

**theLab**

Phase III: West Block  
Revised Applicant Statement  
December 21, 2021

**OVERVIEW**

This applicant statement supports redevelopment of the west block of “theLab” campus, Phase III of a three-phase redevelopment project in West Berkeley. As the largest building within theLab, 787 Bancroft will contribute to the creation of a new hub of light manufacturing and research and development (R&D) uses in the neighborhood.

This project, and the previously-submitted Phase I and Phase II on the east block, will be tied together through landscaping, open space, and improvements to the public realm to create a new employment center in a campus-like environment along Fourth Street. A combination of increased open space, new construction, and enhancements to the public realm will improve the environment and support the development of businesses in the surrounding neighborhood.

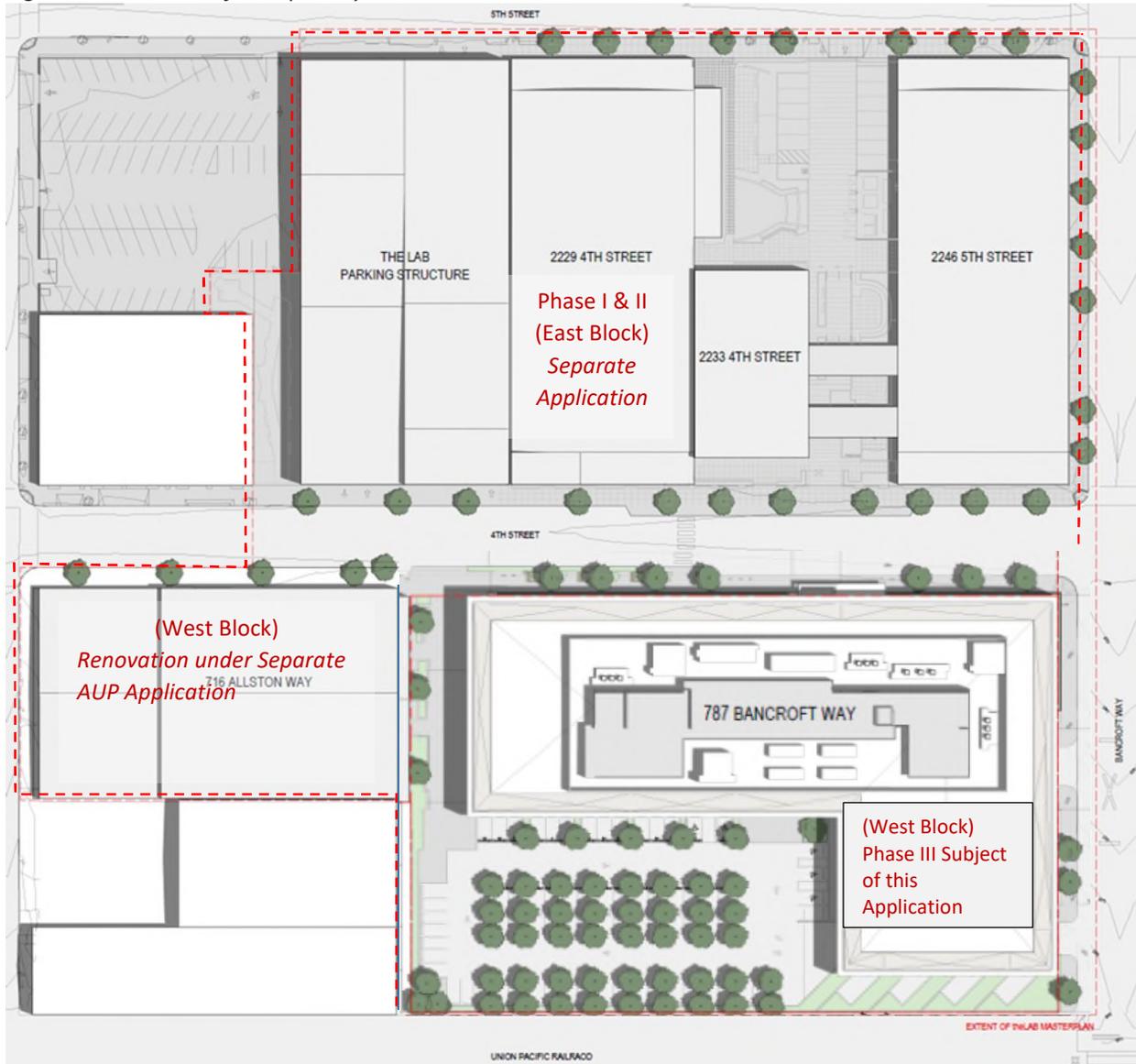
The three-phase project will redevelop the majority of the two blocks bounded by the Union Pacific Railroad (UPRR) tracks to the west, Allston Way to the north, Fifth Street to the east, and Bancroft Way to the south. Table 1 summarizes the proposals and status of each project phase. Phase III is the subject of this application, Phases I and II are separate applications. These areas are illustrated in Figure 1.



*Table 1: Proposed Phases of theLab*

<i>Phase</i>	<i>Proposal</i>	<i>Status</i>
<b>Phase I &amp; II (East Block)</b>	<ul style="list-style-type: none"> <li>• Tenant improvements (no use permits required)</li> <li>• Demolition of 4 Structures in the East Block</li> <li>• Construction of 415-stall parking garage</li> </ul>	Permit Under Review <b><i>Not further discussed in this application</i></b>
<b>Phase III (West Block)</b>	<ul style="list-style-type: none"> <li>• Demolition of six small buildings in the West Block</li> <li>• Construction of 787 Bancroft: 3-story/159,143 sq. ft. light manufacturing and R&amp;D space</li> </ul>	Proposed Herein <b><i>Subject of this application</i></b>
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Figure 1: Overview of Campus, by Phase



### Proposed 787 Bancroft Project

787 Bancroft would consist of 159,143 sq. ft. of light manufacturing and research & development space. The 3-story building would have frontages along Fourth Street and Bancroft Way. Parking is accommodated on-site in a surface lot and off-site, across the street, in the parking garage proposed as part of Phase II.

The building's L-shaped configuration and long horizontal proportions maintain the form and character of the surrounding blocks. With two major frontages, the building retains the street



walls on both Fourth Street and Bancroft Way while allowing for a generous public open space to the north of the building and public improvements along Fourth Street.

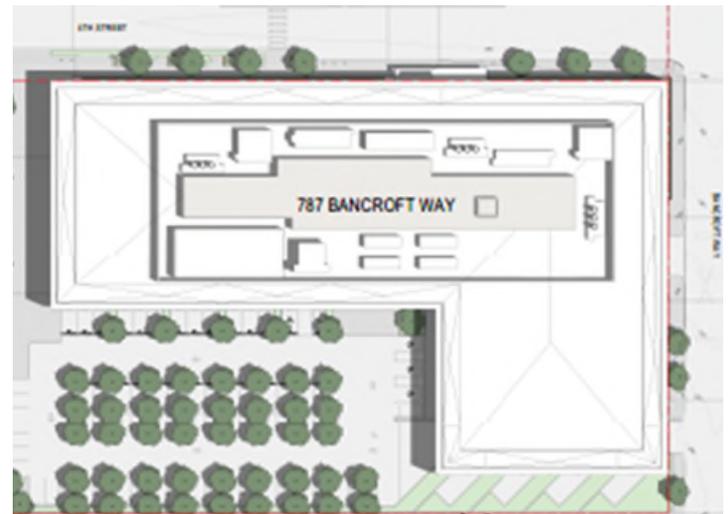
Under existing conditions there are limited setbacks between buildings, pedestrian movement is constrained, and there is limited pervious area and planting. The form and materiality of the building recall the simplicity and honesty of the industrial buildings in the neighborhood while making the block more welcoming and the pedestrian experience more enjoyable. A combination of concrete panels, wood soffits, glass, and metal trim complement the industrial character of the district, while providing some added warmth to the evolving neighborhood and its more pedestrian and bicycle orientation.

The ground floor is slightly recessed to increase the sidewalk width for pedestrian movement and additional planting and seating. The recessed ground level gives the building the same strong horizontal proportions as the previous building, despite being one story taller. The entry and address sign are near the midpoint of the Fourth Street façade, breaking up the long mass on the ground floor. The entry is aligned with a new open space across the street that ties all of the buildings of the Lab into a singular campus-like work environment.

The project is pursuing an all-electric design, consistent with the City's requirements, and per allowances in CEnC section 110.10(b)1B ("the solar zone shall be located on the roof or overhang of the building...located within 250 feet of the building or on covered parking installed with the building project and have a total area no less than 15 percent of the total roof area of the building excluding and skylight area.") the project will meet the photovoltaic requirement by installing solar panels on the top level of the parking garage, located at 2213 Fourth Street which is within 250 feet of the 787 Bancroft Way building. The proposed project will not include any natural gas infrastructure in compliance with BMC Chapter 12.80. The proposed project is designed to comply with the Berkeley Energy Code (BMC Chapter 19.36) and the Berkeley Green Code (BMC Chapter 19.37), including solar PV, electric vehicle charging, and low-carbon concrete requirements.

### Proposed Removal of 703 Bancroft Way

- The original proposal for the 703 Bancroft structure, as described in the previous Applicant Statement, was to attempt to maintain the structure on the site and use it as a canopy over surface parking. After extensive study and comments received from the City's Building & Safety Division as well as the Berkeley Fire Department, it is no longer feasible to keep the 703 Bancroft Structure on site. Comments received at the staff interdepartmental roundtable meeting, after the submittal of the Use Permit application, as well as at a subsequent meeting with staff from both Building and Safety and the Berkeley Fire Department, resulted in the following issues that impacted the feasibility of maintaining the building on site: Adjacency of 703 Bancroft to the internal North and West property lines would require fire rated walls at the building openings. This would negatively impact maintaining the historic character of the building by blocking views into the structure.



- The placement of the 703 Bancroft building and its proximity to the proposed 787 Bancroft building would create challenging conditions for fire truck access & would mandate fire rated walls on levels 1-3 of the West façade of the 787 Bancroft building, minimalizing glazing and the architectural character of the new building.
- The 703 Bancroft building would not be counted towards shade canopy in the surface parking lot. Removal would allow for the addition of 20+ trees to the surface parking lot, reducing the heat island effect and furthering the City's Climate Action Plan goals.

### Site Access and Parking

The pedestrian entrances to the site are located off Fourth Street. Vehicular access to the site is provided on Bancroft Way. This entry location reduces the curb cuts along Fourth Street to enhance the pedestrian experience and connectivity between buildings on either side of the street. A surface parking lot, with 75 spaces, is located on the interior of the parcel with access off of Bancroft Way.

Parking spaces to meet demand from the floor area proposed under this application will be provided in two locations: the 75-space surface lot described in the preceding paragraph and in a 415-space parking garage across Fourth Street (east block, under previous Phase II application) that serves the entire development.<sup>1</sup> This adjacent parcel is under the same ownership as the subject parcel and within 300 feet of the project site; as such, this off-site parking is permitted by right under BMC 23E.28.030.A. The MU-LI parking requirements per BMC Section 23E.80.080 will be met for each project phase, as summarized in Table 2.

Table 2: Summary of Proposed Parking, by Phase

Phase	Floor Area <sup>3</sup>	Parking Ratios (BMC 23E.80.080)	Parking, by Use	
			Required	Provided
I & II (East Block) <sup>1</sup>	74,812	Manufacturing: 1 sp./1,000 sf (<10,000 sf); 1 space/1,500 sq. ft. (10,000+ sf) R&D: 2 sp./1,000 sf	63	147
III (West Block) <sup>3</sup>	159,143		274	294
Total	233,955		337	441

<sup>1</sup> For informational purposes; not part of this application.

<sup>3</sup> Includes gross floor area for R&D and Light Manufacturing uses.

### Project Benefits

The project includes the following benefits to the West Berkeley community and the City of Berkeley:

- **Public Improvements:** A mid-block crosswalk improves walkability close to the Fourth Street retail corridor. A new public parklet and street trees provide opportunities for shade and public open space along Fourth Street. Extensive and coordinated streetscape improvements along both sides of Fourth Street, and on Bancroft Way. This will extend pedestrian improvements to the UPRR tracks which will connect with new pedestrian sidewalk access being built by the Berkeley Commons/600 Addison Street project. This will enable pedestrians to walk on the north side of Bancroft Way all the way to the Aquatic Park, which is not currently possible.

- **Public Art:** The project proposes to pay a fee in-lieu of \$164,905 to meet the Public Art Program requirement. The project sponsor typically locates additional public art on its project sites.
- **Green Building:** Photovoltaic solar panels on the top level of the parking garage located at 2213 Fourth Street, meeting the Berkeley REACH Code requirement for PV on 15% of the equivalent rooftop area of the new 787 Bancroft building , secure bike parking room (and showers) located on the ground floor of 787 Bancroft, and minimum of LEED Silver or equivalent.
- **Water Quality and Stormwater:** Bioretention systems will slow and clean stormwater replacing the existing impervious lot which does not manage or clean stormwater before it enters the Aquatic Park lagoon and San Francisco Bay. Drought-tolerant landscape plantings reduce water use and helps to sequester carbon.
- **Job Opportunities:** Job opportunities at a range of qualification levels as part of the light manufacturing and research & development campus, and short-term jobs during construction.
- **Affordable Housing, Childcare, and City Revenues:** The project would contribute over \$1.2 million to the Berkeley Unified School District and the City of Berkeley in the Affordable Housing Trust Fund and Child Care Mitigation Fees.

#### **SITE CONTEXT AND ZONING CONFORMANCE**

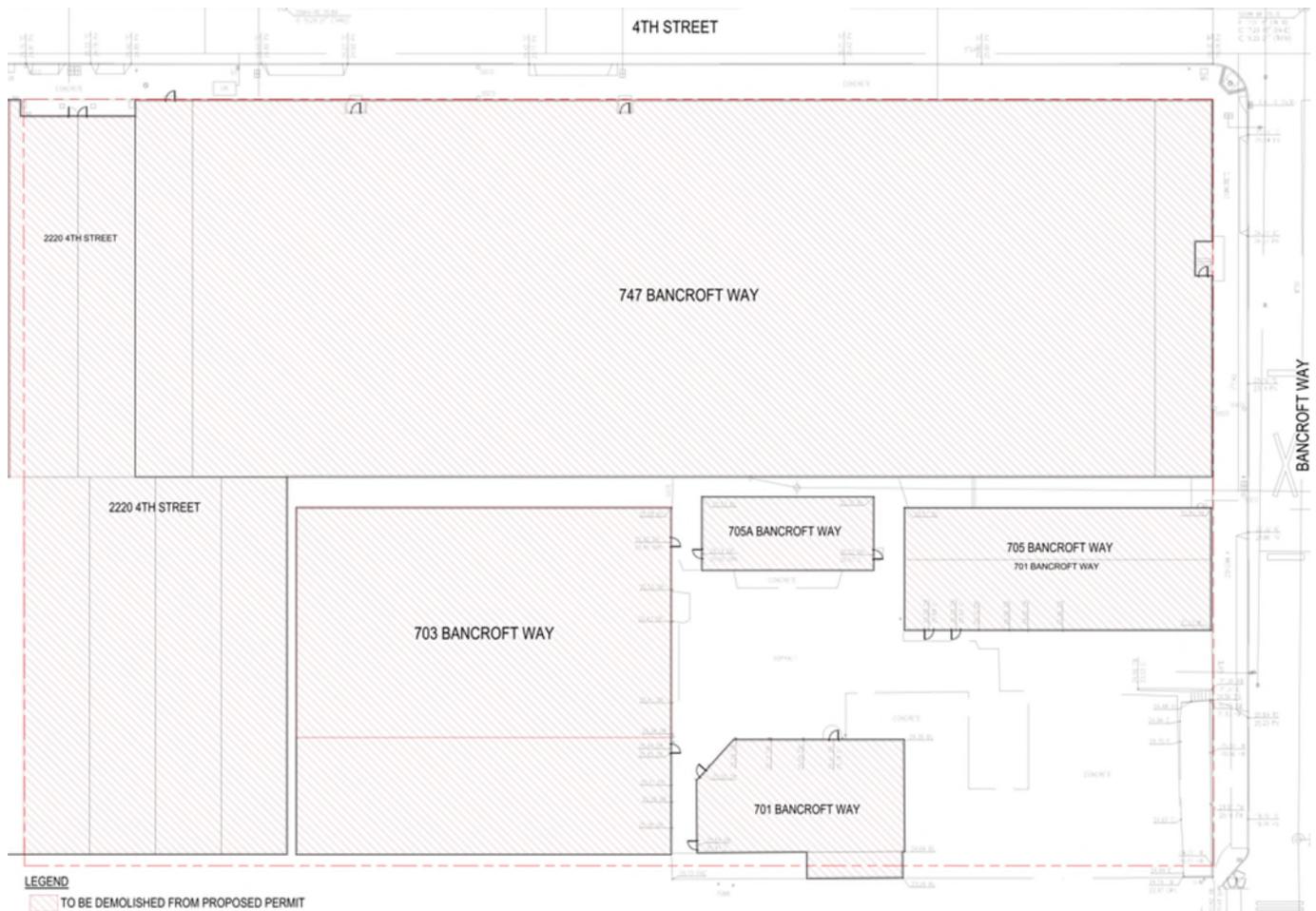
The project site is located in West Berkeley and is surrounded by the UPRR tracks to the west, Fourth Street to the east, and Bancroft Way to the south. The 96,966-sq. ft. parcel is designated as Manufacturing (M) in the General Plan and Mixed Use Light Industrial (MU-LI) in the Zoning Ordinance and the West Berkeley Area Plan. The site is surrounded by manufacturing and warehouse uses.

The project site is composed of three separate parcels which will be realigned to create two parcels through a lot line adjustment. The parcel is currently occupied by surface parking and six buildings, six of which are proposed to be demolished as part of this application, as shown in Table 3 and Figure 2.

*Table 3: Proposal for Existing Buildings on Subject Property*

<i>Building Address</i>	<i>Status</i>
747 Bancroft Way	Demolish
2220 4th Street	Demolish
701 Bancroft Way	Demolish
705 Bancroft Way	Demolish
705A Bancroft Way	Demolish
703 Bancroft Way	Demolish

Figure 2: Demolition Plan



### Buildings Proposed for Demolition

The buildings proposed for demolition have come to the end of their useful life and cannot be repurposed for the type of R&D and light manufacturing expected at the project site. The demolition of buildings at 2220 4<sup>th</sup> Street, 747, 701, 703, 705 and 705 A Bancroft Way will allow for construction of the proposed new 787 Bancroft building and its related improvements and surface parking lot.

### Protected Uses

Both the project site and the full extent of the three-phase project, include uses that are classified as “protected” under BMC Section 23E.80. This includes existing uses devoted to warehouse, light manufacturing, warehouse-based retail, which are required to be replaced on a 1:1 or lower basis depending on the proposed new use.

The project team has worked with City staff to determine the requirements for protected uses across the entire three-phase project. Upon completion of both phases, the project will replace all required protected uses on-site. As shown, this includes a total of 112,274. ft. of proposed protected uses across both phases. This includes protected use area proposed as part of this Phase III application: 33,347 sq. ft. devoted to light manufacturing uses in 787 Bancroft. In order to meet the letter of the City’s zoning regulations, which require replacement at the time of demolition, the project is requesting a temporary variance from the protected use requirement during the course of construction to allow the new protected floor area to be built and immediately replaced upon occupancy.

The plan set includes floor plans that indicate where this light manufacturing space will be located at time of initial lease up. Our team is requesting flexibility in where in the building the protected light manufacturing space is located at the initial lease up of the new building. As tenant demands change over time, more flexibility may be needed, but the project team understands that any such changes after initial lease up and occupancy may require additional or modified discretionary application per BMC Section 23E.80.045.B and C.

### **Mobility and Alternative Transportation**

The project site is a multimodal hub and enjoys close access to waterfront recreation at Aquatic Park and shopping and dining on Fourth Street. The Berkeley Amtrak station is located two blocks to the north. The AC Transit 51 bus line stops two blocks away, with service to Downtown Berkeley, and the 80 line and West Berkeley Shuttle stop two blocks away, with service to the Ashby and El Cerrito Plaza BART stations. Additionally, the Transbay Z line provides critical service from San Francisco to Sixth Street during morning commute hours and back to San Francisco during afternoon commute hours.

The project proposes a Transportation Demand Management (TDM) program to encourage alternative modes of transportation:

- A. Provide shuttle service between the project and a BART Station during weekday peak commute periods (6:00 AM to 10:00 AM and 3:00 PM to 7:00 PM). The project would also explore the feasibility, and if feasible, will coordinate the shuttle service with existing shuttle services, and/or other employers in West Berkeley. Shuttle service would be adjusted based on ridership.
- B. Provide bike lockers, showers, personal lockers, and a repair station on-site to encourage bicycling to the site.
- C. Coordinate with City of Berkeley, and/or other regional agencies to facilitate the potential installation of a BayWheels bikeshare station along the project frontage.
- D. Offer carpool/ride-matching services, such as ZimRide, ComoVee, or 511.org RideShare, to pair employees interested in forming commute carpools.
- E. Provide at least 10 spaces of preferential carpool parking, including free parking for carpoolers if employees are charged for on-site parking. Carpool parking spaces not occupied by 10:00 AM would be available to other vehicles.
- F. Require tenants to provide full or partial transit subsidy to project employees. Tenants may offer one of the following to employees that request it:<sup>5</sup>
  - A monthly commuter check (or alternatively Clipper Card, which is accepted by BART, AC Transit, and other major transit providers in the Bay Area)
  - Subsidized AC Transit bus pass
  - Subsidized Capital Corridor monthly ticket
- G. Require tenants to provide pre-tax commuter benefits for project employees.
- H. Regularly provide project tenants and employees information about various transportation options in the area and the TDM strategies provided by the project. The main lobby of each major project building shall also provide all the information on transportation options, such as a Transit Screen.
- I. Provide information on the Bay Area Commuter Benefits Program to all building tenants. As of September 30, 2014, Bay Area employers with 50 or more full-time employees within the Bay Area Air Quality Management District (Air District) geographic boundaries are required to register and offer commuter benefits to their employees in order to comply with Air District

Regulation 14, Rule 1, also known as the Bay Area Commuter Benefits Program. Employers must select one of four Commuter Benefit options to offer their employees: a pre-tax benefit, an employer-provided subsidy, employer-provided transit, or an alternative commute benefit. (Information about Commute Benefits Program is at [511.org/employers/commuter/overview](http://511.org/employers/commuter/overview).)

### Permits Requested

The application includes the following permits, including a request for approximately 133,028 sq. ft. for Research & Development use and approximately 29,347 sq. ft. for Light Manufacturing use:

1. **BMC 23C.08.050:** Use Permit to demolish six existing non-residential buildings (747 Bancroft Way, 2220 4th Street, 701 Bancroft Way, 703 Bancroft Way, 705 Bancroft Way, 705A Bancroft Way)
2. **BMC 23E.04.020:** Administrative Use Permit to allow rooftop equipment projections to exceed the height limit in a non-residential district;
3. **BMC 23E.80.030:** Administrative Use Permit to establish more than 30,000 SF R&D use;
4. **BMC 23E.80.045.B:** Use permit to change more than 25% of manufacturing and warehouse uses to R&D uses.
5. **BMC 23E.80.050.C:** Use Permit to construct between 20,000 and 30,000 square feet of new floor area as Manufacturing and Wholesale Trade, as per BMC Table 23E.80.030;
6. **BMC 23B.44.010:** Variance from BMC 23E.80.090.D.1., the protected use requirement, to allow replacement of protected floor area to be made available after the demolition or change of use of the space.

### FINDINGS

#### **23B.32.040 Findings for Issuance and Denial and Conditions**

- A. *The Board may approve an application for a Use Permit, either as submitted or as modified, only upon finding that the establishment, maintenance or operation of the use, or the construction of a building, structure or addition thereto, under the circumstances of the particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.*
- B. *Prior to approving any Use Permit the Board must also make any other findings required by either the general or District regulations applicable to that particular Use Permit.*
- C. *The Board shall deny an application for a Use Permit if it determines that it is unable to make any of the required findings, in which case it shall state the reasons for that determination.*
- D. *The Board may attach such conditions to any Use Permit as it deems reasonable or necessary to achieve the purposes of this Ordinance, and which otherwise promote the municipal health, safety and welfare.*

**Response:** The proposed project will neither be a detriment to the neighborhood nor to the City of Berkeley in general. The proposed project represents an improvement on an underutilized lot, which includes dated buildings and infrastructure. The project will provide top-of-the-line employment space, in a building with sustainability features that reduce greenhouse gas emissions, noise, traffic, and air quality impacts for both its neighbors and for the region. The new uses will generate job opportunities

at a range of qualification levels.

The project will also rebuild the curb, sidewalk, and gutter along Fourth Street and add bioretention systems to slow and clean stormwater, improving water quality in the Aquatic Park lagoon and San Francisco Bay, compared to existing conditions at the site. It will plant new trees and landscaping to reduce the heat island effect and create a more inviting streetscape on Fourth Street and Bancroft Way.

The project, therefore, aligns with Berkeley's General Plan, West Berkeley Plan, and Climate Action Plan goals which seek to increase employment opportunities and reduce greenhouse gas emissions.

**23C.08.050 Demolitions of Buildings Used for Commercial, Manufacturing or Community, Institutional or Other Non-residential Uses**

*D. A Use Permit or an AUP for demolition of a non-residential building or structure may be approved only if the Board or Zoning Officer finds that the demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City, and one of the following findings that the demolition:*

- 1. Is required to allow a proposed new building or other proposed new Use;*
- 2. Will remove a building which is unusable for activities which are compatible with the purposes of the District in which it is located or which is infeasible to modify for such uses;*
- 3. Will remove a structure which represents an unabatable attractive nuisance to the public; or*
- 4. Is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority. In such cases, it shall be demonstrated that it is infeasible to obtain prior or concurrent approval for the new construction or new use which is contemplated by such specific plans or projects and that adhering to such a requirement would threaten the viability of the plan or project.*

**Response:** In response to finding 23C.08.050.D and 23C.08.050.D.1, the proposed project will not be materially detrimental to the commercial needs and public interest of the West Berkeley neighborhood. The demolition of 747 Bancroft Way, 2220 4th Street, 701 Bancroft Way, 703 Bancroft Way, 705 Bancroft Way, and 705A Bancroft Way is required for construction of a new building and related circulation and site improvements which will revitalize the neighborhood, expand the floor area dedicated to light manufacturing uses, and facilitate the growth of floor area dedicated to R&D uses.

The demolition will not remove buildings of architectural significance. The demolition will remove six underutilized buildings that do not meet industry standards for productive research and development uses, which have evolved in recent years. Several of these buildings have been vacant for a substantial amount of time, do not provide any substantial benefits to the neighborhood or the City that are not outweighed by the benefits of the proposed project as a whole.

The proposed project will expand the light manufacturing floor area in the MU-LI and MU-R Districts, and the construction of 787 Bancroft Way will revitalize and rehabilitate this portion of West Berkeley. It will provide infill development in a manner that is compatible with the existing City character, nearby land uses and architectural scale and design. The removal of existing structures will facilitate the removal of any necessary contaminated soil and groundwater at the site and the ultimate reuse of the site in a manner that will allow the site to be economically productive for the City of Berkeley in the future.

**23E.80.090.A&B Findings for MU-LI District (New Uses/Structures)**

- A. In order to approve any Use Permit under this chapter the Zoning Officer or Board must make the finding required by Section 23B.32.040. The Zoning Officer or Board must also make the*

*findings required by the following paragraphs of this section to the extent applicable:*

*B. A proposed use or structure must:*

- 1. Be consistent with the purposes of the District;*
- 2. Be compatible with the surrounding uses and buildings;*
- 3. Be consistent with the adopted West Berkeley Plan;*
- 4. Be unlikely, under reasonably foreseeable circumstances, to either induce a substantial change of use in buildings in the District from manufacturing, wholesale trade or warehousing uses;*
- 5. Be designed in such a manner to be supportive of the light industrial character of the district. Such physical compatibility shall include materials used; facade treatments; landscaping; lighting; type, size and placement of awnings, windows and signs; and all other externally visible aspects of the design of the building and site. If the building and/or site is split between the MU-LI District and the West Berkeley Commercial District that there are clear and appropriate distinctions in all design aspects between the portions of the building and site within the MU-LI District and the portions within the West Berkeley Commercial District*
- 6. Be able to meet any applicable performance standards as described in Section 23E.80.070.D.*

**Response:** The proposed uses and buildings are compatible with the purposes of the district in that the project will: develop R&D and light manufacturing uses that meet the West Berkeley Plan's designation of a Light Manufacturing District; create compatible uses within the MU-LI district; provide a range of job opportunities, including those that do not require advanced degrees; provide large floor plates and tall ceiling heights that would allow for medium- and large-sized companies and needs; provide opportunity for R&D space in an appropriate location and structure; and maintain and improve the quality of the West Berkeley environment through improvements to the quality of building materials, bioretention systems to improve stormwater quality, new site landscaping and infrastructure, and improvements to the public realm, including new sidewalks, a mid-block crosswalk, public parklet and landscaping. The replacement of underutilized structures with a new building dedicated to R&D and light manufacturing uses serves the purpose of fostering growth of advanced technology services, while encouraging the availability of buildings for manufacturing uses and jobs.

The proposed uses are compatible with the surrounding uses, which include warehousing, manufacturing, office, R&D, and laboratories. Additionally, the combination of light manufacturing and R&D uses within the subject site are inherently consistent with the district purpose to provide opportunities for office that will not interfere with light manufacturing uses or building stock. The project would further contribute to the economic and land use diversity described in the district purposes.

The proposed use is consistent with the West Berkeley Plan because it is a development that accommodates R&D and light manufacturing uses that maintain the mix of uses and economic diversity which gives West Berkeley its unique character. The West Berkeley Plan supports the start-up of new types of economic activity which creates opportunities for land and business development. Additionally, the proposed project would increase the number of employees on-site, expanding job opportunities, in line with the plan goals. Use of glass, concrete, and metal trim express the industrial nature of the building. With the addition of wood soffits, these materials are used in a more contemporary way than surrounding industrial structures, which are generally older and lack fenestration. Still, they complement the metal, steel, and concrete found on neighboring industrial buildings.

The proposed use will not create substantial dust, glare, noise, odor, vibration, hazardous materials, or any other potential off-site environmental impacts because it will be required to comply with performance standards applicable in West Berkeley. Deep overhangs and awnings reduce the possibility for glare. During operation of the project, mechanical systems propose to reduce dust, noise, odors, and

hazardous materials compared to existing conditions.

### Policy Consistency

The proposed project fulfills key land use goals and policies of the West Berkeley Plan:

- Provides for continued economic use of manufacturing and R&D uses that will benefit potential workers who reside in the City of Berkeley, existing retail and restaurant businesses in West
- Berkeley through incidental shopping, and the industrial character of the area with a new state-of-the-art building. (Goal 1, Policy D)
- Expands employment opportunities at a range of education and qualification levels. (Goal 1, Policy A)
- Develops a sustainable building, site, and landscape plan with low-impact air quality, GHG, and noise impacts that is appropriate for the interface between the MU-LI and the nearby C-W district to the north (Goal 3)
- Expands the overall amount of light manufacturing space and potential life sciences industries in the MU-LI district by redeveloping an underutilized site, increasing the amount of floor area. (Goal 2, Policy B)
- Allows a wide range of light manufacturers to continue to operate and expand and limits loss of their spaces to other uses, while providing an opportunity for office development where it will not unduly interfere with light manufacturing uses, and for laboratory development in appropriate locations. (Goal 2, Policy C)
- Allows development that is consistent with all development standards requirements and therefore of a scale that is appropriate for the MU-LI district and its surroundings, which include 1 and 2-story buildings to the north, east, and south, and a pending 3-story buildings to the west. (Goal 4)
- Fosters the growth of advanced technology manufacturing and advanced technology services (such as research laboratories) by providing space for such enterprises. (Economic Development, Goal 4)
- Provides parking both to support the expansion of floor are dedicated to light industrial uses and creates a consolidated parking lot that would allow different uses to share parking in a consolidated location, while integrating the structure and lot with the surrounding areas. (Physical Form Goal 2, Policies 2.3 and 2.5)
- Creates and maintains adequate parking to support West Berkeley land use without creating increased incentives for single occupant automobile use. (Transportation Goal 4)

The project also supports the following goals of the Berkeley General Plan:

- Policy LU-3 –Infill Development: The project is an infill development that is architecturally and environmentally sensitive and is compatible with neighboring land uses and architectural design and scale.
- Policy LU-34 –Industrial Protection–The project protects industrial uses by expanding the existing space dedicated to industrial and manufacturing uses.
- Policy T-32 –Shared Parking–The parking component of the site-wide project makes the most efficient use of existing and new parking areas and provides parking that can be shared with locations throughout the site.

**23E.80.090.D Findings for MU-LI District (Protected Uses)**

- D. Except as permitted under 23E.80.045, subdivisions A.1 or A.2, in order to approve a Use Permit under Section 23E.80.045 to change the use of or remove more than 25% of the floor area of a building currently or most recently used for manufacturing, wholesale trade or warehousing, the Zoning Officer or Board must find:
1. Any necessary Use Permits that have been approved to provide comparable quality replacement manufacturing, wholesale trade and/or warehousing space in Berkeley at a comparable rent and that such replacement space will be available before the demolition or change of use of the space; or
  2. As a result of lawful business and building activities, there are exceptional physical circumstances (exclusive of the presence of hazardous materials in the building(s), soil or groundwater) found at the building not generally found in industrial buildings in the District which make it financially infeasible to reuse the building for any of the range of manufacturing, wholesale trade or warehouse uses permitted in the District. The analysis of the financial feasibility effects (which shall be verified by the City) of these physical circumstances shall consider those costs necessary to make the building meet current minimum standards for manufacturing, wholesale trade or warehouse buildings; and
  3. Appropriate mitigation has been made for loss of the manufacturing, warehousing or wholesale trade space in excess of 25% of that space through providing such space elsewhere in the City, payment into the West Berkeley Building Acquisition Fund, or by other appropriate means.

**Request:**

The project is requesting a variance from the protected use requirement per BMC Section BMC 23E.80.090.D.1 for Phase III of the project. The project sponsor is committed to providing light manufacturing space to meet the use permit requirements for protected uses on-site at full completion of the project. However, the project sponsor cannot physically replace the protected floor area such that "replacement space will be available before the demolition". This is an impossible threshold. As a result, the project sponsor is requesting a variance under subsection D.1. Subsection D.2 and D.3 are not applicable to the project since the existing warehouse and light manufacturing buildings are currently utilized. This variance is only necessary for a temporary period of approximately two years during the Phase III project's construction phase. Once Phase III is complete (i.e., at the time of certificate of occupancy), the project will include the protected floor area within the project. Notably, the program proposed under Phase I results in a surplus of protected floor area and therefore does not require a variance.

**Findings for a Variance from BMC Section 23E.80.090.D.1., Protected Uses, During Construction**

1. There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District;

**Response:** Requiring the retention of protected uses on-site during the course of construction makes the project infeasible. There are multiple issues associated with the project site which in combination make it infeasible to phase grading and site preparation which could otherwise possibly allow for

retention of protected area during construction.

The project sponsor has designed Phase I to include change of use requests and the addition of mezzanines in buildings that increase the amount of manufacturing (i.e., protected floor area) during the first phase. However, in order to build the 787 Bancroft Way project in Phase III, the project needs to demolish the buildings within and immediately outside the new building footprint and build the parking that is required for the additional floor area. This results in the demolition of the protected floor area prior to replacement on-site which necessitate the variance request.

Large Multi-Use Site - The project site is one of the largest development sites in West Berkeley at 5.5 acres (east and west block combined). Across both phases, there are 13 existing buildings containing protected uses. Within these buildings, the City has identified a replacement requirement of 138,382 sq. ft. of protected floor area. There will be 7 structures across the two blocks at project completion. This lends a complexity to the site atypical in other West Berkeley locations. Because of the expansion of floor area (still below the City's 2.0 FAR limit) and related required parking spaces, the project needs to stagger the development of buildings and parking areas to serve those buildings.

Grading Program - Grading the entire west block at one time is the only feasible option for site preparation activities. If the site were phased for the purposes of retaining the existing buildings protected uses during construction, the project team would need to both off-haul and import dirt at different points in time. Phased grading would contribute additional unnecessary truck trips and associated air quality, noise, and traffic impacts to the neighborhood.

*2. The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner;*

Property Right Impacts due to Protected Use Requirements - The Zoning Ordinance creates an impossible threshold for replacement of protected uses by requiring replacement at time of demolition as opposed to at the time of occupancy. In order to develop this site, the entire property must be cleared at one time – temporarily eliminating the protected use floor areas. The project and associated public improvements to Fourth Street and Bancroft Way are otherwise infeasible.

The required protected use area will be replaced in the new project for the life of the project and subject to the MU-LI protected use requirements. Specifically, the project permanently retains at least 29,347 square feet of protected manufacturing use space as well as protected warehouse space (converted to Research and Development use as allowed by the Zoning Ordinance) in the new building during operation of the project.

Retention of Protected Area During Construction Not Feasible - One option analyzed by the project team is the retention of the protected use space during construction by phasing the project. This option would add significant project costs due to construction inefficiencies, anticipated cost escalation, and lost revenue due to timing of marketing and generating leasing revenues. Phased grading and utility connections is inefficient and infeasible. The team explored locating a temporary building on the site during construction, but this would entail hooking up utilities, working around the building for site work, at substantial cost.

The requirement to find replacement space prior to demolition of the projected use will render the project infeasible, thereby, negating the owners' preservation and enjoyment of substantial property rights.

*3. The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the*

*municipal health, welfare and safety and benefit the City as a whole;*

Achieving Intent of Protected Use Replacement - The variance request results in a temporary gap from the protected use replacement requirements. Once the building is occupied, the protected use area will be reestablished. The new space will be modern and will last long into the future. The same is not true of the existing manufacturing and warehouse space on the site. As a result, the replacement of protected space within the project in the long-term meets the intent of the West Berkeley Plan, MU-LI District purposes, and the requirements of this finding, while allowing the upgrades associated with redevelopment. The protected use space will be replaced in the new project, specifically as a condition of the new building's occupancy permit.

Neighborhood Benefit - The project would complement and be compatible with surrounding uses, which include warehousing, manufacturing, office, research and development, and laboratories. The project would further contribute to the economic and land use diversity described in the MU-LI district purposes. It would strengthen the Fourth Street retail district and provide a thriving work environment.

In these ways, the variance can help support the following purposes of the MU-LI district:

- B. Encourage development of a mixed use-light industrial area for a range of compatible uses;*
- E. Provide for the continued availability of manufacturing and industrial buildings for manufacturing uses, especially of larger spaces needed by medium sized and larger light manufacturers;*
- G. Provide the opportunity for laboratory development in appropriate locations;*

The project will provide a number of community benefits that contribute to the finding of non-detriment described above. Coordinated streetscape improvements along both sides of Fourth Street, and on Bancroft Way improve pedestrian connections. Pedestrian improvements extend to the UPRR tracks and will connect with new pedestrian sidewalk access being built by the Berkeley Commons/600 Addison Street project along Bolivar Drive. This will enable pedestrians to walk on the north side of Bancroft Way all the way to the Aquatic Park, which is not currently possible. Along the project frontage, a mid-block crosswalk improves walkability close to the Fourth Street retail corridor. A new public parklet and street trees provide opportunities for shade and public open space along Fourth Street. Expanded stormwater retention improves on-site management of run-off and improves water quality in the Aquatic Park lagoon and San Francisco Bay.

- 4. Any other variance findings required by the Section of the Ordinance applicable to that Variance.*

No other findings are required for this request.

## **ENVIRONMENTAL CONDITIONS**

Key environmental topics that may be considered in the CEQA analysis include:

Historical & Cultural Resources:

As part of the project's historic resource evaluation, the building located at 703 Bancroft Way was found to be potentially eligible of the California Register. The significance was structural rather than architectural and the primary character-defining feature was the interior steel framework rather than the exterior of the building. As discussed in detail above, after initially planning to relocate the building on site, it became infeasible to do so after receiving significant fire, life, safety comments from Building and Safety Division and Berkeley Fire Department staff.

No known archeological sites extend into the project site. However, known sites, such as the West Berkeley Shellmound and intact midden deposits, are located in close proximity. Therefore, there may be sensitive cultural materials subsurface within the boundaries of the project site. The southwest corner of the parcel once housed a 19th Century rail depot and there were several residential dwellings on the property during the early 20th Century, which could contain cultural deposits pertinent to the history of early Euro-American settlement. Because of this cultural sensitivity, the project team's consulting archeologists recommend preconstruction testing or monitoring during ground-disturbing construction, especially at the southwest corner of the parcel.

Hazardous Materials: Previous on-site and off-site uses have contributed to the presence of hazardous materials in the soil and groundwater at the site. These are summarized below and documented in the Phase I report attached to this statement. The project will follow City and CEQA required mitigations to manage hazardous materials during construction and operation of the project.

There are elevated concentrations of various petroleum hydrocarbon (TPH) compounds, semi-volatile organic compounds (SVOCs), and volatile organic compounds (VOCs) and pesticides in the groundwater below the site from a previous pest control business. The project team's environmental consultants believe that that existing site and subsurface conditions (e.g., concrete floor slab and foundation system) are effectively limiting the mobility of the groundwater plume and find that the plume is stable. Therefore, in their present state, residual impacts present below the site do not appear to be posing a significant risk to human health and the environment.

The former Veriflo Facility (2246 Fifth St., off-site) is located approximately 200 feet east-southeast of the subject site and operated as a metals-finishing plant. Historical metals finishing operations at this facility resulted in the release of VOCs, primarily trichloroethene (TCE), tetrachloroethene (PCE), and vinyl chloride (VC). Investigations indicate groundwater impacts have migrated downgradient and offsite towards the northwest, which is in the direction of the subject site.

Several of the subject site's facilities currently and/or historically used chlorinated solvents, hazardous materials, and petroleum products. No spills or evidence of any releases were reported for current or historical facilities. However, the current and historical uses of these chemical products at the subject site may have contributed to impacts identified in the Phase I report.

Soils/Geotechnical Findings: The site is blanketed by medium stiff to very stiff clay fill with variable sand and gravel content. The fill is underlain by native alluvium consisting of interbedded layers of stiff to hard clay with varying sand content and medium dense to very dense clayey sand with varying gravel content. Near surface soil may be highly to very highly expansive. The project team's geotechnical analysis indicates the underlying soils below the groundwater are not susceptible to liquefaction because of their cohesion. The analysis indicates clay layers at deeper depths may experience cyclic softening during a major earthquake event but concludes the risk of lateral spreading to be nil. Following site demolition, the existing fill below the proposed building would be over-excavated and recompacted. Foundations and slabs would be designed and constructed to resist the effects of the expansive clay.

Traffic: A Traffic Impact Analysis has been completed and is part of the Use Permit application. As outlined above, the project proposes a robust TDM program and improvements that aim to further reduce vehicle trips and promote the use of alternative modes of transportation.