around the kiss and ride; and
2. There are special circumstances applicable to the subject property because of its size, shape, topography, location or surrounding that would

deprive the subject property of rights enjoyed by other properties in the vicinity if the strict application of the zoning regulations is required. The existing lot is 0.04-acres in size. The variance would not affect the overall appearance of the development, and in fact will allow for a building addition that will make the building more usable and marketable to high quality tenants which meets the spirit and intent of the Downtown Specific Plan; and

3. Approval of a variance would substantially meet the intent and purpose of the respective land use district in which the subject property is located in that the project will be developed in a manner consistent with the Downtown Specific Plan development standards and the improvements will provide a significant aesthetic upgrade to the property and the surrounding area. The project has taken into account several design elements that align with the spirit and intent of the Downtown Specific Plan in that they have proposed a project designed with a pedestrian scale in mind, making the building pedestrian friendly and adding the street front character that the DSP requires.

C. The project complies with Measure J Growth Management requirements.

**BE IT FURTHER RESOLVED THAT**, on the basis of the above Findings and the Record, the City Council approves of the Applicant's request for Design Review and a Variance, subject to the following Conditions of Approval:

### **Conditions of Approval**

Applicant shall comply with the requirements of the Oakley Municipal Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the application received by the Planning Division on **October 4, 2016, 2016**, as well as additional information acquired since that time and made part of the project file.

**THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT UNLESS OTHERWISE NOTED:**

### **Planning Division Conditions**

#### **General:**

1. This **Design Review (DR 03-16) and Variance (VA 02-16)** is approved, as shown on the plans, date stamped by the Planning Division on **October 4, 2016**, and as modified by the following conditions of approval, subject to final review and approval by the Community Development Director.

2. This approval for **Design Review (DR 03-16) and Variance (VA 02-16)** shall be effectuated within a period of two (2) months from the effective date of this resolution by pulling a building permit and if not effectuated shall expire on **March 10, 2017**. Prior to said expiration date, the applicant may apply for an extension of time pursuant to the provisions of the Zoning Code.
3. All construction drawings submitted for plan check shall be in substantial compliance with the plans presented to and approved by the City Council on **January 10, 2017**.
4. All conditions of approval shall be satisfied by the owner/developer. All costs associated with compliance with the conditions shall be at the owner/developer's expense.
5. Noise generating construction activities, including such things as power generators, shall be limited to the hours of 7:30 a.m. to 5:30 p.m. Monday through Friday, and shall be prohibited on City, State and Federal Holidays. The restrictions on allowed working days and times may be modified on prior written approval by the Community Development Director.
6. Should archaeological materials be uncovered during grading, trenching or other on- site excavation(s), earthwork within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society of Professional Archaeology (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s), if deemed necessary.
7. The applicant shall defend, indemnify, and hold harmless the city or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the city, its boards, commissions, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project. The city shall promptly notify the applicant of any such claim, action or proceeding. The city shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the city from participating in a defense of any claim, action, or proceeding if the city bears its own attorney's fees and costs, and the city defends the action in good faith.

**Site Plan:**

8. A lighting and photometric plan shall be submitted prior to the issuance of building permits. The minimum requirement shall be one foot of candle light within public parking areas and pedestrian pathways.
9. The trash enclosures shall match Oakley Disposal and City standards and shall provide adequate space to accommodate both trash and recycling. Also, trash enclosures shall be constructed with a roof to match the building design and materials, have metal gates, and when appropriate be surrounded by landscaping

with climbing vines on three sides per the review and approval of the Community Development Director.

10. Storage shall be contained inside the building. Storage containers are not allowed and pallets, boxes, cardboard etc. shall not be stored outside.

**Architecture:**

11. Roof-mounted equipment shall be architecturally screened from view.
12. The light fixtures on the commercial building shall be decorative fixtures per the review and approval of the Community Development Director.
13. Anti-graffiti techniques shall be used to the extent feasible on the exposed sides of the building (north, east and west).
14. The north and south parapet walls shall be built out too add some bulk to the parapets per the review and approval of the Community Development Director.
15. Revise the North elevation to include storefront doors and transom windows per the review and approval of the Community Development Director. It is understood that this requirement may happen at a later date in conjunction with the construction of the train platform plaza area.
16. The metal railing around the outdoor seating area shall be decorative and have a historic look and feel.
17. The wood fence around the mechanical equipment needs to be replaced with a more permanent structure per the review and approval of the Community Development Director.
18. The outdoor furniture shall be subject to the review and approval of the Community Development Director.

**Signage:**

19. The proposed signage shall meet the requirements of the Downtown Specific Plan and the City's Zoning Ordinance. All proposed signage shall be reviewed by the Planning and Building Divisions.
20. All signs shall be on permanent structure and of design and material to compliment the proposed commercial building. No signs on the premises shall be animated, rotating or flashing. No flags, pennants, banners, pinwheels or similar items shall be permitted on the premises, with the exception of a United States flag and California state flag.

21. Temporary signage for such things as special events and grand openings shall require a Temporary Use Permit per the review and approval of the Community Development Director.

**Waste Management Plan:**

22. The applicant shall submit a Waste Management Plan that complies with the City of Oakley Construction and Demolition Debris Recycling Ordinance.

***Building Division Conditions***

23. Plans shall meet the currently adopted Uniform Codes as well as the newest T-24 Energy Requirements per the State of California Energy Commission. To confirm the most recent adopted codes please contact the Building Division at (925) 625-7002.
24. An Automatic Life Safety Sprinkler System shall be required in all new construction pursuant to Ordinance 22-06. The Automatic Life Safety Sprinkler Systems in commercial and industrial buildings shall be designed and installed to the standards and requirements found in the most recent version of the NFPA (National Fire Protection Association).
25. Prior to requesting a Certificate of Occupancy from the Building Division all Conditions of Approval required to occupancy must be completed.

***Public Works and Engineering Conditions***

26. Applicant and City shall execute an easement agreement related to encroachments into City owned property and right of way adjacent to the proposed building additions and deck areas prior to issuance of a building permit.
27. Design all public and private pedestrian facilities in accordance with Title 24 (Handicap Access) and the Americans with Disabilities Act.
28. Comply with the requirements of the development impact fees listed below, in addition to those noticed by the City Council in Resolution 85-00 and 08-03. The applicant shall pay the fees in the amounts in effect at the time each building permit is issued.
  - A. Traffic Impact Fee (authorized by Ordinance No. 14-00, adopted by Resolution 49-03);
  - B. Regional Transportation Development Impact Mitigation Fee or any future alternative regional fee adopted by the City (authorized by Ordinance No. 14-00, adopted by Resolution No. 73-05);

- C. Park Land Dedication In-Lieu Fee (adopted by Ordinance No. 03-03);
- D. Park Impact Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 19-03);
- E. Public Facilities Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 18-03);
- F. Fire Facilities Impact Fee, collected by the City (adopted by Resolution No. 09-01);
- G. General Plan Fee (adopted by Resolution No. 53-03): and
- H. East Contra Costa County Habitat Conservation Plan Fee (adopted by Resolution No. 112-07 & 124-07).

The applicant should contact the City Engineer prior to constructing any public improvements to determine if any of the required improvements are eligible for credits or reimbursements against the applicable traffic benefit fees or from future developments.

- 29. The applicant shall be responsible for paying the County Recorder's fee for the Notice of Determination as well as the State Department of Fish and Game's filing fee.
- 30. Annex the property to the City of Oakley Community Facilities District No. 2015-2 (CFD) for funding the maintenance and operation costs associated with regional, community and neighborhood parks, public area landscaping, street lights and storm water facilities. The applicant shall apply for annexation and provide all information and documents required by the City to process the annexation. All costs of the annexation shall be paid by Applicant. The assessment shall be the per parcel annual amount set by CFD at the time of annexation. Annexation shall be completed prior to the City conducting a final inspection.
- 31. Participate in the provision of funding to maintain police services by voting to approve a special tax for the parcels created by this subdivision approval. The tax shall be the per parcel annual amount (with appropriate future cost of living adjustment) as established at the time of voting by the City Council. The election to provide for the tax shall be completed prior to filing of the final parcel map. Should the building be occupied prior to the City receiving the first disbursement from the tax bill, the project proponent shall be responsible for paying the pro-rata share for the remainder of the tax year prior to the City conducting a final inspection.
- 32. Applicant shall comply with the drainage fee requirements for Drainage Area 29D as adopted by the County Board of Supervisors. The applicant shall pay the fee

in effect at the time of building permit issuance. Certain improvements required by the Conditions of Approval for this development or the Code may be eligible for credit or reimbursement against the drainage area fee. The developer should contact the City Engineer to personally determine the extent of any credit or reimbursement for which they might be eligible. Any credit or reimbursements shall be determined prior to filing the final map or as approved by the Flood Control District.

### **ADVISORY NOTES**

**PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.**

- A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.
- B. The project will require a grading permit pursuant to the Ordinance Code.
- C. Comply with the requirements of the Ironhouse Sanitary District.
- D. Comply with the requirements of the East Contra Costa Fire Protection District.
- E. Comply with the requirements of the Diablo Water District.
- F. Comply with the requirements of the Building Inspection Department. Building permits are required prior to the construction of most structures.
- G. This project may be subject to the requirements of the Department of Fish and Game. It is the applicant's responsibility to notify the Department of Fish and Game, PO Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.
- H. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.



**PASSED AND ADOPTED** by the City Council of the City of Oakley at a meeting held on the 10<sup>th</sup> of January, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

\_\_\_\_\_  
Sue Higgins, Mayor                      Date

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk                      Date

## AMENDMENT TO THE REAL PROPERTY PURCHASE AGREEMENT

This Amendment is entered into by and between the City of Oakley, a municipal corporation ("CITY") and Frederick J. Del Barba and Shirley Ann Del Barba, Trustees of the Del Barba Family Trust U/D/T October 24, 1996, as to an undivided one-half interest; Juli Del Barba-Favalora, a married woman as her sole and separate property, as to an undivided one-half interest, as tenants in common (collectively, "OWNERS"), effective as of the \_\_\_ day of \_\_\_, 2017.

### RECITALS

- A. June 28, 2016, Buyer and Seller executed a Real Property Purchase Agreement for certain real property in the City of Oakley, Contra Costa County, California, as described in the attached agreement, (hereinafter referred to as the "Agreement"); and,
- B. The Owners now desire that the following amendment listed below be made to the Real Property Purchase Agreement; and,
- C. City and Owner now wish to amend the Agreement to amend the June 28, 2016 Real Property Purchase Agreement.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements contained herein, City and Owner mutually agree and covenant as follows:

- 1. Except as provided herein, the terms used in this Amendment shall have the same meaning as the same terms have in the Agreement.
- 2. The Agreement is hereby amended as follows:
  - a. Paragraph 3, is amended as follows:

"OWNERS shall be responsible, at their sole cost and expense, for removing the front part of the commercial building clear of the new right-of-way so that no part of the building will intrude into the "blue" parcel by not later than August 31, 2016. Within five (5) calendar days of the date of this Agreement, CITY shall mark the right-of-way line on the building. If the front part of the building is not removed by August 31, 2016, CITY shall have the right, without further compensation to OWNERS, to demolish the entire building. If the OWNERS do timely remove the front part of the building, they shall install, at their own cost and expense, a temporary cover for the front of the building for security and appearance not later than August 31, 2016. OWNERS shall continue to maintain the temporary front until a permanent facade is installed. OWNERS shall have a new permanent front installed on the building no later than September 1, 2017. If they do not do so, the unfinished building shall be subject to abatement by CITY which may include demolition. OWNERS shall be responsible for abatement costs. Owner shall also be responsible to pay for any damage to the newly constructed sidewalks and improvements along the property frontage during construction."

- 3. Except as provided herein, all other terms and provisions of the Agreement shall remain in

full force and effect.

**OWNERS:**

\_\_\_\_\_  
Frederick J. Del Barba

\_\_\_\_\_  
Shirley Ann Del Barba

\_\_\_\_\_  
Juli Del Barba-Favalora

**CITY:**

CITY OF OAKLEY

By: \_\_\_\_\_  
Bryan H. Montgomery, City Manager

**Citizen Planning Advisors  
Consolidated Comments  
3530 Main Street Design Review (DR 03-16) and Variance (VA 02-16)**

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Several of the five Citizen Planning Advisors (CPA) members submitted comments to Staff by email. Per the CPA guidelines, Staff has consolidated the comments and made them part of the project meeting packet. Comments are verbatim with the exception of formatting and corrected typos. Some comments and questions are similar in nature. Staff has included a section in the project staff report that addresses some of the comments. The staff report does not directly respond to each comment and question.

1. Since the owner wants to turn the building into some kind of eating establishment (coffee shop, café, etc.), I feel the plans should be accepted as they were presented to you. With the addition of an outside eating area that was included in the plans, the whole building will be an asset to the city of Oakley, especially since it will be located next to the train station. People using the train station would be able to get coffee or food to take on the train with them.
  
2. Since it will be visible from all sides, I'd suggest that the door styling could be improved for the rear entrances, possibly considering continuing some of the front face elements around the building if the property lines allow it. There's something about the roofline that's possibly trying to bring out a railroad station look, but I'm not sure that it really does a good job. The overall façade looks strange. I don't know how well this will blend into the downtown elements. Regarding the restice beam element on the patio area, I'd suggest getting some photos of this concept – again, I don't know how well this will blend into the rest of the area. Possibly consider some kind of railroad tie element instead? If wrought iron railing is going to wrap the patio, additional details should be reviewed, as this seems like one of the first details that will be noticed – it should be of high quality and not just a 'standard' rail design. I also did not see what kind of softscape elements will be included (bushes, mulch, etc), or will this be all hardscape (sidewalks and parking lot?)