Office of the City Manager

PUBLIC HEARING
January 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Jordan Klein, Director, Planning & Development Department

Subject: Zoning Adjustment Board Appeal: 2109 Virginia, Use Permit #ZP2024-0066

RECOMMENDATION

Conduct a public hearing, and upon conclusion adopt a Resolution denying the appeal and affirming the Zoning Adjustment Board (ZAB) decision to approve Use Permit #ZP2024-0066 to demolish a two-story, 4,604-square-foot non-residential building and surface parking lot, and construct an eight-story (89 feet and 4 inches), 112,969 square-foot mixed-use residential building containing 110 dwelling units (including 9 Very Low-Income and 9 Moderate Income Density Bonus qualifying units), 690 square feet of ground-floor commercial space, 109 off-street vehicle parking spaces and 64 bicycle parking spaces, on a 22,513 square foot lot.

SUMMARY

On September 11, 2025, the ZAB approved Use Permit #ZP2024-0066 to demolish the existing two-story, non-residential building and construct an eight-story, mixed-use residential building containing a total of 110 dwelling units, including nine Very Low-Income (VLI) units, nine Moderate Income (MI) units, 690 square feet of ground floor commercial space, 109 vehicle parking spaces, and 64 bicycle parking spaces. The project approval was based on findings that the project would not be detrimental to the general welfare of the City, aligns with the purpose of the zoning district, encourages the use of public transit, and facilitates the construction of affordable housing.

On September 30, 2025, the ZAB's decision was appealed by neighboring residents, who raised concerns that the approved project would be a detriment to their property and cause impacts related to noise, pollution (air, soil, water), traffic, safety, and shadows. The appeal further states the proposed project lacks adequate labor standards, lacks community input, and does not include enough affordable housing units to justify the height increase from five to eight stories.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On December 14, 2023, the applicant submitted a Preliminary Use Permit application (PLN2023-0091) pursuant to SB 330, thereby vesting rights.

On June 3, 2024, the applicant submitted a Use Permit application (#ZP2024-0066).

On July 3, 2024 the application was deemed complete.

On October 7, 2024, the Landmarks Preservation Commission (LPC) took no action to initiate a Landmark or Structure of Merit designation and recommended that the ZAB approve the demolition.

On May 15, 2025, the Design Review Committee provided a favorable recommendation to the ZAB with recommendations for Final Design Review. Before and shortly after the DRC meeting, staff received three public comment letters.

On July 10, 2025, the City mailed public hearing notices to property owners and occupants within 300 feet of the project site, as well as to interested neighborhood organizations. The City also posted notices at three nearby locations within the neighborhood.

On July 24, 2025, the applicant requested to remove the project from the Action Calendar of the ZAB public hearing. At that public hearing, staff received three public comment letters.

On August 20, 2025, the City received three public comment letters about this project from citizens who attended the North Shattuck community workshop about the Corridors Zoning Update.

On August 28, 2025, the City mailed new public hearing notices to property owners and occupants within 300 feet of the project site, as well as to interested neighborhood organizations. The City also posted notices at three nearby locations within the neighborhood.

On September 11, 2025, the ZAB held a public hearing for the Use Permit and received no additional public comments. See Attachment 3 for the staff report submitted for ZAB consideration. The ZAB voted to approve the project with a 7-0-0-1 vote (Moved Duffy, Second: Gaffney. Ayes: Duffy, Gaffney, Mae Palmatier, Allen, Thompson, Choi, Sanderson; Noes: None; Abstain: None; Absent: Yung).

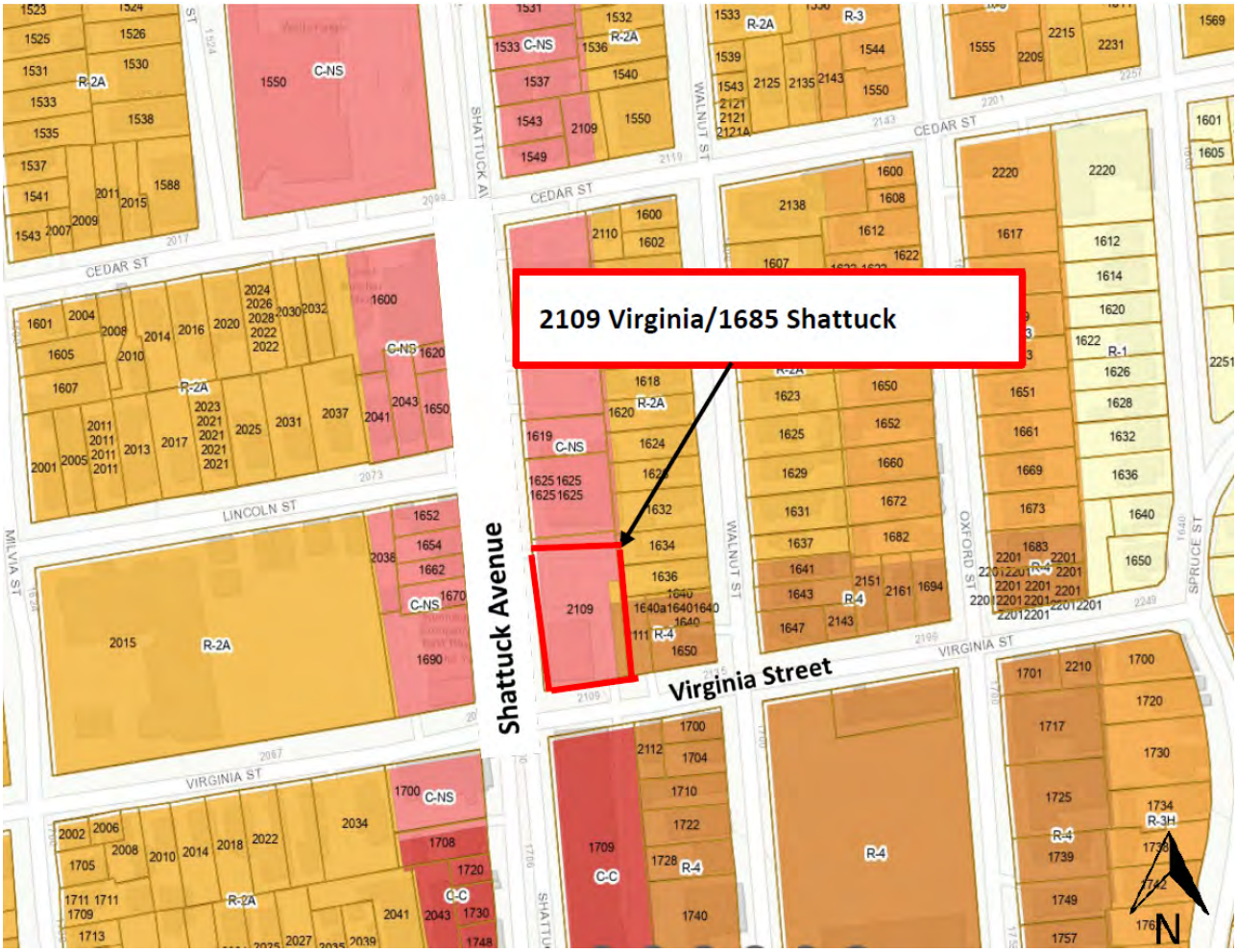
On September 30, 2025, neighboring residents filed an appeal of the ZAB’s decision.

BACKGROUND

The project site is a rectangular north-south-oriented corner lot located on the northeast corner of Shattuck Avenue and Virginia Street in the North Berkeley neighborhood. It is a 22,513 square foot split-zoned lot consisting of the following zoning districts: North Shattuck Commercial District (C-NS), Restricted Multiple-Family Residential District (R-2A), and Multi-Family Residential District (R-4).

The project site is surrounded by commercial uses and mixed-use buildings to the north, east, and west. A multi-family residential building is located to the south across Virginia Street. The surrounding buildings are one to three stories in height. Housing types include single-family homes, duplexes, and small apartment buildings, and are mostly located to the northeast. There are existing on-street metered parking spaces along the frontages of Shattuck Avenue and Virginia Street. The property is served by Alameda County Transit buses and is less than one mile from the North Berkeley BART Station and half mile from the Downtown Berkeley BART Station. There are various local shops, restaurants, services, public parks, and the University of California, Berkeley, all within a half mile of the site.

Figure 1. Zoning



The proposed project would demolish the existing two-story commercial building and surface parking lot to construct a 112,969-square-foot mixed-use residential building containing 110 dwelling units (including nine Very Low-Income and nine Moderate Income Density Bonus qualifying units), 690 square feet of ground-floor commercial space and 109 vehicle parking spaces. The proposed project is also providing 7,060 square-feet of usable open space, 64 bicycle parking spaces, and new street trees on Shattuck and Virginia.

The subject site is also identified as a Housing Opportunity Site in the adopted, certified 2023-2031 Housing Element. Due to the site size exceeding 0.5 acres, it was identified as a "High Potential" site for redevelopment of residential uses, with a capacity of 50 dwelling units per acre.

Figure 2: Street View



Figure 3: Site Plan/Ground Floor Plan

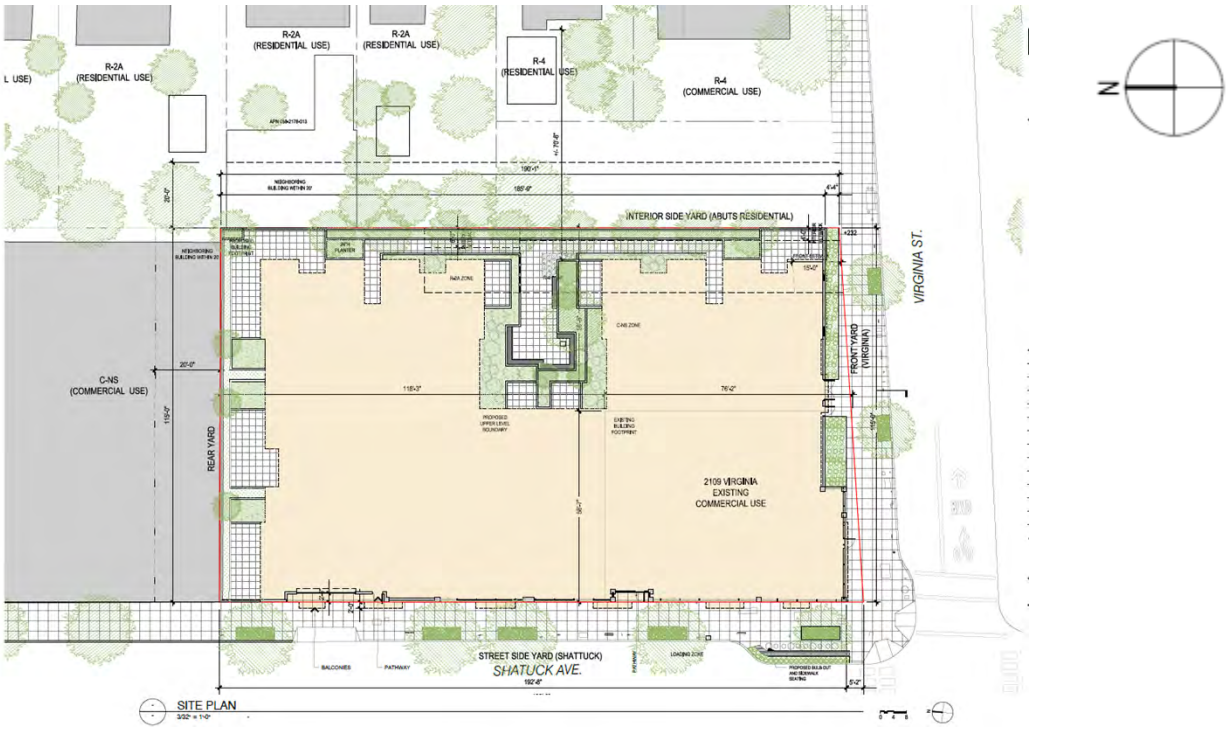


Figure 4: Shattuck Avenue Rendering Looking Northeast



Figure 5: South Elevation Facing Virginia Street



Figure 6: West Elevation Facing Shattuck Avenue



Figure 7: East (Interior Side) Elevation Facing Existing Residential



Senate Bill 330 (Housing Crisis Act of 2019) and State Density Bonus Law

The proposed project qualifies as a housing development project under SB 330 and is requesting a density bonus under the State Density Bonus Law. The total density bonus is calculated based on the site's base density and the allowable bonus granted for providing affordable housing. The base density reflects the maximum number of units allowed on the site while fully complying with applicable district development standards, including height, setbacks, usable open space, and parking requirements. The density bonus is then determined by the percentage of total units dedicated as affordable and their affordability level. For this site, the base density is 55 units. By proposing nine very low-income (VLI) units,15% of the total base units, and nine moderate income (MI) units, 15% of the total base units, the project qualifies for a 100% density bonus, increasing the maximum allowable density to 110 units. (See Table 1: Density Bonus)

Table 1: Density Bonus

Base Project Units [a]	Qualifying Units	Percent Density Bonus	Number of Density Bonus Units [a]	Proposed Project Units [a]
55	9 VLI Units (15% of base project) 9 MI Units (15% of base project)	100%	55 (100% of 55 units)	110

Notes:
a. Pursuant to Government Code 65915(q), all unit calculations are rounded up to the nearest whole number.

The proposed project is entitled to three concessions or incentives under Government Code Section 65915(d), as well as an unlimited number of development standard waivers under Government Code Section 65915(e). The applicant is requesting two concessions for the project as follows:

- **Public Art In-lieu Fee.** A Concession from BMC Chapter 23.316 **"Percentage for Public Art on Private Projects"** to allow an exemption from the in-lieu fee; and

- **On-Grade Parking.** A Concession to relocate the underground parking in the base project to an on-grade podium structure in the proposed project.

The applicant is requesting 11 waivers from the following development standards:

North Shattuck Commercial District (C-NS):

- **Main Building Height.** Waiver from BMC Section 23.204.090(D)(1) "Basic Development Standards" for a mixed-use project to exceed the 35-foot maximum

height limit by adding 54 feet, 4 inches, for a total of 89 feet, 4 inches, and exceed the 3-story limit by adding 5 stories, for a total of 8 stories.

- **Residential Window Setback**. Waiver from BMC Section 23.204.090(D)(4) "Residential Window Setback" to reduce the setback for a Mixed-Use building, opposite a required window in any habitable room of a residential use, to 0 feet, 0 inches where 10 feet is required.

- **Interior Side Setback.** Waiver from BMC Section 23.304.030(C)(2) "Lots Adjacent to Residential Districts" to reduce the interior side setback to 0 feet, 0 inches for the interior side where 5 feet is required.

- **Parking.** Waiver from BMC Section 23.322.070(D)(1) **"Excess Off-Street Parking"** to exceed the maximum number of off-street residential parking.

Restricted Multiple Family Residential District (R-2A):

- **Main Building Height.** Waiver from BMC Section 23.202.090(D)(1) "Basic Development Standards" to exceed the 35-foot maximum by adding 54 feet, 4 inches for a total of 89 feet, 4 inches, and exceed the 3-story limit by adding 5 stories, for a total of 8 stories.

- **Lot Coverage.** Waiver from BMC Section 23.202.090(D)(2) "Supplemental Development Standards" to exceed the 40% lot coverage limit for a 3-story building on a corner lot by adding 60% for a total of 100% lot coverage.

- **Interior Side Setback**. Waiver from BMC Section 23.202.090(D)(1) "Basic Development Standards" to reduce the interior side setback to 0 feet, 0 inches on the first and second story where 4 feet is required.

Multi-Family Residential District (R-4):

- **Main Building Height.** Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to exceed the 65-foot maximum height by adding 24 feet, 4 inches for a total of 89 feet, 4 inches and exceed the 6-story limit by adding 2 stories, for a total of 8 stories.

- **Lot Coverage.** Waiver from BMC Section 23.202.110(E)(2) "Supplemental Development Standards" to exceed the 40% lot coverage limit for a 6-story building on a corner lot in by adding 60% for a total of 100% lot coverage.

- **Front Setback.** Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to reduce the front setback to 2 feet, 10 inches on the

western side of the lot and 5 feet, 8 inches on the eastern side of the lot where 15 feet is required.

Multi-Family Residential District (R-4) cont'd:

- **Interior Side Setback.** Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to reduce the interior side setback to 0 feet, 0 inches for stories 1-2 where 4 feet is required, and provide a 9 foot, 8-inch setback for 3-8 stories, where:
    - 6 feet is required for the third story,
    - 8 feet is required for the fourth story,
    - 10 feet is required for the fifth story, and
    - 12 feet is required for the sixth story.

The waivers are requested because they are necessary to physically accommodate the additional 18 units as allowed under the State Density Bonus Law.

The City may only deny the waivers if it finds that the waivers would have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low-income, very-low income, and moderate-income households, or if the waiver would be contrary to State or Federal law.

In addition, the project is subject to the Permit Streamlining Act (Chapter 4.5, beginning with Section 65920), which limits the number of public hearings to no more than five. The January 27, 2026 City Council hearing represents the fourth public hearing for the proposed project since the project was deemed complete.

RATIONALE FOR RECOMMENDATION

The issues raised in the appellant's letter (Attachment 2) and staff's responses are detailed below. For the sake of brevity, the appeal issues are not re-stated in their entirety.

Issue 1: The appellants argue that construction activities would create noise, dust, and vibration that would disrupt nearby households, and they are requesting mitigation measures to reduce these impacts. In addition, they are requesting mitigation to nearby creeks and aquifers, additional soil testing due to the site's past use as a dry cleaner, measures to protect community health from exposure to hazardous substances, and written disclosures to future tenants regarding soil or groundwater monitoring and any health risks associated with the site.

Response: The Conditions of Approval include several conditions to mitigate the construction impacts mentioned. See Conditions number 17, 21, 23, 24C, 24D, 24E, 44-46.

No creek or culvert, as defined by BMC Chapter 17.08, exists on or within 30 feet of the project site.

Due to its previous use as a dry cleaner, the site was remediated under the oversight of the DTSC in 1987 and assessed by the San Francisco Bay Regional Water Quality Control Board (RWQCB) in 1999. The applicant submitted Phase I and II reports, which were preliminarily reviewed by the City of Berkeley's Toxics Division and subsequently by LSA Consultants to prepare an environmental checklist in accordance with CEQA Section 15183.3 ("Streamlining for Infill Projects") and 15162 ("Subsequent EIRs and Negative Declarations"). The Phase I ESA identified a past contamination issue, so a Phase II ESA was subsequently prepared. The Phase II ESA found that any remaining soil or groundwater impacts are minimal and consistent with the conditions described in the case closure letters granted by the DTSC in 1987 and the San Francisco Bay RWQCB in 1999. Because no land use restrictions or continuing obligations were required by DTSC and the San Francisco Bay RWQCB, the Phase II ESA concluded that no further assessment or regulatory oversight is necessary. The CEQA analysis found that the project would not have significant environmental effects that have not already been analyzed in the Housing Element EIR or that are more significant than those previously analyzed.

Issue 2: The appellants argue that the project should be conditioned to use union labor, ensuring fair wages, safety protections, and higher construction quality.

Response: The project was vested on December 27, 2023 under the Housing Crisis Act of 2019. This vesting date is prior to the January 1, 2024 effective date of the Hard Hats ordinance (BMC Chapter 13.107). Therefore, a Condition of Approval cannot be retroactively applied to the project.

Issue 3: The appellants argue that parking will overflow into nearby streets, worsening the existing shortage. They also claim the location of the parking entrance will increase congestion on Shattuck Avenue and pose safety risks for pedestrians and cyclists.

Response: The project provides 109 off-street parking spaces, nearly double the amount typically required near transit (55 maximum), helping to minimize neighborhood spillover given the site's proximity to transit and commercial areas. Also, the project is not eligible for the Residential Permit Parking program, (RPP) and new residents would not be able to secure the existing permits for on-street residential parking that serve the neighborhood. The site is well-served by BART and AC Transit and includes transit incentives and unbundled parking (see Condition number 63), which encourage reduced car ownership and use.

The parking entrance on Shattuck Avenue reuses an existing curb cut and is consistent with existing commercial access patterns. Placing the entrance on Virginia Street would have required major excavation due to the slope of the lot. The project includes streetscape improvements, such as a corner bulb-out with seating and new street trees, which enhance pedestrian safety and visibility.

Issue 4: The appellants claim that the number of units and parking spaces will lead to operational impacts, including noise and increased traffic from deliveries, rideshare pickups, and service vehicles.

Response: The project includes standard Conditions of Approval to manage operational impacts such as noise and traffic. These include:

> Noise Reduction Measures: HVAC systems must meet City noise standards, and interior noise levels must comply with residential limits (Condition 27–28).
>
> Transportation Demand Management (TDM): Residents receive transit benefits and real-time transit info (Condition 63), reducing reliance on rideshare and personal vehicles.
>
> Loading Zone and Designated Areas: The ground floor includes a loading zone to accommodate deliveries and service vehicles, minimizing disruption to surrounding streets.
>
> Unbundled Parking: Parking spaces are leased separately from units, discouraging excess vehicle ownership.

No significant operational impacts were identified in the CEQA analysis, and the project complies with all applicable zoning and environmental standards.

Issue 5: The appellants claim the project increased from 5 to 8 stories without clear public notice or sufficient community input. They request stronger affordability commitments in exchange for the added height and ask for transparency on how the density bonus was calculated, which concessions and waivers were granted, and how the City ensures that concessions result in real community benefit.

Response: Public outreach for the project included a neighborhood meeting, mailed notices, posted signage, and multiple public hearings, as outlined in the ZAB staff report. The increase to 8 stories complies with State Density Bonus Law, which allows additional height in exchange for affordable housing. The project includes 18 below-market-rate units (nine Very Low-Income and nine Moderate-Income), qualifying for a 100% density bonus. The ZAB staff report explains how the bonus was calculated and lists the concessions and waivers requested. All of this information was presented at the ZAB public hearing. Per Government Code Section 65915(k), concessions granted

under the State Density Bonus Law are intended to support affordable housing and do not require the provision of community benefits.

Issue 6: The appellants claim the proposed project would create shade and privacy impacts for the adjacent homes.

Response: The applicant submitted shadow studies illustrating the shadows cast by the project at three times of day during the summer and winter solstices. The studies indicate new shadows would fall on the following nearby residences:

- Winter (2 hours before sunset): 1624, 1628, 1632, 1634, 1636, and 1640 Walnut Street, located to the northeast and east of the project site.

- Summer (2 hours before sunset): 1634, 1636, and 1640 Walnut Street, located to east of the project site.

While the project would introduce new shadows on neighboring properties, these impacts would be limited in duration and extent and affect only portions of the buildings for a few hours of the day, only during certain times of the year. Such impacts are typical in a built urban environment and are not considered detrimental to the surrounding residential uses.

To address privacy, the proposed project steps back above the podium level on the north and east sides and incorporates trees and planters to minimize privacy impacts. The step back is maintained for all upper stories of the building.

Issue 7: The appellants raise concerns about emergency preparedness and infrastructure impacts. They cite the site's seismic risk and deep excavation for the 8-story building as potential safety issues, and request details on fire protection and emergency access. They also note increased demand on police and fire services, loss of trees and green space, and claim the project's impact on utilities and infrastructure hasn't been fully addressed.

Response: The project site is not located within a designated seismic hazard zone for landslides, liquefaction, or fault rupture, according to the State Seismic Hazard Zones map. Therefore, no additional geotechnical mitigation is required beyond standard building code compliance. The project is subject to standard Conditions of Approval requiring compliance with all applicable fire and building codes. These include installation of fire sprinklers to meet the 2025 Building and Fire Codes, emergency access provisions, and evacuation planning, which will be reviewed during the building permit process. The CEQA analysis did not identify any significant impacts on police, fire, or ambulance services beyond those already addressed in the Housing Element EIR. The project is consistent with planned residential growth and infrastructure capacity and includes new street trees and landscaping improvements to offset the

removal of existing vegetation. These features enhance the pedestrian environment and contribute to the urban canopy. The project is located in a fully developed urban area with existing utility connections. No new or more severe infrastructure impacts were identified in the CEQA consistency analysis.

ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23.410.040(G), the Council may (1) continue the public hearing, (2) reverse, affirm, or modify the ZAB's decision, or (3) remand the matter to the ZAB.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The project approved by the ZAB is compliant with all applicable State and local environmental requirements, would be located in a transit-rich area, and would be built and operated according to current codes for energy conservation, waste reduction, and water conservation.

The proposed project is categorically exempt from the provisions pursuant to CEQA Guidelines Section 15183.3 ("Streamlining for Infill Projects"). An environmental checklist was prepared for the project in accordance with CEQA Sections 15183.3 and 15162, utilizing the Housing Element's Environmental Impact Report (EIR, SCH#2010032073) for a consistency analysis. The analysis concluded that the proposed project would not result in any new impacts that would require additional mitigation measures beyond those required by the Housing Element EIR.

CONTACT PERSON

Jordan Klein, Director, Planning & Development Department, (510) 981-7534
Anne Hersch, Land Use Planning Manager, (510) 981-7411
Singeh Saliki, Senior Planner, (510) 981-7412

Attachments:
1: Draft Resolution
    Exhibit A: Findings and Conditions, September 11, 2025
    Exhibit B: Project Plans, received July 9, 2025
2: ZAB Decision Appeal Letter, received September 30, 2025
3: ZAB Packet (staff report and attachments), dated September 11, 2025
4: Public Hearing Notice
5: Index to Administrative Record
6: Administrative Record

RESOLUTION NO. ##,###-N.S.

DENY THE APPEAL AND AFFIRM THE ZONING ADJUSTMENT BOARD DECISION TO APPROVE USE PERMIT #ZP2024-0066 TO DEMOLISH A TWO-STORY, 4,604-SQUARE-FOOT NON-RESIDENTIAL BUILDING AND SURFACE PARKING LOT, AND CONSTRUCT AN EIGHT-STORY (89 FEET AND 4 INCHES) 112,969 SQUARE-FOOT MIXED-USE RESIDENTIAL BUILDING CONTAINING 110 DWELLING UNITS (INCLUDING 9 VERY LOW-INCOME AND 9 MODERATE INCOME DENSITY BONUS QUALIFYING UNITS), 690 SQUARE FEET OF GROUND-FLOOR COMMERCIAL SPACE, 109 OFF-STREET VEHICLE PARKING SPACES AND 64 BICYCLE PARKING SPACES.

WHEREAS, on December 14, 2023, the City received an SB330 Preliminary Use Permit application (PLN2023-0091); and

WHEREAS, on December 27, 2023, the SB 330 Preliminary Use Permit application (PLN2023-0091) was deemed complete; and

WHEREAS, on June 3, 2024, Isaiah Stackhouse (“applicant”) submitted a Use Permit Application (ZP2024-0066) to demolish a two-story, 4,604-square-foot non-residential building and surface parking lot, and construct an eight-story (89 feet and 4 inches) 112,969 square-foot mixed-use residential building containing 110 dwelling units (including nine Very Low-Income and nine Moderate Income Density Bonus qualifying units), 690 square feet of ground-floor commercial space, 109 off-street vehicle parking spaces and 64 bicycle parking spaces; and

WHEREAS, on July 3, 2024, the Use Permit application (ZP2024-0066) was deemed complete; and

WHEREAS, on October 7, 2024, the Landmarks Preservation Commission (LPC) reviewed the demolition referral; and

WHEREAS, on May 15, 2025, the Design Review Committee conducted preliminary review and provided a favorable recommendation with suggested refinements; and

WHEREAS, on July 10, 2025, the City mailed public hearing notices to all adjacent property owners and occupants within 300 feet of the subject property, and to interested neighborhood organizations. Staff also posted the Notice of Public Hearing at three locations within the immediate vicinity of the subject site; and

WHEREAS, on July 24, 2025, the applicant requested to remove the project from the Action Calendar of the ZAB public hearing; and

WHEREAS, on August 28, 2025, the City mailed new public hearing notices to all adjacent property owners and occupants within 300 feet of the subject property, and to interested

neighborhood organizations. Staff also posted the Notice of Public Hearing at three locations within the immediate vicinity of the subject site; and

WHEREAS, on September 11, 2025, the ZAB conducted a public hearing for the Use Permit application (ZP2024-0066). After considering the staff report, the administrative record, and hearing comments from staff, the applicant, and the members of the public, the ZAB approved the project by a vote of 7-0-0-1; and

WHEREAS, on September 30, 2025, neighbors of the proposed project ("appellants") submitted an appeal of the ZAB decision to the City Clerk; and

WHEREAS, on or before January 13, 2026, staff posted the public hearing notice at the site and three nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area. The Council must conduct a public hearing to resolve the appeal; and

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WHEREAS, on January 27, 2026, the Council held a public hearing to consider the ZAB's decision, and in the opinion of this Council, the facts stated in, or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley hereby affirms the decision made by ZAB to approve a Use Permit #ZP2024-0066; adopts the Findings and Conditions of Approval in Exhibit A; and adopts the project plans in Exhibit B.

Exhibits
A: Findings and Conditions, September 11, 2025
B: Project Plans, received July 9, 2025

Zoning Adjustments Board Findings

App # ZP2024-0066

Use Permit for a Project at 2109 Virginia Street

Sept 11, 2025

Project Facts

Applicant: Isaiah Stackhouse. Stackhouse, De La Pena, Trachtenberg Architects

Property Owner: American Commonwealth Associates

Project Address: 2109 Virginia Street/1685 Shattuck Avenue

GP Land Use:
Neighborhood Commercial (NC), Medium Density Residential (MDR), High Density Residential (HDR)

Zoning:
North Shattuck Commercial (C-NS), Restricted Multiple-Family Residential District (R-2A), Multi-Family Residential District (R-4)

Site Size: .51 acres

CEQA: Exempt pursuant to Section 15183.3 ("Streamlining for Infill Projects")

Vesting Date: December 27, 2023

Date Deemed Complete: July 23, 2024

Project Planner: Singeh Saliki

Project Description:

The applicant is seeking approval to demolish a 2-story commercial building (4,604 square feet) and surface parking lot, and construct an 8-story (89 feet and 4 inches) 112,969 square-foot mixed-use residential development with 110 dwelling units (including 9 Very Low-Income and 9 Moderate Income units), 690 square feet of ground floor commercial space, 109 off-street vehicle parking spaces and 64 bicycle parking spaces.

Permits Requested:

1. **Demolition.** Use Permit under BMC Section 23.326.070(A) **"Main Non-Residential Building"** to demolish a non-residential building
2. **New Construction.** Use Permit under BMC Section 23.202.020 (A) **"Allowed Land Uses"** to construct a new mixed-use development.
3. **New Construction.** Use Permit under BMC Section 23.204.020 (A) **"Allowed Land Uses"** to construct a new mixed-use development.
4. **New Floor Area.** Use Permit under BMC Section 23.204.030(A)(1) **"Floor Area Permit Requirements"** to create new floor area of 2,000 square feet or more.
5. **Building Height.** Administrative Use Permit under BMC Section 23.304.050(A) **"Projections Above Height Limits"** to exceed the allowed height limit with a rooftop projection

Waivers	Concessions
1. Building Height	1. Public Art In-lieu Fee
2. Residential Window Setback	2. On-Grade Parking
3. Parking	
4. Lot Coverage	
5. Interior Side Setback	
6. Front Setback	

Staff Recommendation

Staff recommends that ZAB determine the project is exempt from CEQA, pursuant to Section 15183.3 of the CEQA Guidelines ("Streamlining for Infill Projects"), and approve ZP2024-0066 pursuant to BMC Section 23.406.040 (E) "Findings for Approval" and subject to the attached Findings and Conditions of Approval.

CEQA

Qualified Infill Checklist

The project is exempt from the requirements of CEQA pursuant to Section 15183.3 of the CEQA Guidelines ("Streamlining for Infill Projects").

Evidence: The project is located in an urban area on a previously developed site. It is consistent with the applicable General Plan designations and policies, and with the applicable zoning designations and regulations. An environmental checklist was prepared for the project in accordance with CEQA Sections 15183.3 and 15162, utilizing the Housing Element's Environmental Impact Report (EIR, SCH#2010032073) for a consistency analysis. The analysis concluded that the proposed project would not result in any new impacts that would require additional mitigation measures beyond those required by the Housing Element EIR.

FINDINGS FOR APPROVAL

As required by BMC Section 23.406.040 (E) (1-4) "Findings for Approval," the following findings shall be made:

1. To approve a Use Permit, the ZAB shall find that the proposed project or use:

   a) Will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or visiting in the area or neighborhood of the proposed use; and

   Evidence: The project will not be detrimental to the health safety, peace, morals, comfort or general welfare of person residing or visiting in the area because the project is consistent with all applicable C-NS, R-2A, and R-4 District standards, qualifies for concessions and waivers for the standards granted pursuant to State Density Bonus, Government Code, Section 65915, and will not unreasonably obstruct sunlight, air , or views.

   The increase in shadows would be limited to certain times of days during winter and summer, on adjacent properties. Specifically, in the summer, portions of buildings to the east would experience additional shade in the late afternoon, and the buildings to the west would experience additional shade in the morning. In the winter, additional shade would extend to buildings to the northwest in the morning, to the building in the north at noon, and to the buildings in the east in the late afternoon. The project site is on a major commercial corridor, significantly slopes down from east to west, and abuts R-4 lots to the east, which allow heights up to 65 feet with a Use Permit. Therefore, even though the project will create new shadow impacts on neighboring buildings, the projected impacts will be in line with what is expected within a built urban environment.

The reduction in setbacks is consistent with development patterns found in the neighborhood, where commercial and mixed-use buildings are built up to the property line, and is permissible under a density bonus waiver to allow the construction of dwelling units; the project would not be detrimental to air quality.

b) Will not 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.

Evidence: The project will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or the general welfare of the City because the project will benefit the immediate and surrounding neighborhoods by replacing an underutilized commercial building with 110 additional housing units, including 18 below-market-rate units, which contribute to the local and regional housing stock, and ground floor commercial space that may provide services conveniently accessible to the nearby neighborhoods, and accessible by public transit. The 110 units proposed for an opportunity site, as identified in the Housing Element, will be accompanied by a commensurate amount of parking intended to mitigate any potential strain on the current on-street parking supply that may result from the mixed-use project.

2. To approve the Use Permit, the ZAB must also make any other Use Permit findings specifically required by the Zoning Ordinance for the proposed project.

DEMOLITION

Pursuant to BMC Section 23.326.070(D) "Demolition of Non-Residential Buildings," the following findings shall be made: (1) the demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City, and (2) the demolition is required to allow a proposed new building or other proposed new use, will remove a building that is unusable for activities compatible with the purpose of the district or infeasible to modify for such uses, will remove a structure that is an uninhabitable attractive nuisance to the public, or is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority.

Evidence: The proposed ground-floor commercial space is compatible with existing development patterns along Shattuck Avenue and Virginia Street and will accommodate neighborhood-serving commercial uses. The project aligns with the district's objectives to provide a mix of commercial and residential development that is compatible with the existing uses within the C-NS district. The project redevelops an underutilized lot with a mixed-use building that will provide more

housing opportunities. The demolition of the existing 4,604-square-foot, two-story commercial building is necessary to allow the proposed new mixed-use building with 110 dwelling units, which cannot be accommodated in the existing building envelope. The project demolishes an underutilized parking lot and commercial building with vacant ground-floor tenants to be replaced with a mixed-use building that contains active frontages on Shattuck Avenue. The project implements the goals of the Housing Element by providing twice the number of units identified for the site.

DENSITY BONUS

A. Pursuant to Government Code Section 65915, the Zoning Adjustments Board finds that:
    1. Under the City's methodology for implementing density bonuses, the base project consists of 55 units;
    2. The project will provide at least 9 Very Low Income and 9 Moderate Income qualifying units in the 55-unit base project, as more fully set forth in Condition 33;
    3. The project is entitled to a density increase of 100 percent over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element, under the requirements of Government Code Section 65915(b) and (f), plus three concessions or incentives. This equates to a density bonus of up to 55 units above the base project, for a total of up to 110 units.

B. In accordance with Government Code Section 65915(d) and (k), the Zoning Adjustments Board hereby grants the following concessions in order to provide for affordable housing costs:
    1. **Public Art In-lieu Fee**. A Concession from BMC Chapter 23.316 to allow an exemption from the Percentage for Public Art on Private Projects in-lieu fee; and
    2. **On-Grade Parking**. A Concession to relocate the underground parking in the base project to above grade in the proposed project.

C. In accordance with Government Code Section 65915(d), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds that the approval of the concessions is required to provide for affordable rents, as provided in Government Code Section 65915(d)(1)(A) because 1) approval of the concession would result in identifiable and actual cost reduction; 2) approval of the concession would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) would not be contrary to State or Federal law.

D. In accordance with Government Code Section 65915(e) the Zoning Adjustments Board hereby grants the following waivers to modify development standards as necessary to accommodate these density bonus units.

North Shattuck Commercial District (C-NS)

1. Waiver from BMC Section 23.204.090(D)(1) "Basic Development Standards" for a mixed-use project to exceed the 35-foot maximum height limit by adding 54 feet, 4 inches, for a total of 89 feet, 4 inches, and exceed the 3-story limit by adding 5 stories, for a total of 8 stories;
2. Waiver from BMC Section 23.204.090(D)(4) "Residential Window Setback" to reduce the setback for a Mixed-Use building, opposite a required window in any habitable room of a residential use to 0 feet, 0 inches where 10 feet is required;
3. Waiver from BMC Section 23.304.030(C)(2) "Lots Adjacent to Residential Districts" to reduce the interior side setback to 0 feet, 0 inches for the interior side where 5 feet is required;
4. Waiver from BMC Section 23.322.070(D)(1) "Excess Off-Street Parking" to exceed the maximum number of off-street residential parking;

Restricted Multiple Family Residential District (R-2A)

5. Waiver from BMC Section 23.202.090(D)(1) "Basic Development Standards" to exceed the 35-foot maximum by adding 54 feet, 4 inches for a total of 89 feet, 4 inches, and exceed the 3-story limit by adding 5 stories, for a total of 8 stories;
6. Waiver from BMC Section 23.202.090(D)(2) "Supplemental Development Standards" to exceed the 40% lot coverage limit for a 3-story building on a corner lot by adding 60% for a total of 100% lot coverage;
7. Waiver from BMC Section 23.202.090(D)(1) "Basic Development Standards" to reduce the interior side setback to 0 feet, 0 inches on the first and second story where 4 feet is required;

Multi-Family Residential District (R-4)

8. Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to exceed the 65-foot maximum height by adding 24 feet, 4 inches for a total of 89 feet, 4 inches and exceed the 6-story limit by adding 2 stories, for a total of 8 stories;
9. Waiver from BMC Section 23.202.110(E)(2) "Supplemental Development Standards" to exceed the 40% lot coverage limit for a 6-story building on a corner lot by adding 60% for a total of 100% lot coverage;
10. Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to reduce the front setback to 2 feet, 10 inches on the

western side of the lot and 5 feet, 8 inches on the eastern side of the lot where 15 feet is required; and

11. Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to reduce the interior side setback to 0 feet, 0 inches for stories 1-2 where 4 feet is required, and provide a 9 foot, 8-inch setback for 3-8 stories.

E. In accordance with Government Code Section 65915(e), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds that the approval of waivers is required 1) to construct the proposed project at the density permitted under State law; 2) approval of requested waivers will not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) approval of the requested waivers will not be contrary to State or Federal law.

HOUSING ACCOUNTABILITY ACT

The Housing Accountability Act, Government Code Section 65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that: (1) the development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; and (2) there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.

Evidence: The project includes construction of an 8-story (89 feet and 4 inches) 112,969 square-foot mixed-use residential development with 110 dwelling units (including 9 Very Low-Income and 9 Moderate Income units), 690 square feet of ground floor commercial space. Because the base project complies with applicable, objective general plan and zoning standards, Section 65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified.

PERMIT FINDINGS FOR THE C-NS ZONING DISTRICT

As required by BMC Section 23.204.090 (E) "Permit Findings," the following findings shall be made: To approve an AUP or Use Permit for a project in the C-NS district, the review authority must make the findings in Section 23.406.040 (Use Permits) and find that the proposed use or structure:

1. Is compatible in design and character with the commercial district and the adjacent residential neighborhoods;

Evidence: The project is compatible in design and character to the commercial district and adjacent residential neighborhoods because it will construct a mixed-use building that offers both housing and commercial space, thereby contributing to the existing uses in the area and reinforcing compatibility with the C-NS neighborhood and adjacent residential neighborhoods.

2. Is compatible with the purposes and the existing character of the district.

Evidence: The project is compatible with the existing character and purposes of the district because it will construct a mixed-use building that provides housing and commercial space, contributing to the existing commercial and residential uses in the neighborhood and, therefore, compatible. It will provide commercial use on the ground level and provide off-street vehicle parking and bicycle parking, allowing the project to mitigate any potential intensification of available traffic capacity and potential parking supply that would result from the increased density.

3. Does not interfere with the continuity of retail or compatible service facilities at the ground level;

Evidence: The project does not interfere with the continuity of retail or compatible service facilities at the ground level because it will provide a commercial space on the ground floor, creating modern space and continuity to the existing ground-floor uses on Shattuck Avenue.

4. Does not exceed the amount and intensity of use that can be served by available traffic capacity and potential parking supply.

Evidence: The project does not exceed the amount and intensity of use that can be served by available traffic capacity and potential parking supply because it is accessible by public transportation, and will provide bicycle and vehicle parking spaces, thereby reducing the strain on the metered street parking supply in the area.

3. When taking action on a Use Permit, the ZAB shall consider in its findings:

(a) The proposed land use; and

Evidence: The proposed land use meets the findings for approval because the project's residential and commercial uses are allowed land uses and consistent with the General Plan Land Use Designation of Neighborhood Commercial and with the C-NS, R-2A and R-4 zoning of the property. The additional residential units provided

will create new housing opportunities on a transit-served site, contributing to local and regional housing needs and consistent with the development standards, with the inclusion of applicable waivers and concessions allowed under the State Density Bonus law.

(b) The structure or addition that accommodates the use.

Evidence: The proposed construction of an 8-story multi-family building (89 feet and 4 inches in maximum height) is consistent with the zoning development standards, with the inclusion of waivers to modify height and setback limits, pursuant to Government Code Section 65915 "State Density Bonus Law."

4. Required findings shall be made based on the circumstances existing at the time a decision is made on the application.

Evidence: The required findings are satisfied because the project has been determined to be fully compliant with all applicable local and state regulations based on the project plans submitted on July 9, 2025, included as analysis in this report, and evaluated based on the existing conditions of the subject site and surrounding neighborhood at the time of decision.

PLANNING AND DEVELOPMENT

USE PERMIT ZP2024-0066 CONDITIONS OF APPROVAL

September 11, 2025

2109 Virginia Street

Use Permit to demolish a 2-story commercial building (4,604 square feet) and surface parking lot, and construct an 8-story (89 feet and 4 inches) 112,969 square-foot mixed-use residential development with 110 dwelling units (including 9 Very Low-Income and 9 Moderate Income units), 690 square feet of ground floor commercial space, 109 off-street vehicle parking spaces and 64 bicycle parking spaces.

I. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

Pursuant to Berkeley Municipal Code (BMC) Title 23 Zoning Ordinance and Title 13 Public Peace, Morals, and Welfare, the following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. **Conditions and Mitigation Monitoring and Reporting Program Shall be Printed on Plans.** The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings.
2. **Compliance Required (BMC Section 23.102.050).** All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.
3. **Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060(B)(1) and (2)):**
   - **A.** This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
   - **B.** When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To re-establish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. **Conformance to Approved Plans (BMC Section 23.404.060(B)(4)).** All work performed under an approved permit shall comply with the approved plans and any conditions of approval.
5. **Exercise and Expiration of Permits (BMC Section 23.404.060(C)):**
   - **A.** A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
   - **B.** A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
   - **C.** The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with BMC Chapter 23.410, Appeals and Certification.
   - **D.** A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.
6. **Permit Remains Effective for Vacant Property (BMC Section 23.404.060(D)).** Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.
7. **Permit Modifications (BMC Section 23.404.070).** No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.
8. **Permit Revocation (BMC Section 23.404.080).** The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.
9. **Pay Transparency Acknowledgement (BMC Section 13.104.030).** Prior to the issuance of a building permit for any Project subject to this Chapter:
   - **A.** A Responsible Representative of the Permittee shall certify under penalty of perjury that the Permittee has reviewed Chapter 13.104 of the Berkeley Municipal Code, and will be responsible for demonstrating compliance with this Chapter.
   - **B.** The Permittee shall provide to the City a Contractor Pay Transparency Acknowledgment on a form approved by the City for this purpose. A Responsible Representative of the Permittee shall certify under penalty of perjury that the Contractor and all Qualifying Subcontractors performing work on the Project will comply with BMC

Chapter 13.104 and with Labor Code sections 226(a) and 2810.5 for each employee who works on the Project.

10. **Pay Transparency Attestations following Project Completion (BMC Section 13.104.040).** Within 10 days of the approved final inspection of any Project subject to this Chapter, each Permittee shall provide to the City for each Contractor and Qualifying Subcontractor a Pay Transparency Attestation on a form approved by the City. On each Pay Transparency Attestation, a Responsible Representative of the Contractor or Qualifying Subcontractor shall attest under penalty of perjury that the Contractor or Qualifying Subcontractor complied with BMC Chapter 13.104 and Labor Code sections 226(a) and 2810.5 for each employee who performed work on the Project. The City will maintain Pay Transparency Attestation forms for period of at least three years after their date of receipt by the City

11. **Posting of Wage Theft Ordinance (BMC Section 13.104.050).** Each day work is performed on the Project, each Permittee shall post, and keep posted in a conspicuous location where it may be easily read by employees during the hours of the workday, a notice that: (A) contains the text of BMC Chapter 13.104; (B) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the Labor Commissioner of the State of California; and (C) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California.
12. **Wage Theft Prevention Conditions of Approval (BMC Section 13.104.060).** The requirements of BMC Sections 13.104.030 through 13.104.050 shall be included as conditions of approval of any Use Permit or Zoning Certificate for any Project that is subject to this Chapter. Failure to comply with the requirements of any provision of this Chapter shall be grounds for issuance of an administrative citation under BMC Chapter 1.28 and/or the revocation or modification of any Use Permit issued for the Project under BMC Chapter 23.404.
13. **Hold Harmless.** The permittee agrees as a condition of approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively, "Claims") arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the permittee, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The permittee's duty to defend the City shall not apply in those instances when the permittee has asserted the Claims, although the permittee shall still have a duty to indemnify, protect and hold harmless the City.

II. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC Section 23.404.050(H) Conditions of Approval, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

14. **Project Liaison.** The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. Please designate the name of this individual below:

    ☐ **Project Liaison** _____

    Name Phone #

15. **Address Assignment.** The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned in accordance with BMC Section 16.28.030 Assignment and Installation of Numbers, and, except for new buildings on vacant lots, entered into the City's database after the building permit is issued but prior to final inspection.

16. **Bird Safe Buildings.** Prior to submittal of the building permit, the applicant shall demonstrate compliance with the applicable bird safe building provisions in BMC Section 23.304.150, Bird Safe Buildings.

17. **Construction Noise Reduction Program.** The applicant shall develop a site-specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070, Prohibited Acts. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:

    A. Construction equipment should be well maintained and used judiciously to be as quiet as practical.

    B. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.

    C. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.

D. Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.

E. Prohibit unnecessary idling of internal combustion engines.

F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.

G. Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.

H. Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.

I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.

18. **Damage Due to Construction Vibration.** The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). The assessment shall consider project specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake study of existing conditions (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage.

    This study shall establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls; and include written descriptions and photographs.

The study shall be reviewed and approved by the Building and Safety Division and the Zoning Officer prior to issuance of a grading permit. Upon completion of the project, the structures (or, in case of large buildings, of the portions of the structures) previously inspected will be resurveyed, and any new cracks or other changes shall be compared to pre-construction conditions and a determination shall be made as to whether the proposed project caused the damage. The findings shall be submitted to the Building and Safety Division and the Zoning Officer for review. If it is determined that project construction has resulted in damage to the structure, the damage shall be repaired to the pre-existing condition by the project sponsor, provided that the property owner approves of the repair.

19. **Compliance with Conditions of Approval and Environmental Mitigations.** The building permit application is subject to verification of compliance of these Conditions of Approval and the adopted Mitigation Monitoring and Reporting Program (Attachment 3 – Exhibit A). The applicant shall be responsible for demonstrating compliance with all conditions of approval and mitigation measures per the timeline set forth by this use permit. The applicant shall deposit $10,000 with the City, or less with the approval of the Zoning Officer, to pay for the cost of monitoring compliance with these Conditions of Approval and other applicable conditions and regulations. Should compliance-monitoring expenses exceed the initial deposit, the applicant shall deposit additional funds to cover such additional expenses upon the request of the Zoning Officer; any unused deposit will be refunded to the applicant.

Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)

20. **Demolition.** Demolition of the existing building cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these conditions.

21. **Construction Noise Management -** Public Notice Required. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within 500 feet of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.

22. **Construction Phases.** The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an on-site meeting with these individuals as necessary to ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.

23. **Construction and Demolition Diversion.** Applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 including 100 percent diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65 percent diversion of other nonhazardous construction and demolition waste.

24. **Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

    A. Phase I and Phase II Environmental Site Assessment (ESA) (per ASTM 1527). A recent Phase I ESA (less than 2 years old) shall be submitted to the Toxics Management Division for developments for: all new commercial, industrial and mixed-use developments and all improvement projects that require work 5 or more feet below grade, and all new residential buildings with more than four dwelling units located in the Environmental Management Area (or EMA). The EMA can be viewed at: City of Berkeley Community GIS Portal (arcgis.com)

    B. Depending on the findings in the Phase I, a Phase II or additional investigation may be necessary. Any available soils and groundwater analytical data available for projects listed in this section must also be submitted to TMD.

    C. Environmental Site Clearance. The applicant shall provide environmental screening clearance from either the San Francisco Bay Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC), or the Alameda County Department of Environmental Health's Local Oversight Program (LOP). Clearance from one of these regulatory agencies will ensure that the property meets development investigation and cleanup standards for the specific use proposed on the property. Environmental screening clearance shall be submitted to the City of Berkeley's Toxics Management Division prior to issuance of any building permits.

    D. Soil and Groundwater Management Plan. A site-specific Soil and Groundwater Management Plan (SGMP) shall be submitted to Toxics Management Division (TMD) for all non-residential projects, and residential or mixed-use projects with more than four dwelling units, that: (1) are in the Environmental Management Area (EMA), as shown on the most recent City of Berkeley EMA map, and (2) propose any excavations deeper than 5 feet below grade or if significant soils removal is anticipated. The SGMP shall be submitted to the TMD with the project's building permit application and shall be approved by TMD prior to issuance of the building permit.

    The SGMP shall comply with the hazardous materials and waste management standards required by BMC Section 15.12.100, the stormwater pollution prevention requirements of San Francisco Bay Regional Water Quality Control Board's Order No. R2-2009-0074, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66260 et seq.), and the East Bay Municipal Utility District's Ordinance 311, and shall include the following:

        i. procedures for soil and groundwater management including identification of pollutants and disposal methods;

ii. procedures to manage odors, dust and other potential nuisance conditions expected during development;

iii. notification to TMD within 24 hours of the discovery of any previously undiscovered contamination; and

iv. the name and phone number of the individual responsible for implementing the SGMP and who will respond to community questions or complaints.

TMD may require additional information or impose additional conditions as deemed necessary to protect human health and the environment. All requirements of the approved SGMP shall be deemed conditions of approval.

E. Demolitions & Renovations – Building Materials Survey. A hazardous materials survey for building materials and plans on hazardous materials and hazardous waste removal and disposal is required and must be prepared by qualified professionals, and submitted to the Toxics Management Division (TMD) prior to issuance of the building permit.

i. The survey shall include the identification of all materials to be disturbed for lead-based paints, PCB containing equipment and caulking, hydraulic fluids, refrigerants, treated wood, and mercury containing devices (including fluorescent light bulbs and mercury switches), asbestos and other hazardous materials and chemicals.

ii. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center. Contractors must follow state regulations where there is asbestos-related work involving 100 square feet or more of asbestos containing material (8 Cal. Code Regs. §1529, §341.6 et seq.)

iii. The report to the TMD shall include, in addition to the survey, plans on hazardous materials and hazardous waste removal and disposal that comply with State and Federal codes including California Code of Regulations (CCR) 66260 et seq.

iv. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition.

Please note, the PCB Screening Form required by Public Works, Engineering, is a separate requirement and does not address the PCB identification requirement of the Toxics Management Division.

F. Hazardous Materials Business Plan. A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 and California Health & Safety Code, Chapter 6.95 Div. 20, shall be submitted to the Toxics Management Division through the California Environmental Reporting System: http://cers.calepa.ca.gov/ for chemicals used or stored on site during construction that exceed reporting thresholds. The reporting is required if your facility stores or handles hazardous materials in aggregate quantities equal to or greater than 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet of compressed gases, or generates any quantity of hazardous waste. This includes welding gases, emergency generator fuel, paints, etc.

Additionally, the business occupant must submit an HMBP within 30 days of starting operations.

G. Petroleum Storage. An (SPCC) Plan is required to be prepared and implemented for facilities with any one of the following:

i. aggregate aboveground petroleum storage capacities of 1,320 gallons or more stored in aboveground storage containers, tanks, oil-filled equipment, or

ii. one or more tank(s) in an underground area (TIUGA) with petroleum storage capacities of 55 gallons or greater. More information on TIUGAs can be found here: https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/tank-in-an-underground-area-tiuga/

The SPCC plan must be prepared prior to beginning operations and you must submit facility information to Toxics Management Division (TMD) through the California Environmental Reporting System: http://cers.calepa.ca.gov/. The SPCC plan will be reviewed during the site inspection and shall not be submitted in CERS or to the TMD.

Prior to Issuance of Any Building (Construction) Permit

25. Parcel Merger/Lot Line Adjustment. The applicant shall secure approval of any parcel merger and/or lot line adjustment associated with this Use Permit.

26. Final Design Review. The Project requires approval of a Final Design Review application by the Design Review Committee.

27. HVAC Noise Reduction. Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.

28. **Interior Noise Levels.** Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.

29. **Solar Photovoltaic (Solar PV) and Battery Energy Storage Systems (ESS).** A solar PV system shall be installed, subject to specific limited exceptions, as specified by the Berkeley Energy Code (BMC Chapter 19.36). Energy storage system (ESS) readiness (new single-family, duplex, and townhouse homes) or ESS installation (new multifamily and most nonresidential buildings) shall be completed as specified by BMC Chapter 19.36. Location of the solar PV system and the ESS, if applicable, shall be noted on the construction plans. (Project required to meet applicable code at time of building permit application, if different from above.)

30. **Electric Vehicle (EV) Charging.** At least 10 percent of the project parking spaces for residential parking shall have installed Level 2 (40 amp) electric vehicle (EV) charging stations~~,~~ and at least 40 percent shall have installed low power Level 2 EV charging receptacles (20 amp), or any more stringent EV charging requirements as specified by the Berkeley Green Code (BMC Chapter 19.37). Required Level 2 charging stations and low power Level 2 EV charging receptacles shall be installed, maintained, and made available for building resident use. EV charging station installations, EV charging receptacles, and EV Capable spaces shall be noted on the construction plans. Public access parking spaces shall provide any applicable mandatory accessibility provisions. (Project required to meet applicable code at time of building permit application, if different from above.)

31. **Water Efficient Landscaping.** Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ETo) for Berkeley is 41.8.

32. **Recycling and Organics Collection.** Applicant shall provide recycling and organics collection areas for occupants, clearly marked on plans, which comply with the Alameda County Organics Reduction and Recycling Ordinance (2021-02). Contact the Zero Waste Division at RecyclingProgram@berkeleyca.gov.

33. **Public Works ADA.** Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

AFFORDABLE HOUSING REQUIREMENTS – RESIDENTIAL PROJECTS

34. **Affordable Housing Compliance Plan.** The final Affordable Housing Compliance Plan ("AHCP") must be certified by the Zoning Officer and the Department of Health, Housing, and Community Services prior to the issuance of Building Permit. Projects that receive approval from the Building Official for multiple phase construction permits must have the final AHCP certified prior to the issuance of the phase one building permit.

35. **Below Market Rate Units.** Nine Very-Low Income and nine Moderate Income Below Market Rate rental dwelling units (BMR Units) shall be provided in the project. All affordable units provided pursuant to Density Bonus Section of the permit findings shall be designated as BMR Units. All BMR units are required to comply with the stricter of the State Density Bonus Law (Government Code Section 65915) and BMC Section 23.328.030(A) Affordable Housing Requirements.

Summary table of project BMR units				
Code Section	**Extremely-Low Income (30% AMI)**	**Very-Low Income (50% AMI)**	**Low Income (80% AMI)**	**Moderate Income (30% x 110% AMI)**
BMC Chapter 23.328 (Inclusionary Housing)	0	9	0	0
State Density Bonus Law (Gov. Code Section 65915)	0	9	0	9
Total	0	9	0	9

36. **Regulatory Agreement.** If BMR units are provided, the owner shall enter into a Regulatory Agreement that implements Government Code Section 65915, BMC Section 23.328.030, and other provisions for BMR units included in this Use Permit. The Regulatory Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The Regulatory Agreement will secure the property's obligation to comply with the requirements for providing BMR units as defined by BMC Chapter 23.328 and State Density Bonus Law (Government Code Section 65915). The applicant shall submit the Regulatory Agreement to the Department of Health, Housing, and Community Services for review and approval. All BMR units are required to comply with the Regulatory Agreement and the BMR Administrative Guidelines. Regulatory Agreements must be executed prior to the issuance of Building Permit, or, in the case of projects that receive approval from the Building Official for multiple phase construction permits, prior to the issuance of the phase one building permit.

37. **Payment of Affordable Housing In-Lieu Fee.** The Affordable Housing In-Lieu Fee shall be paid as required by BMC Section 23.328.030(B) and Resolution 70,698 N.S. The fee for this project is $462,855, subject to proration to reflect affordable units provided. Any adjustments to the fee and the final fee amount will be determined prior to building permit issuance as part of the Affordable Housing Compliance Plan approval. The In-Lieu Fee shall be paid prior to the issuance of the first Certificate of Occupancy, or if no Certificate of Occupancy is required, prior to the final inspection of the Project. Nothing in these conditions shall be interpreted to prohibit, or to require modification of the Use Permit or Regulatory Agreement to allow, the provision of additional BMR units, or additional affordability, then are required in the foregoing provisions.

Prior to Demolition or Start of Construction:

38. **Construction Meeting.** The applicant shall request of the Zoning Officer an on-site meeting with City staff and key parties involved in the early phases of construction (e.g., applicant, general contractor, foundation subcontractors) to review these conditions and the construction schedule. The general contractor or applicant shall ensure that all subcontractors involved in subsequent phases of construction aware of the conditions of approval.

39. **Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) may be required, particularly for the following activities:

    A. Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);

    B. Storage of building materials, equipment, dumpsters, debris anywhere in the public ROW;

    C. Provision of exclusive contractor parking on-street; or

    D. Significant truck activity.

Please contact the Office of Transportation at (510) 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be stamped and signed by a registered engineer prior to submittal. The TCP shall be consistent with any other requirements of the construction phase. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

40. **Construction/No Parking Permits.** Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood.

During Construction:

41. **Construction Hours.** Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.

42. **Construction Hours- Exceptions.** It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The project shall not be allowed more than 15 extended working days.

43. **Project Construction Website.** The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant.

    A. Contact information (i.e. “hotline” phone number, and email address) for the project construction manager

    B. Calendar and schedule of daily/weekly/monthly construction activities

    C. The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.

44. **Public Works - Implement Bay Area Air District (BAAD)-**Recommended Measures during Construction. For all proposed projects, BAAD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:

A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

D. All vehicle speeds on unpaved roads shall be limited to 15 mph.

E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified visible emissions evaluator.

H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

45. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with one of the following measures:

A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

C. In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:

i. An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.

ii. A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

46. **Construction and Demolition Diversion.** Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using Green Halo and submit online for City review and approval prior to final inspection. Alternatively, complete the Construction Waste Management Plan and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.

47. **Low-Carbon Concrete.** The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25 percent. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff. (Project required to meet applicable code at time of building permit application, if different from above.)

48. **Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

49. **Archaeological Resources (*Ongoing throughout demolition, grading, and/or construction*).** Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:

    A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.

    B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.

    C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.

    D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.

    E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

50. **Human Remains (*Ongoing throughout demolition, grading, and/or construction*).** In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

51. **Paleontological Resources (*Ongoing throughout demolition, grading, and/or construction*).** In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

52. **Halt Work/Unanticipated Discovery of Tribal Cultural Resources.** In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.

53. **Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:

    A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.

    B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.

    C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.

D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be shall be conducted prior to the issuance of a Building Permit.

E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.

F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.

G. All private or public projects that create and/or replace 5,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological). (Project required to meet applicable code at time of building permit application, if different from above.)

H. All on-site storm drain inlets must be labeled “No Dumping – Drains to Bay” or equivalent using methods approved by the City.

I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

J. All loading areas must be designated to minimize “run-on” or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.

K. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

L. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.

54. **Public Works.** Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.

55. **Public Works.** All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.

56. **Public Works.** The applicant shall ensure that all excavation accounts for surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

57. **Public Works.** The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.

58. **Public Works.** Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

59. **Public Works.** The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.

60. **Public Works / Building and Safety.** If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

61. **Compliance with Conditions.** The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.

62. All landscape, site and architectural improvements shall be completed per the attached approved drawings received July 9, 2025.

63. **Transportation Demand Management.** Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Land Use Division staff to confirm that the physical improvements required in BMC Sections 23.334.030(C) and 23.322.090 (bike parking) have been installed. A Parking and Transportation Demand Management (PTDM) compliance report documenting that the programmatic measures required in BMC Sections 23.334.030(C) and 23.322.090 are implemented shall be submitted to the Land Use Division prior to occupancy, and on an annual basis thereafter, which demonstrates that the project is compliant with the applicable requirements in these sections.

    A. Consistent with BMC Section 23.334.030(A), all parking spaces provided for residents be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units. The property owner shall notify all residents of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of Certificate of Occupancy or final inspection.

    B. Consistent with BMC Section 23.334.030(B), at least one of the following transit benefits shall be offered, at no cost to the resident, for a period of ten years after the issuance of a Certificate of Occupancy. A notice describing these transportation benefits shall be posted in a location or locations visible to all residents.

        i. One monthly pass for unlimited local bus transit service for every bedroom in each dwelling unit.

        ii. Subject to the review and approval of the Zoning Officer in consultation with the Transportation Division Manager, a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited adult monthly pass for unlimited local bus transit service monthly local bus pass.

    C. Consistent with BMC Section 23.334.030(C), publicly-available, real-time transportation information in a common area, such as a lobby or elevator bay, on televisions, computer monitors or other displays readily visible to residents and/or visitors, shall be provided. Transportation information shall include, but is not limited to, transit arrivals and departures for nearby transit routes.

    D. Property owners may be required to pay administrative fees associated with compliance with this Condition.

At All Times:

64. **Compliance with Approved Plan.** The project shall conform to the plans and statements in the Use Permit.
65. **Transportation Demand Management Compliance.** A Transportation Demand Management compliance report shall be submitted to the Zoning Officer, on a form acceptable to the City, prior to occupancy, and on an annual basis for ten years thereafter, which demonstrates that the project complies with the applicable requirements. After three years of timely compliant submittals, staff has the option to accept less frequent submittals (minimum one every three years). Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).
66. **Exterior Lighting.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
67. **Rooftop Projections.** No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
68. **Design Review.** Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.
69. **Drainage Patterns.** The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
70. **Electrical Meter.** Only one electrical meter fixture may be installed per dwelling unit.
71. **Loading.** All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.
72. **Residential Permit Parking.** No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The Finance Department, Customer Service Center shall add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts.
73. **Required Bike Parking.** Secure and on-site bike parking for at least 64 bicycles (59 residential long-term, 4 residential short-term, and 1 commercial) shall be provided for the life of the building.
74. **Residential Electric Vehicle (EV) Charging.** Required Level 2 charging stations and low power Level 2 EV charging receptacles, as specified by the Berkeley Green Code (BMC Chapter 19.37) shall be maintained in good working condition and made available for building resident use. (Project required to meet applicable code at time of building permit application, if different from above.)

75. **Nonresidential Electric Vehicle (EV) Charging.** Required Level 2 charging stations and DC Fast Charge stations, as specified by the Berkeley Green Code (BMC Chapter 19.37) shall be maintained in *good working condition and made available for building occupant and/or visitor* use. (Project required to **meet applicable code at time of building permit application, if different from above.)**

76. **Tenant Notification.** The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service, and entertainment uses, and that each occupant shall not seek to impede their lawful operation.

Mitigation Monitoring and Reporting Program

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the City of Berkeley 2023-2031 Housing Element Update Project. The California Environmental Quality Act (CEQA) and State CEQA Guidelines require a public agency to adopt a monitoring and reporting program for ensuring compliance during project implementation with mitigation measures identified in the EIR and adopted at the time of project approval. As stated in section 21081.6(a)(1) of the Public Resources Code:

> ...the public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment.

Section 21081.6 and CEQA Guidelines Section 15097 provide general guidance for implementing mitigation monitoring programs, and indicate that specific reporting and/or monitoring requirements, to be enforced during project implementation, shall be defined by the agency.

To ensure that the mitigation measures are properly implemented, this MMRP identifies the timing and responsibility for implementing and monitoring each measure. Applicants for future projects will have the responsibility for implementing the measures that apply to the proposed development activity, and the identified City of Berkeley departments will have the primary responsibility for monitoring and reporting on the implementation of the mitigation measures.

Mitigation Measure	Implementation Procedures	Monitoring and Reporting Action	Monitoring Timing	Monitoring Responsibility	Compliance Verification (Initial, Date, Comments)
Air Quality					
AQ-1: Construction Emissions Reduction Measures					
Projects shall comply with the current Bay Area Air Quality Management District's basic control measures for reducing construction emissions of PM_{10} (Table 8-2, Basic Construction Mitigation Measures Recommended for All Proposed Projects, of the May 2017 BAAQMD CEQA Guidelines), outlined below. 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times a day. 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. 3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. 4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour. 5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. 6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points. 7. All construction equipment shall be maintained and properly tuned in accordance with manufacture's specifications. All equipment shall be checked by a certified mechanic and	Project applicants shall comply with BAAQMD control measures for reducing construction emissions.	As part of any grading / building permit, ensure control measures are implemented during construction.	During construction.	City of Berkeley Department of Planning & Development, Building & Safety Division	

Mitigation Measure	Implementation Procedures	Monitoring and Reporting Action	Monitoring Timing	Monitoring Responsibility	Compliance Verification (Initial, Date, Comments)
determined to be running in proper conditions prior to operation. 8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's number shall also be visible to ensure compliance with applicable regulations.					
AQ-2: Construction Health Risk Assessment					
For projects (excluding ADUs, single-family residences, and duplexes) where construction activities would occur within 1,000 feet of sensitive receptors, would last longer than two months, and would not utilize Tier 4 and/or alternative fuel construction equipment, the project applicant shall prepare a construction health risk assessment (HRA) and implement necessary measures to reduce risk below the following BAAQMD thresholds: ▪ Increased cancer risk of > 10.0 in a million; ▪ Increased non-cancer risk of > 1.0 Hazard Index (Chronic or Acute); or ▪ Ambient $PM_{2.5}$ increase of > 0.3 µg/m^3 annual average	Project applicants shall prepare a construction health risk assessment (HRA) where required by the measure and implement measures as necessary to reduce construction health risk.	Verify HRA completed. Verify measures are implemented during construction as needed.	Prior to issuance of building permit. During construction as needed.	City of Berkeley Department of Planning & Development City of Berkeley Department of Planning & Development, Building & Safety Division	
AQ-3: TAC Exposure Reduction Building Measures					
The following design features shall be incorporated for residential development located within 1,000 feet of I-580/80 or on a lot that fronts on a section of roadway with 10,000 vehicles per day or more in order to reduce exposure of proposed residences to	Project applicants shall incorporate design features to reduce exposure of proposed residences to TACs	Verify design features to reduce TACs have been incorporated into plans as appropriate.	Prior to issuance of building permit.	City of Berkeley Department of Planning & Development	

Mitigation Measure	Implementation Procedures	Monitoring and Reporting Action	Monitoring Timing	Monitoring Responsibility	Compliance Verification (Initial, Date, Comments)
TACs from vehicles and stationary combustion engines (i.e., generators): 1. If the proposed buildings would use operable windows or other sources of infiltration of ambient air, the development shall install a central HVAC system that includes high efficiency particulate filters (HEPA). These types of filters are capable of removing approximately 99.97 percent of the DPM emissions from air introduced into the HVAC system (U.S. EPA 2022). The system may also include a carbon filter to remove other chemical matter. Filtration systems must operate to maintain positive pressure within the building interior to prevent entrainment of outdoor air indoors. 2. If the development limits infiltration through non-operable windows, a suitable ventilation system shall include a ventilation system with filtration specifications equivalent to or better than the following: (1) American Society of Heating, Refrigerating and Air- Conditioning Engineers MERV-13 supply air filters, (2) greater than or equal to one air exchanges per hour of fresh outside filtered air, (3) greater than or equal to four air exchanges per hour recirculation, and (4) less than or equal to 0.25 air exchanges per hour in unfiltered infiltration. These types of filtration methods are capable of removing approximately 90 percent of the DPM emissions from air introduced into the HVAC system. 3. Windows and doors shall be fully weatherproofed with caulking and weather-stripping that is rated to last at least 20 years. Weatherproof should be maintained and replaced by the property owner, as necessary, to ensure functionality for the lifetime of the project. 4. Where appropriate, install passive (drop-in) electrostatic filtering systems, especially those with low air velocities (i.e., 1 mph).	where required by the measure.	Inspect at project site to confirm that required design features are properly installed	During construction	City of Berkeley Department of Planning & Development	

Mitigation Measure	Implementation Procedures	Monitoring and Reporting Action	Monitoring Timing	Monitoring Responsibility	Compliance Verification (Initial, Date, Comments)
5. Prepare an ongoing maintenance plan for the HVAC and filtration systems, consistent with manufacturers' recommendations. 6. The applicant shall inform occupants regarding the proper use of any installed air filtration system.					
Cultural Resources					
CUL-1: Historic Context Statement, Cultural Resources Survey and Designations					
During the period of this Housing Element, the City should conduct a citywide historic context statement and a cultural resource survey to identify historic resources, with priority given to sites in the EIR Site Inventory, to determine if there are designed built environment features which are over 40 years of age proposed to be altered or demolished. Designation of historic or cultural resources should be conducted by the Landmarks Preservation Commission pursuant to 3.24.260 of the Berkeley Municipal Code.	The City shall conduct a citywide historic context statement and a cultural resource survey.	Verify that survey has been completed, designate resources that are discovered.	During the housing element period.	City of Berkeley Department of Planning & Development Landmarks Preservation Commission to make necessary designations	
CUL-2: Historical Resources Discretionary Review					
For projects that are subject to discretionary review that occur during the Housing Element period where a historical-age building or structure that has not been previously evaluated is present, a historical resources assessment shall be performed by an architectural historian or historian who meets the Secretary of the Interior Professional Qualification Standards (PQS) in architectural history or history. The qualified architectural historian or historian shall conduct an intensive-level survey in accordance with the California Office of Historic Preservation guidelines to determine if the property qualifies for federal, state, or local historical resources designation. All age eligible properties shall be evaluated within their historic context and	Project applicants shall retain a qualified architectural historian to perform a historical resources assessment for any historical-aged building or structure that has not been previously evaluated.	Review and approve the historical resources assessment.	During project review.	City of Berkeley Department of Planning & Development	

Mitigation Measure	Implementation Procedures	Monitoring and Reporting Action	Monitoring Timing	Monitoring Responsibility	Compliance Verification (Initial, Date, Comments)
documented in a technical memorandum with Department of Parks and Recreation Series 523 Forms. If a property is found to be a qualifying historical resource, then the project shall be subject to the City's regulations for permit review, including by the Preservation Landmarks Commission pursuant to Chapter 3.24.260, and/or by the Zoning Adjustments Board pursuant to Chapter 23.326 of the City of Berkeley Municipal Code. Efforts shall be made to the extent feasible to ensure that impacts are mitigated. Application of mitigation shall generally be overseen by a qualified architectural historian or historic architect meeting the PQS, unless unnecessary in the circumstances (e.g., preservation in place). In conjunction with a development application that may affect the historical resource, the historical resources built environment assessment shall also identify and specify the treatment of character-defining features and construction activities. Efforts shall be made to the greatest extent feasible to ensure that the relocation, rehabilitation, or alteration of the resource is consistent with the Secretary of the Interior's Standards for the Treatments of Historic Properties (Standards). In accordance with CEQA, a project that has been determined to conform with the Standards generally would not cause a significant adverse direct or indirect impact to historical resources (14 CCR § 15126.4(b)(1)). Application of the Standards shall be overseen by a qualified architectural historian or historic architect meeting the PQS. In conjunction with any development application that may affect the historical resource, a report identifying and specifying the treatment of character-defining features and construction activities shall be provided to the City for review and concurrence. As applicable, the report shall demonstrate how the project complies with the Standards and be submitted to the City for review and approval prior to the issuance of permits.	If significant historical resources are identified, develop and implement site-specific mitigation measures.	Verify site-specific mitigation measures have been implemented as needed.	During and at completion of construction.	Landmarks Preservation Commission	

Mitigation Measure	Implementation Procedures	Monitoring and Reporting Action	Monitoring Timing	Monitoring Responsibility	Compliance Verification (Initial, Date, Comments)
If significant historical resources are identified on a development site and compliance with the Standards and or avoidance is not possible, appropriate site-specific mitigation measures shall be established and undertaken. These may include documentation of the resource in a manner consistent with the standards of the Historic American Building Survey (HABS). Documentation should include full descriptive and historical narrative, measured drawings, and medium format photographs, all in archivally stable format.					
Geology and Soils					
GEO-1: Protection of Paleontological Resources					
If ground disturbance below the level of prior disturbance and into native soils is proposed to occur in areas mapped as Pleistocene alluvial fan and fluvial deposits (Qpaf), Orinda Formation (Tor), or Knoxville Formation (Kjk), then the City shall require the following to be implemented: **Retention of Qualified Professional Paleontologist.** Prior to initial ground disturbance, the project applicant shall retain a Qualified Professional Paleontologist, as defined by Society of Vertebrate Paleontology (SVP) (2010), to determine the project's potential to significantly impact paleontological resources according to SVP (2010) standards. If underlying formations are found to have a high potential for paleontological resources, the Qualified Professional Paleontologist shall create a Paleontological Mitigation and Monitoring Program, which will be approved by the City and contain the following elements: If underlying formations are found to have a high potential for paleontological resources, the Qualified Paleontologist shall create a Paleontological Mitigation and Monitoring Program, which will be approved by the City and contain the following elements:	On the identified soil types: Project applicants shall retain a qualified paleontologist.	Verify that qualified paleontologist has been retained and measures have been implemented.	Prior to issuance of grading / building permit, periodically during construction.	City of Berkeley Department of Planning & Development	

Mitigation Measure	Implementation Procedures	Monitoring and Reporting Action	Monitoring Timing	Monitoring Responsibility	Compliance Verification (Initial, Date, Comments)
Paleontological Worker Environmental Awareness Program (WEAP). Prior to the start of construction, the Qualified Professional Paleontologist or their designee shall conduct a paleontological Worker Environmental Awareness Program (WEAP) training for construction personnel regarding the appearance of fossils and procedures for notifying paleontological staff should fossils be discovered by construction staff.	Project applicants shall implement a Worker Environmental Awareness Training (WEAP) on paleontological resources.	Verify that WEAP has been completed.	Prior to issuance of grading / building permit	City of Berkeley Department of Planning & Development.	
Paleontological Monitoring. Full-time paleontological monitoring shall be conducted during ground disturbing construction activities (i.e., grading, trenching, foundation work) in sediments assigned a high paleontological sensitivity. Paleontological monitoring shall be conducted by a qualified Paleontological Resources Monitor, as defined by the SVP (2010). The duration and timing of the monitoring will be determined by the Qualified Professional Paleontologist based on the observation of the geologic setting from initial ground disturbance, and subject to the review and approval by the City. If the Qualified Professional Paleontologist determines that full-time monitoring is no longer warranted, based on the specific geologic conditions once the full depth of excavations has been reached, they may recommend that monitoring be reduced to periodic spot-checking or ceased entirely. Monitoring shall be reinstated if any new ground disturbances are required, and reduction or suspension shall be reconsidered by the Qualified Professional Paleontologist at that time. In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. A Qualified Professional Paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the Qualified Professional Paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources. Upon completion of ground disturbing activity (and curation of fossils if necessary) the Qualified Professional Paleontologist shall prepare a final report describing the results of the paleontological	Project applicants shall hire a paleontological resources monitor, and if fossils are discovered, follow procedures for managing resources. Project applicants shall prepare final Paleontological Monitoring report and shall obtain review and approval of the report from the City of Berkeley.	Verify that qualified paleontological resources monitor has been retained. Review final Paleontological Monitoring report.	Prior to issuance of grading / building permit. Upon completion of ground disturbing activity.	City of Berkeley Department of Planning & Development. City of Berkeley Department of Planning & Development.	

Mitigation Measure	Implementation Procedures	Monitoring and Reporting Action	Monitoring Timing	Monitoring Responsibility	Compliance Verification (Initial, Date, Comments)
monitoring efforts associated with the project. The report shall include a summary of the field and laboratory methods, an overview of the project geology and paleontology, a list of taxa recovered (if any), an analysis of fossils recovered (if any) and their scientific significance, and recommendations. The report shall be submitted to the City. If the monitoring efforts produced fossils, then a copy of the report shall also be submitted to the designated museum repository.					
Tribal Cultural Resources					
TCR-1: Tribal Cultural Monitoring					
For projects that are determined through tribal consultation to potentially affect tribal cultural resources, in order to mitigate potential adverse impacts to Native American cultural objects and human remains discovered during construction, tribal cultural monitors will be retained to monitor work done in areas of Tribal concern, as determined through tribal consultation. If Native American cultural objects and/or human remains are discovered during construction, work shall be halted within 100 feet of the discovery until the objects have been inspected and evaluated by tribal cultural monitors and a qualified archaeologist meeting the Professional Qualifications Standards of the Secretary of the Interior (36 CFR Part 61). The archaeologist shall, in accordance with the appropriate Guidelines, identify and evaluate the significance of the discovery and develop recommendations for treatment in consultation with the affected Tribe to ensure any impacts to the cultural resource are less than significant. The preferred mitigation is avoidance. If avoidance is not feasible, Project impacts shall be mitigated in consultation with the affected Tribe consistent with the CEQA Guidelines for Determining the Significance of and Impacts to Cultural Resource, Archaeological Historic and Tribal Cultural Resources. Such mitigation may include, but is not limited to, additional archaeological testing, archaeological monitoring and/or an	Project applicants shall retain tribal cultural monitors to monitor work done in areas of tribal concern. Project applicants shall retain a qualified archaeologist to identify and evaluate the significance of a discovery and develop recommendations for treatment in consultation with the affected Tribe.	Verify that a tribal cultural monitor and qualified archaeologist have been retained. Verify that resources are mitigated as appropriate.	Prior to issuance of grading / building permit and during construction as needed. Prior to issuance of grading / building permit and during construction as needed.	City of Berkeley Department of Planning & Development. City of Berkeley Department of Planning & Development.	

Mitigation Measure	Implementation Procedures	Monitoring and Reporting Action	Monitoring Timing	Monitoring Responsibility	Compliance Verification (Initial, Date, Comments)
archaeological data recovery program. A Native American monitor shall be retained to monitor the ground disturbance when it is suspected that a TCR might be encountered.					
Wildfire					
W-1: Undergrounding of Power Drops in the VHFHSZs					
The City shall require that new or upgraded power drops located in the very high fire hazard severity zone be installed underground. Prior to the issuance of a building permit, the applicant shall submit plans for undergrounding of power drops	Project applicants shall submit plans for undergrounding of power drops.	Verify that plans for undergrounding of power drops have been submitted and that power drops are properly undergrounded.	Prior to issuance of a building permit; verification after construction.	City of Berkeley Department of Planning & Development	

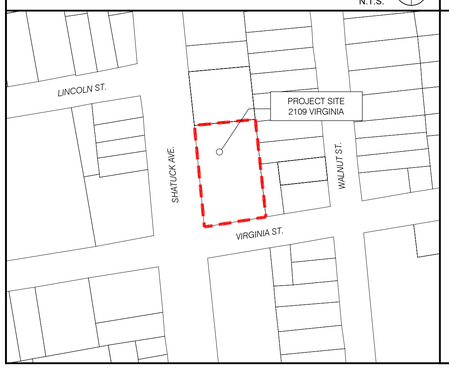
VIEW ALONG SHATTUCK LOOKING NORTHEAST



VICINITY MAP

N

N.T.S.



PROJECT DIRECTORY

OWNER/APPLICANT:
AMERICAN COMMONWEALTH ASSOCIATES, LP
1683 SHATTUCK AVE
BERKELEY, CA 94709

CO OWNER/APPLICANT:
PANORAMIC INTERESTS
100 BUSH STREET
SAN FRANCISCO, CA 94104
panoramic.com

ARCHITECT:
ISAIAH STACKHOUSE, PRINCIPAL
SDT ARCHITECTS
2421 FOURTH STREET
BERKELEY, CA 94710
510.649.1414
www.trachtenbergarch.com

LANDSCAPE ARCHITECT:
INSIDEOUT DESIGN
6000 HARWOOD AVENUE
OAKLAND, CA 94618
510.655.7674
https://www.aboutinsideout.com/

PROJECT DESCRIPTION

PROJECT ADDRESS: 2109 Virginia Street
Berkeley, CA 94709 (APN: 058 217801800)

SCOPE OF WORK:

THE PROJECT IS THE CONSTRUCTION OF A NEW 8-STORY(89'-4" TALL), 110-UNIT MIXED-USE HOUSING DEVELOPMENT WITH 112,969SF OF NEW RESIDENTIAL USE, PARKING GARAGE FOR UP TO 109 SPOTS, AND 690SF NEW COMMERCIAL SPACE. PROJECT INCLUDES REMOVAL OF EXISTING NON-LANDMARKED 2-STORY COMMERCIAL STRUCTURE AND SURFACE PARKING. 15% (9 UNITS) OF THE BASE PROJECT'S UNITS WILL BE AFFORDABLE TO VERY-LOW-INCOME HOUSEHOLDS, AND 15% (9 UNITS) WILL BE MODERATE INCOME HOUSEHOLDS, ENTITLING IT TO A 100% DENSITY BONUS, WAIVERS, AND UP TO 3 CONCESSIONS UNDER THE STATE DENSITY BONUS LAW.

ZONING CODE SUMMARY

(BASED ON THE BERKELEY MUNICIPAL ZONING CODE)

ZONING: C-NS, R2A, R4

SEE SHEET A0.1 FOR COMPLETE ZONING DATA

DRAWING LIST

SHEET NO. & TITLE

ARCHITECTURAL				LANDSCAPE	
A0.0	GENERAL INFORMATION	A2.6	UNIT PLANS	L1-SS	GROUND LEVEL STREETSCAPE
A0.1	ZONING INFORMATION & DIAGRAMS	A3.1	BUILDING ELEVATIONS	L2-CY	SECOND LEVEL COURTYARD
A0.3A	DENSITY BONUS DIAGRAMS	A3.2	BUILDING ELEVATIONS	L3-RD	EIGHTH LEVEL ROOF DECK
A0.3B	DENSITY BONUS CALCULATIONS	A3.3	BUILDING ELEVATIONS	L4-ST	STREET TREE NOTES AND DETAILS
A0.3C	PRELIMINARY AFFORDABLE HOUSING CALCULATIONS	A3.4	BUILDING ELEVATIONS	I1.0	GROUND LEVEL HYDROZONE PLAN
A0.4A	SHADOW STUDIES	A3.5	STREET STRIP ELEVATIONS	I2.0	SECOND LEVEL HYDROZONE PLAN
A0.4B	SHADOW STUDIES	A3.6	PHOTO MATCH PERSPECTIVES	I3.0	EIGHTH LEVEL HYDROZONE PLAN
A0.4C	SHADOW STUDIES	A3.7	CONCEPTUAL RENDERING		
A0.5	SITE CONTEXT PHOTOS	A3.8	CONCEPTUAL RENDERING		
A0.6	VICINITY MAP	A3.9	CONCEPTUAL RENDERING		
A2.0A	SURVEY	A3.10	CONCEPTUAL RENDERING		
A2.0B	SURVEY	A3.11	CONCEPTUAL RENDERING		
A2.0C	SITE PLAN	A4.1	SECTIONS		
A2.1	FLOOR PLANS	A5.1	PRELIMINARY GRADING PLAN		
A2.2	FLOOR PLANS	MAT	MATERIAL BOARD		
A2.3	FLOOR PLANS				
A2.4	FLOOR PLANS				
A2.5	FLOOR PLANS				

STACKHOUSE
DE LA PEÑA
TRACHTENBERG
ARCHITECTS

2421 Fourth Street
Berkeley, California 94710
510.649.1414
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PANORAMIC
1685 SHATTUCK/ 2109 VIRGINIA

Berkeley, CA

12.11.2023 SB330 SUBMISSION
05.31.2024 ZONING APPLICATION
09.18.2024 ZONING RESUBMISSION
04.02.2025 ZONING RESUBMISSION
05.02.2025 DRC HEARING SET
07.24.2025 ZAB HEARING SET

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JOB: 2341

SHEET:

GENERAL INFORMATION

A0.0

ZONING TABLES

CITY OF BERKELEY ZONING TABULATIONS

	BASE ZONING	ALLOWABLE W/ UP'S & AUP'S	PROPOSED W/ DENSITY BONUS	COMPLIANCE
ZONING	C-NS			
LOT AREA	19,788	19,788	19,788	
LOT AREA (ACRES)	0.45	0.45	0.45	
NUMBER OF DWELLING UNITS	N/A	N/A	110	
SETBACK - FRONT (VIRGINIA)	N/A	N/A	2'-10" TO 5'-2"	
SETBACK - REAR	N/A	N/A	0' TO 12'-6"	
SETBACK - INTERIOR SIDE	N/A	N/A	0" TO 35'-7"	
SETBACK - STREET SIDE (SHATTUCK)	N/A	N/A	0	
BUILDING SEPARATION, MINIMUM 1ST STORY	8'	8'	N/A	
BUILDING SEPARATION, MIN. 2ND& 3RD STORY	12', 16'	12', 16'	N/A	
BUILDING HEIGHT	35'	35'	89'-4"	COMPLIES W/WAIVER
BUILDING STORIES	3	3	8	COMPLIES W/WAIVER
LOT COVERAGE (CORNER LOT, 6 STORIES)	N/A	N/A	97%	
BUILDING FOOTPRINT	7,915	7,915	19,155	
FAR	NA	NA	6.21	
TOTAL GSF	NA	NA	122,924	
USABLE OPEN SPACE (SEE TABLE)	40/unit	40/unit	7,060	COMPLIES
PARKING	SEE TABLE	SEE TABLE	SEE TABLE	COMPLIES W/WAIVER
BIKE PARKING	SEE TABLE	SEE TABLE	SEE TABLE	COMPLIES

	BASE ZONING	ALLOWABLE W/ UP'S & AUP'S	PROPOSED W/ DENSITY BONUS	COMPLIANCE
ZONING	R-4 Multi-Family Residential District			
LOT AREA	1,970	1,970	1,970	
LOT AREA (ACRES)	0.05	0.05	0.05	
NUMBER OF DWELLING UNITS	N/A	N/A	0	
SETBACK - FRONT	15'	15'	4'-4" to 5'-8"	COMPLIES W/WAIVER
SETBACK - REAR 1ST - 3RD STORY	15'	15'	0'	COMPLIES W/WAIVER
SETBACK - REAR 3RD - 6TH STORY	17', 19', 21'	17', 19', 21'	24'-10"	COMPLIES W/WAIVER
SETBACK - INTERIOR SIDE 1ST - 2ND STOR	4'	4'	0"	COMPLIES W/WAIVER
SETBACK - INTERIOR SIDE 3RD - 6TH STOR	6', 8', 10', 12'	6', 8', 10', 12'	9'-8"	COMPLIES W/WAIVER
SETBACK - STREET SIDE 1ST-6TH STORY	6', 8', 10', 12', 14', 15'	6', 8', 10', 12', 14', 15'	NA	
BUILDING HEIGHT	35'	65'	89'-4"	COMPLIES W/WAIVER
BUILDING STORIES	3	6	8	COMPLIES W/WAIVER
LOT COVERAGE (INTERIOR LOT)	35%	35%	96%	COMPLIES W/WAIVER
BUILDING FOOTPRINT	887	690	1,886	
FAR	no max.	no max.	3.16	
TOTAL GSF	NA	NA	6,228	
USABLE OPEN SPACE (SEE TABLE)	200/unit	200/unit	0	COMPLIES
PARKING	0	0	0	COMPLIES
BIKE PARKING	0	0	0	COMPLIES

	BASE ZONING	ALLOWABLE W/ UP'S & AUP'S	PROPOSED W/ DENSITY BONUS	COMPLIANCE
ZONING	R-2A Restricted Multi-Family Residential District			
LOT AREA	584	584	584	
LOT AREA (ACRES)	0.01	0.01	0.01	
NUMBER OF DWELLING UNITS	N/A	N/A	0	
SETBACK - FRONT	15'	15'	NA	COMPLIES
SETBACK - REAR	15'	15'	0	COMPLIES W/WAIVER
SETBACK - INTERIOR SIDE 1ST - 2ND STOR	4'	4'	0"	COMPLIES W/WAIVER
SETBACK - INTERIOR SIDE 3RD	6'	6'	9'-8"	COMPLIES W/WAIVER
SETBACK - STREET SIDE 1ST - 3RD STORY	6', 8', 10'	6', 8', 10'	NA	
BUILDING HEIGHT	28'	35'	89'-4"	COMPLIES
BUILDING STORIES	3	3	8	COMPLIES
LOT COVERAGE (INTERIOR LOT)	35%	35%	100%	COMPLIES W/WAIVER
BUILDING FOOTPRINT	234	234	584	
FAR	NA	NA	2.92	
TOTAL GSF	NA	NA	1,704	
USABLE OPEN SPACE (SEE TABLE)	300/unit	300/unit	NA	COMPLIES
PARKING	0	0	0	COMPLIES
BIKE PARKING	0	0	0	COMPLIES

UNIT COUNTS

UNIT TYPE	STUDIO	1-BED	2-BED	2-BED + OFFICE	TOTAL
LEVEL 8	2	4	5	3	14
LEVEL 7	2	4	6	4	16
LEVEL 6	2	4	6	4	16
LEVEL 5	2	4	6	4	16
LEVEL 4	2	4	6	4	16
LEVEL 3	2	4	6	4	16
LEVEL 2	2	4	6	4	16
GROUND LEVEL					0
TOTAL	14	28	41	27	110
PERCENT OF TOTAL	13%	25%	37%	25%	
TOTAL BEDROOMS	14	28	82	54	178

OPEN SPACE TABLE

	UNITS	RATIO	TOTAL	LANDSCAPE AREA (40%)
REQUIRED OPEN SPACE (PER UNIT)	110	40	4,400	
TOTAL CONCESSION REQUESTED			NONE	
AREA PROVIDED - PODIUM DECK			2,670	2,528
AREA PROVIDED - PODIUM PRIVATE PATIOS			320	
AREA PROVIDED - ROOF DECK			1,030	308
AREA PROVIDED - UNIT BALCONIES			3,040	
TOTAL AREA PROVIDED			7,060	2,836

BICYCLE PARKING CALCULATIONS

		REQ'D SPACES		PROPOSED SPACES
RESIDENTIAL LONG TERM (PER BEDROOM)	178	1 per 3 bedrms	59	59
RESIDENTIAL SHORT TERM (PER BEDROOM)	178	per 40 bedrms	4	4
COMMERCIAL (PER SF)	690	1 per 2000sf	1	1
TOTAL BICYCLE PARKING				**64**

PARKING TABLE

	PROVIDED	REQ'D SPACES	PER	PROPOSED
RESIDENTIAL (0 required per Table 23.322-2	110 UNITS	0	0	109
COMMERCIAL (0 required per AB 2097)	690SF	0	1000	0
TOTAL				**109**

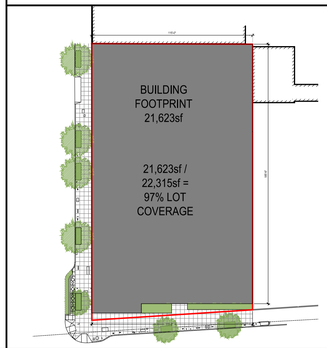
ROOFTOP ARCHITECTURAL ELEMENTS CALCS

AVERAGE AREA	14121
TOTAL AREA OF ROOFTOP ELEMENTS	521
% AREA OF ROOFTOP ARCH. FEATURES	3.7%
ALLOWABLE % (PER 23E.04.020C)	15.0%

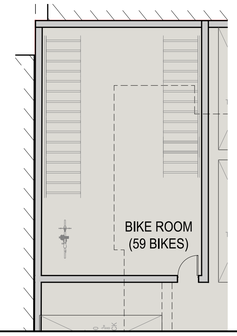
PROPOSED FLOOR AREA WITH DENSITY BONUS

	C-NS RESIDENTIAL	C-NS MEP	C-NS COMMERICAL	R-4 RESIDENTIAL	R4 MEP	R-2A RESIDENTIAL	R-2A MEP	TOTAL RESIDENTIAL
LEVEL 8	13,665			588		160		14,413
LEVEL 7	14,784			588		160		15,532
LEVEL 6	14,784			588		160		15,532
LEVEL 5	14,784			588		160		15,532
LEVEL 4	14,784			588		160		15,532
LEVEL 3	14,784			588		160		15,532
LEVEL 2	14,784			588		160		15,532
GROUND LEVEL	5,376	1,072	690	588	584	-		5,964
TOTAL FLOOR AREA W/ DENSITY BONUS	**107,745**	**1,072**	**690**	**4,704**	**584**	**1,120**	**-**	**113,569**

LOT COVERAGE DIAGRAM

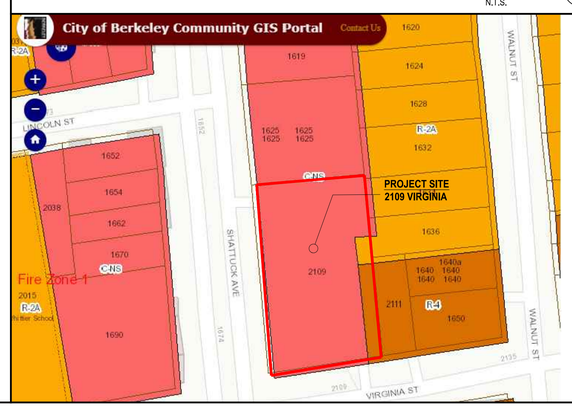


BIKE PARKING

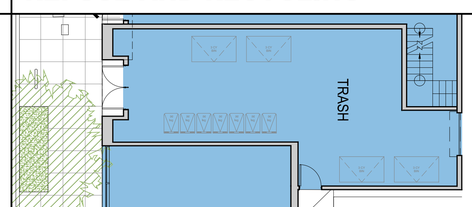


ZONING MAP

N.T.S.



REFUSE AND RECYCLING



Waste and Recycling Calculation

# of Bedrooms	Factor	Occupants	Total cuft required (.25cy or 50 gallons / 3		Waste (40%)		Recycling (40%)	Organics (20%)
178	1.00	178	14.83 cy	2,967 gal	5.93 cuft	1,187 gal	1,187 gal	593 gal
Space Calculation	Container Quanities			Space Required			150% Additional	
	Waste	Recycling	Organics	Factor/container		Space/ Container	Required	Provided
3 cy bin (606 gal)	2	2		28 sf		112 sf		
96 gallon cart			7	7 sf		49 sf		
64 gallon cart				6 sf		sf		
Total capacity	1212 gal	1212 gal	672 gal			161 sf	242 sf	500

OPEN SPACE DIAGRAMS



LEVEL 2
USABLE OPEN SPACE 4,912SF

LEVEL 8
USABLE OPEN SPACE 1,030SF

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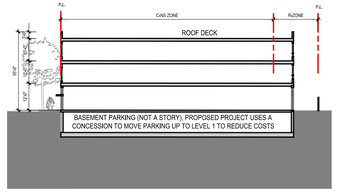
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ZONING DATA

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BASE PROJECT AREAS

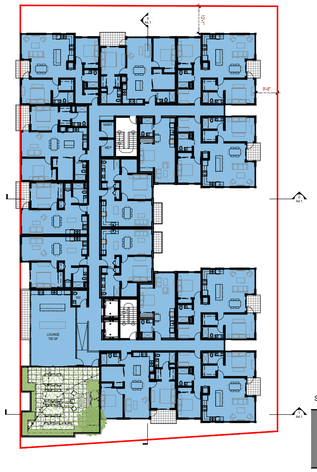
	RETAIL	MEP	RESIDENTIAL FLOOR AEA				TOTAL PROJECT
			C-NS	R-4	R-2A	TOTAL RES.	
SITE AREA			19,788	1,970	584		22,342
ALLOWABLE DENSITY (UNITS/SF)			NA	NA	1650		
ALLOWABLE UNITS (ROUNDS UP)			NA	NA	1		
ALLOWABLE FAR (1.0 FOR COMM. AREA)			NA	**NA**	**NA**		
ALLOWABLE HEIGHT (BASE)			35'	35'	28'		
ALLOWABLE HEIGHT (W/ UP)			35'	65'	35'		
ALLOWABLE STORIES			3	3	3		
ALLOWABLE LOT COVERAGE (%)			NA	45%	40%		
ALLOWABLE LOT COVERAGE (SF)			NA	887	234		
BASE PROJECT AREAS							
LEVEL 3			18,709	887	234	19,830	
LEVEL 2			18,709	887	234	19,830	
LEVEL 1	669	2187	16,006	887	234	17,127	
BASEMENT		4007					
TOTAL ALLOWABLE BASE AREA	**669**	**6,194**	**53,424**	**2,661**	**702**	**56,787**	**63,650**
100% DENSITY BONUS	NA					56,787	
MAX PROJECT W/100% DENSITY BUNUS	**690**	**1,656**				**113,574**	**115,920**



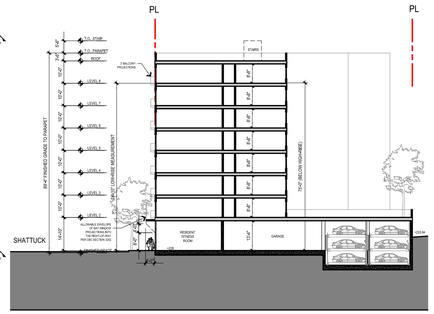
SECTION



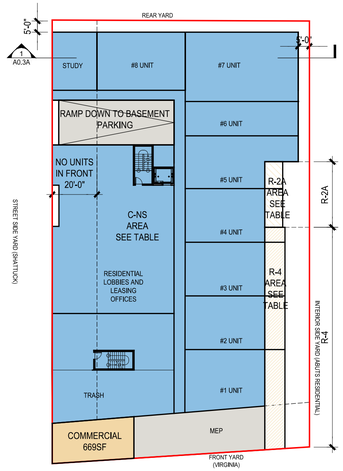
PLAN AT 2ND LEVEL



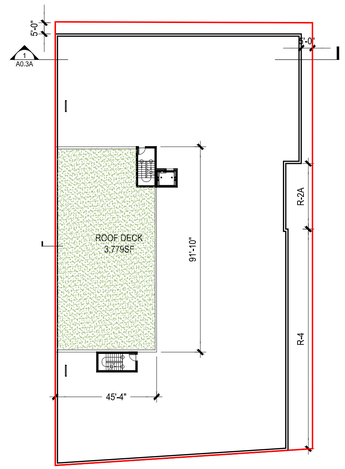
PLAN AT LEVEL 8



SECTION



PLAN AT GROUND LEVEL



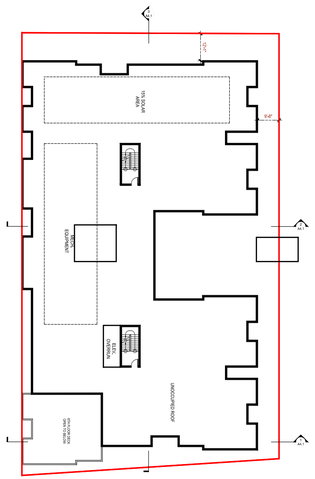
PLAN AT ROOF



PLAN AT GROUND LEVEL

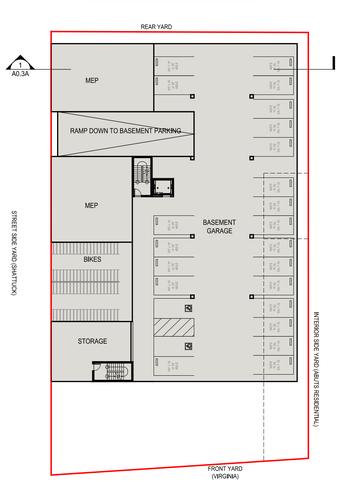


PLAN AT LEVELS 3-7

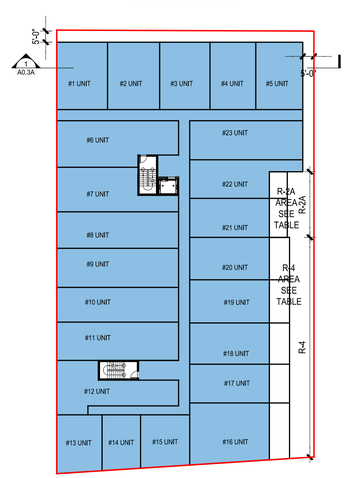


PLAN AT ROOF LEVEL

PROPOSED DENSITY BONUS PROJECT



PLAN AT BASEMENT



PLAN AT 2ND-3RD LEVEL

BASE PROJECT

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DENSITY BONUS DIAGRAMS

A0.3A

DENSITY BONUS TABLE

	Base Project	base avg. unit size	Base # Units	% VLI units	# VLI Units	#VLI Units	% MI units	# MI Units	#MI Units	Bonus %	# DB Units	# DB Units	Maximum DB Project
	sq. ft. - see calculation below	base avg. unit size	Base Project Area / Base Avg Unit Size	VLI = Very Low Income <50 AMI	% VLI x Base # Units		MI = Moderate Income <120 AMI	% MI x Base # Units			%Bonus x Base # Units	%Bonus x Base # Units (rounded up)	%Bonus x Base # Units (rounded up)
	56,787	1,032	55	15%	8.25	9.00	15%	8.25	9.00	100.0%	55.0000	55	**110**

Base Project Res. Area	Floor	Proposed Project Res. Area
	Eighth	14,413
	Seventh	15,532
	Sixth	15,532
	Fifth	15,532
	Fourth	15,532
19,830	Third	15,532
19,830	Second	15,532
17,127	Ground	5,964
Total Floor Area: **56,787**		**113,569**

	#VLI	%VLI	%DB	#DB	#Concessions
	3	5%	20.00%	66	1
	4	6%	22.50%	68	1
	4	7%	25.00%	69	1
	5	8%	27.50%	71	1
	5	9%	30.00%	72	1
	6	10%	32.50%	73	2
	7	11%	35.00%	75	2
	7	12%	38.75%	77	2
	8	13%	42.50%	79	2
	8	14%	46.25%	81	2
	9	**15%**	**50.00%**	**83**	**3**
Additional DB	**#MI**	**%MI**	**%DB**	**#DB**	**#Concessions**
	3	5%	20.00%	94	3
	4	6%	22.50%	95	3
	4	7%	25.00%	97	3
	5	8%	27.50%	98	3
	5	9%	30.00%	99	3
	6	10%	32.50%	101	3
	7	11%	35.00%	102	3
	7	12%	38.75%	104	3
	8	13%	42.50%	106	3
	8	14%	46.25%	108	3
	9	**15%**	**50.00%**	**110**	3

Base Project # of Units	Floor	Proposed Project # of Units
	Eighth	14
	Seventh	16
	Sixth	16
	Fifth	16
	Fourth	16
23	Third	16
23	Second	16
9	Ground	
Total Units: **55**		**110**

Avg. Unit Size: 1032 sf

Concession #1: The project is proposing to relocate the underground parking in the base project to above grade in the proposed project
Concession #2: The project requests a concession to eliminate the Public Art on Private Property requirement
Concession #3

BASE PROJECT ZONING COMPLIANCE CHECKS

Base Project - Open Space

	Units	Ratio	Total Area
Total Required for Base Units	55	40	2200
Total Area Provided			3779
Provided Open Space (Roof Top Open Space)			3779

Base Project - FAR

	Res. Area	Commercial	Total GFA
GFA	56,787	1133	57,920
Site Area			22,342
FAR			2.6

Base Project - Parking

	Req.d Spaces	per SF	SF Provided	Total Req.	Provided
Residential (0 per Table 23.322-2)				0	23
Commercial	2.0	1,000	450.0	1	1

Base Project -Bicycle Parking

	SF	Bedrooms	Ratio	Total Req.	Provided
New Commercial	1,133		1/2000	2	2
Res. (Long)		68	0.33	22	30
Res (Short)		68	0.025	2	2

Base Project - Stormwater

	Roof Area	%	Required	Provided
Base Units	19,830	4%	793	793

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DENSITY BONUS CALCULATIONS

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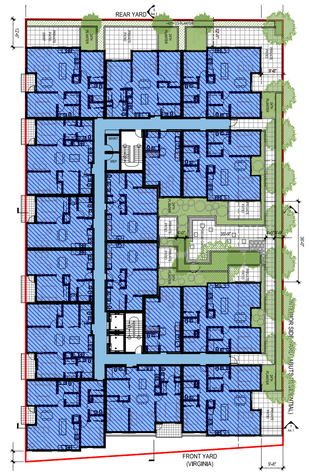
PROPOSED PROJECT RESIDENTIAL UNIT FLOOR AREA DIAGRAM

LEGEND

- DWELLING UNIT RUFA
- RESIDENTIAL AMENITY AREA
- COMMERCIAL AREA



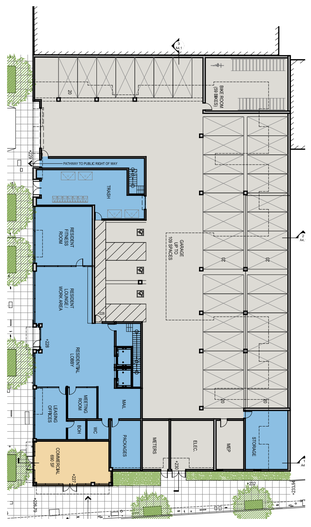
PLAN AT LEVEL 8



PLAN AT LEVEL 2



PLAN AT LEVELS 3-7



PLAN AT GROUND

PROPOSED PROJECT AREA AND UNIT CALCULATIONS

Calculation of the Final Proposed Residential Unit Floor Area:

Floor	Proposed Project Res. Unit Area	Proposed Project Residential Units
8th	11,265	14
7th	13,208	16
6th	13,208	16
5th	13,208	16
4th	13,208	16
3rd	13,208	16
2nd	13,208	16
1st		
Final Proposed Residential Unit Floor Area	**90,513**	**110**

Calculation of Base Project Residential Floor Area:

Final Proposed DB Residential Unit Floor Area	90,513
	/
1 + 100% Density Bonus percentage taken	2.000
	=
Base Project Residential Unit Floor Area	45,257

Calculation of the Affordable Housing Fee:

A	Total Base Project Residential Unit Floor Area	45,257
B	Total Base Project Units	55
C	Total VLI and LI Requirements (20% of Base)	11
D	Total VLI and LI Units Proposed	9
	Fee per Square Foot	$56.25
		X
	Total Base Project Residential Unit Floor Area	45,257
		X
	In Lieu Fee Percentage Calculation (C-D)/C)	18.2%
		=
	Total Fee Due	**$462,855**

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PRELIMINARY AFFORDABLE HOUSING CALCULATIONS

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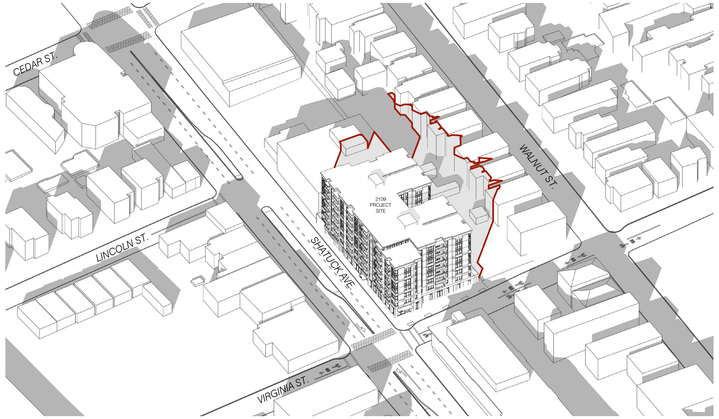
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5 SHADOW STUDY - PM
1:240 @ 11X17 1:120 @ 24X36

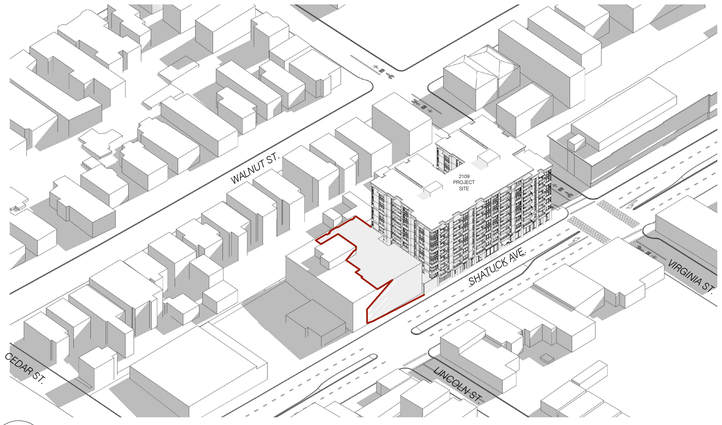
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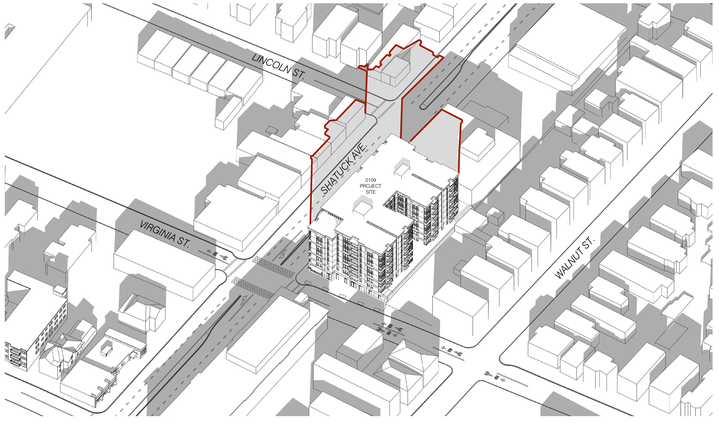
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DECEMBER 21ST

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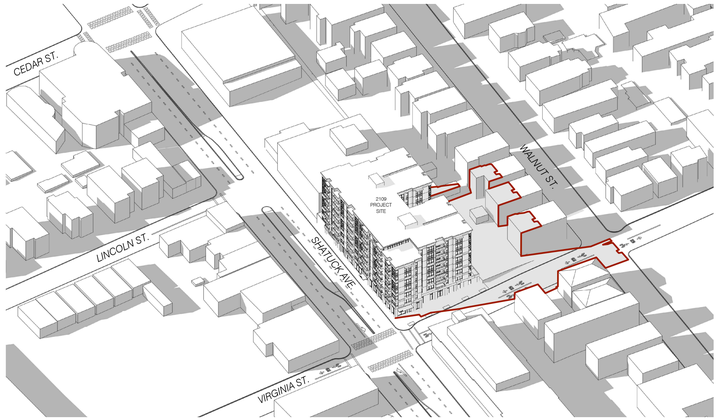
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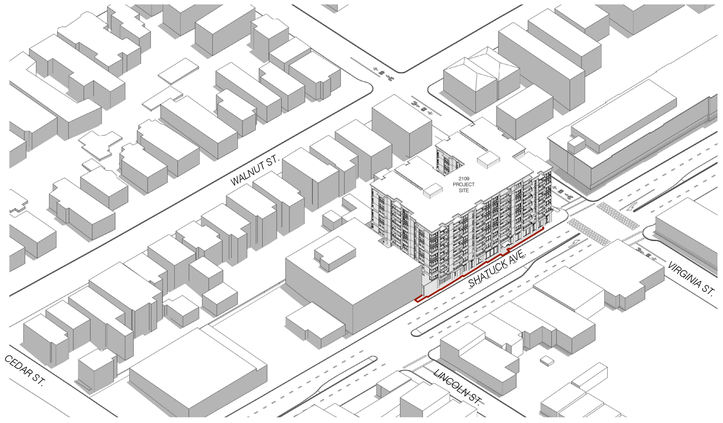
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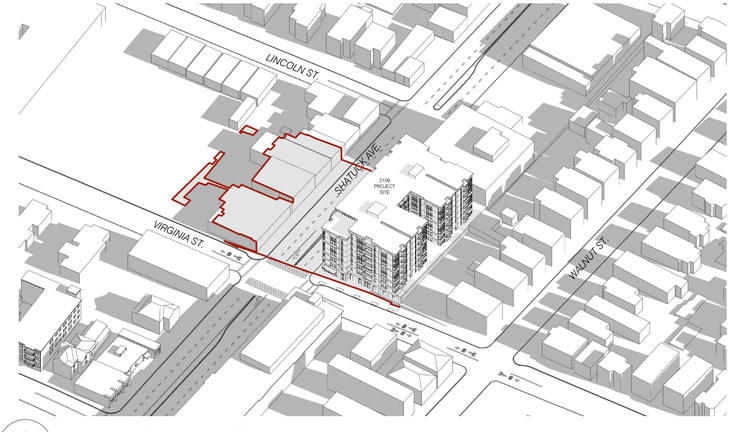
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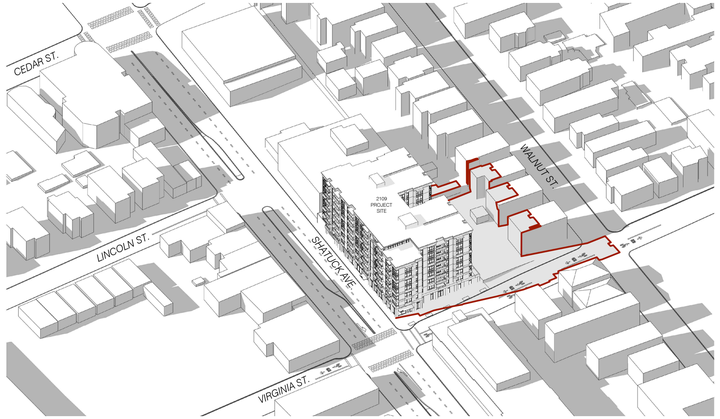
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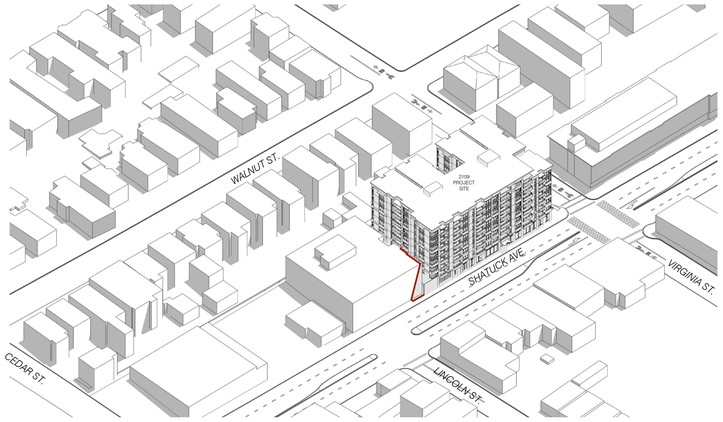
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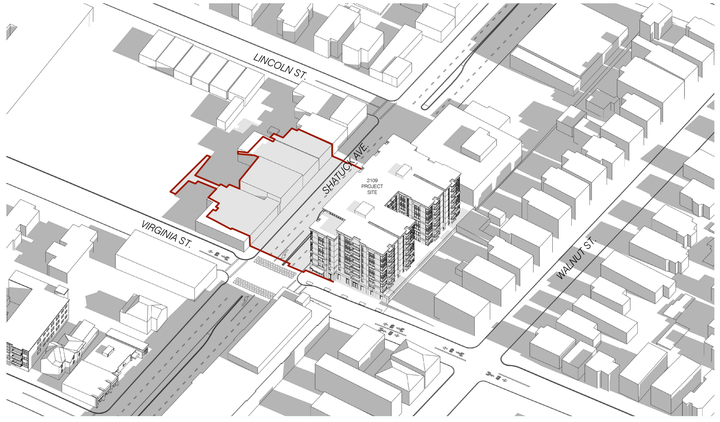
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JOB: 2341

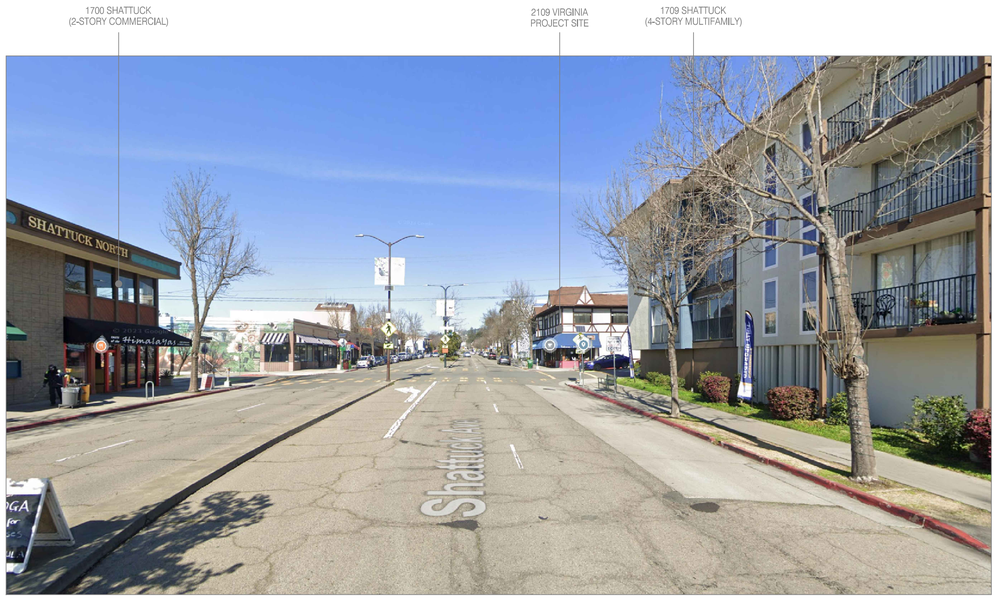
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SHADOW STUDIES
MAY 31ST

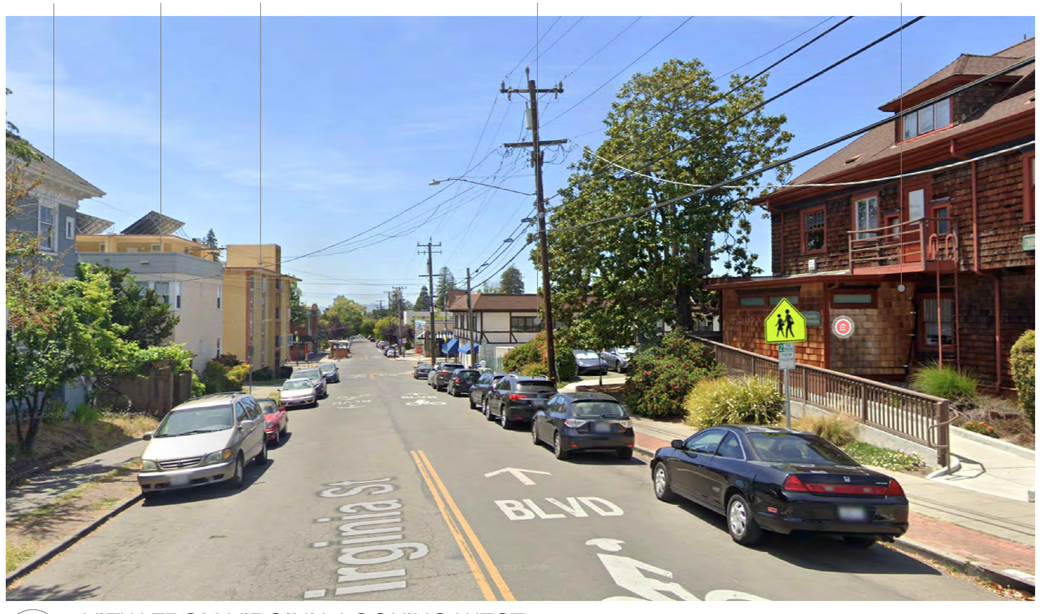
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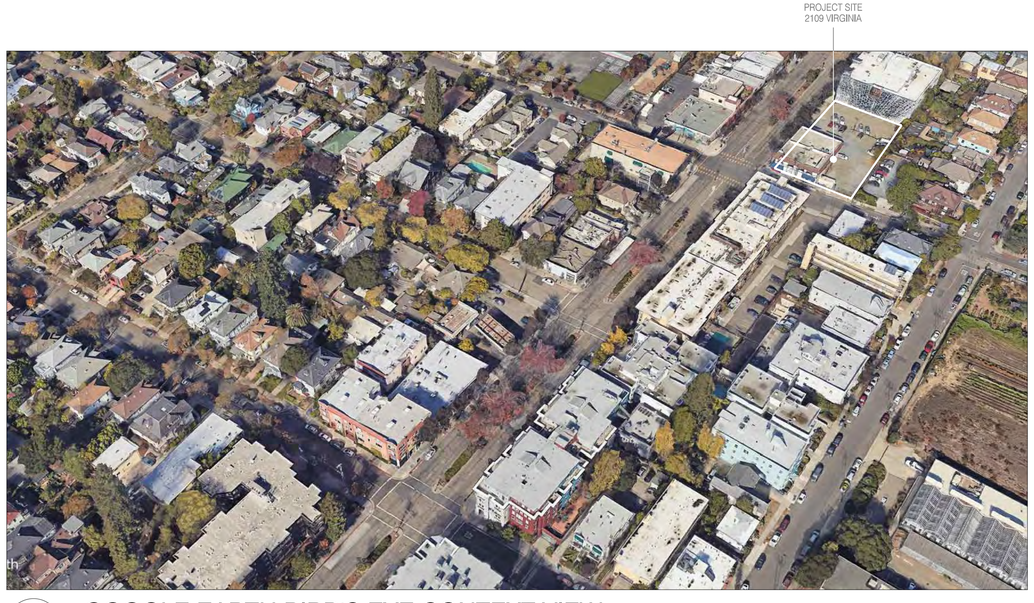
4 - VIEW FROM SHATTUCK LOOKING SOUTH



2 - VIEW FROM SHATTUCK LOOKING NORTH



3 - VIEW FROM VIRGINIA LOOKING WEST



1 - GOOGLE EARTH BIRD'S EYE CONTEXT VIEW

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C20926
4/30/20 25
RENEWAL DATE
STATE OF CALIFORNIA

PANORAMIC 1685 SHATTUCK

Berkeley, CA

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09.18.2024 ZONING RESUBMISSION
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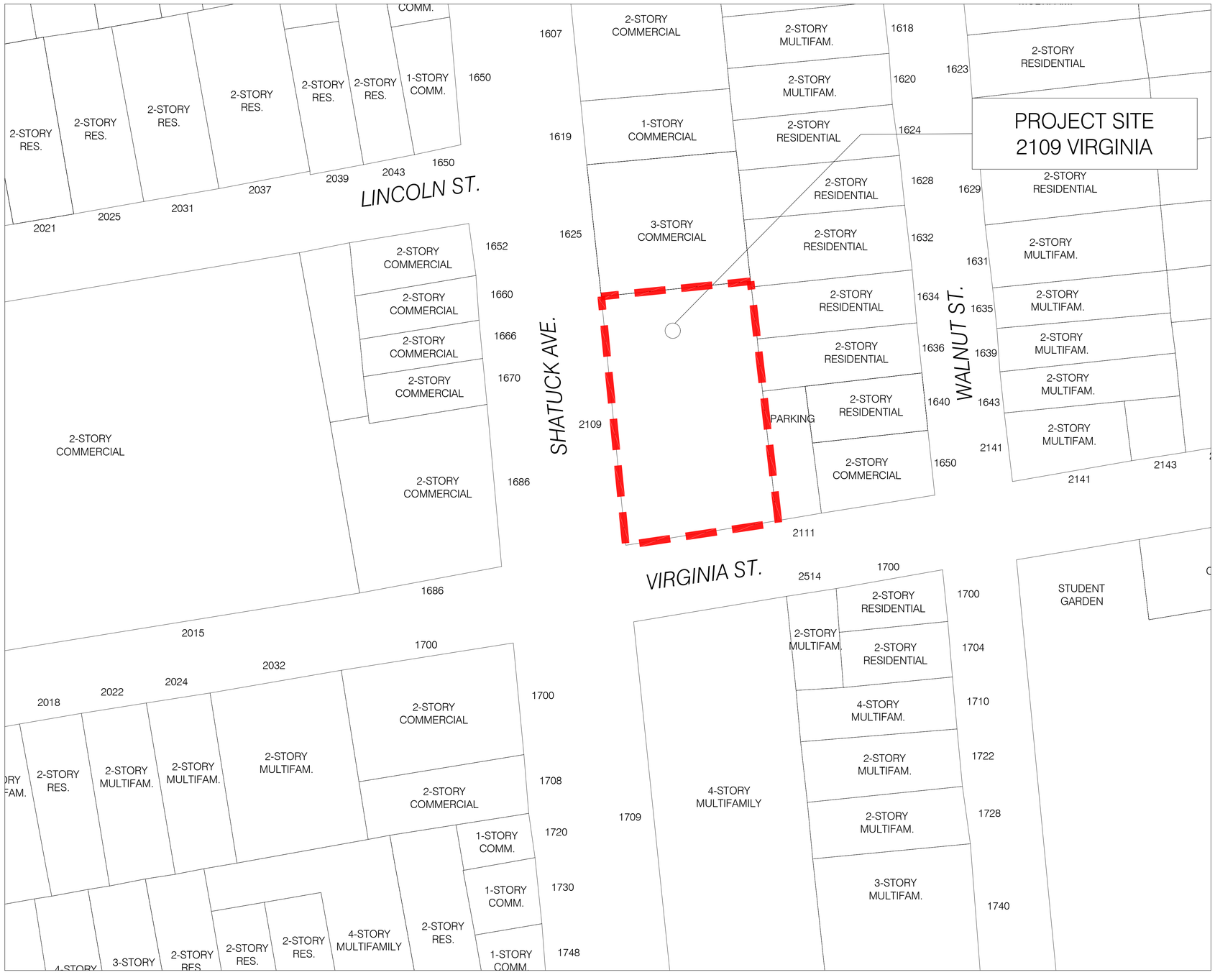
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JOB: 2109

SHEET:

SITE CONTEXT PHOTOS

A0.5



1 - VICINITY MAP
NTS

N

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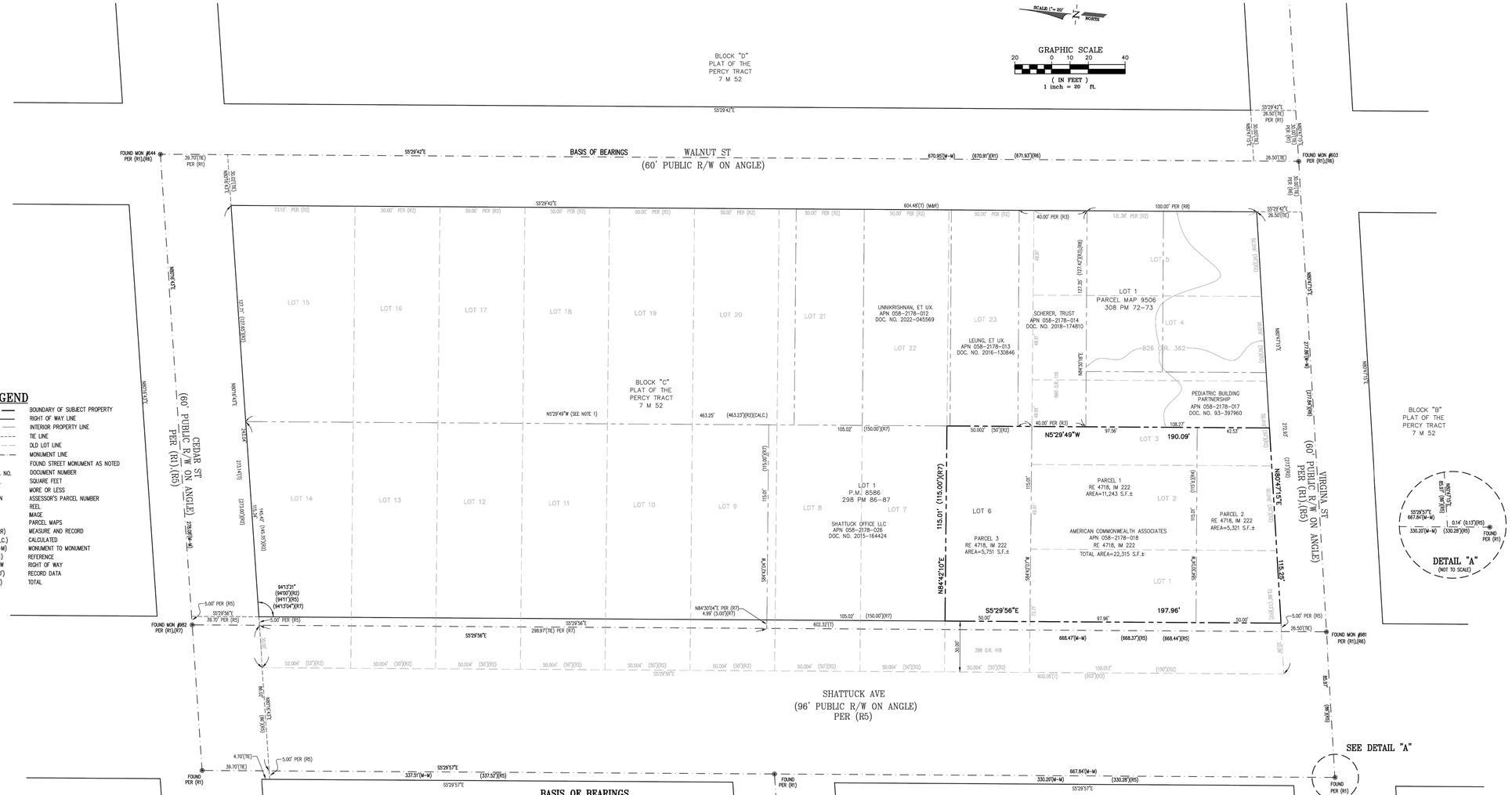
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JOB: 2341

SHEET:

VICINITY MAP

A0.6



LEGEND

	BOUNDARY OF SUBJECT PROPERTY
	RIGHT OF WAY LINE
	INTERIOR PROPERTY LINE
	TIE LINE
	OLD LOT LINE
	MONUMENT LINE
⊗	FOUND STREET MONUMENT AS NOTED
DOC. NO.	DOCUMENT NUMBER
S.F.	SQUARE FEET
±	MORE OR LESS
APN	ASSESSOR'S PARCEL NUMBER
RE	REEL
IM	IMAGE
PM	PARCEL MAPS
(M&R)	MEASURE AND RECORD
(CALC.)	CALCULATED
(M-M)	MONUMENT TO MONUMENT
(R1)	REFERENCE
R/W	RIGHT OF WAY
(50')	RECORD DATA
(T)	TOTAL

TITLE REPORT

THE TITLE REPORT USED IN THIS SURVEY WAS ISSUED BY FIDELITY NATIONAL TITLE COMPANY, PRELIMINARY REPORT ORDER NO. 013-30110437-A-KDO, EFFECTIVE DATE JANUARY 17, 2024 AT 7:30 A.M, AMENDED: FEBRUARY 26, 2024, AMENDMENT NO. A, REFERRED TO HEREON AS THE "PTR"

TITLE TO SAID ESTATE IS VESTED IN:

AMERICAN COMMONWEALTH ASSOCIATES, A LIMITED PARTNERSHIP

THE ESTATE OR INTEREST IN THE LAND IS:

A FEE

EXCEPTIONS TO TITLE

1. WATER RIGHTS, CLAIMS OR TITLE TO WATER, WHETHER OR NOT DISCLOSED BY THE PUBLIC RECORDS (PTR EXC. 3 – NOT PLOTTABLE).

NOTES

1. DATE OF FIELD SURVEY: APRIL 15 AND 23, 2024 AS TO THE BOUNDARY AND TOPOGRAPHIC SURVEY OF THE SUBJECT PROPERTY.
2. THE UTILITIES SHOWN HEREON ARE BY SURFACE OBSERVATION AND RECORD INFORMATION ONLY AND NO WARRANTY IS GIVEN HEREIN AS TO THEIR EXACT LOCATION. IT IS THE RESPONSIBILITY OF THE DEVELOPER AND/OR CONTRACTOR TO VERIFY THE EXACT LOCATION OF THE UTILITIES WITH THE APPROPRIATE UTILITY COMPANY OR AGENCY.
3. UTILITY JURISDICTIONS / PROVIDERS ARE AS FOLLOWS:
   STORM DRAINS: CITY OF BERKELEY
   SANITARY SEWER: CITY OF BERKELEY
   WATER: EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD)
   ELECTRICITY: PACIFIC GAS & ELECTRIC CO.
   NATURAL GAS: PACIFIC GAS & ELECTRIC CO.
   TELEPHONE: AT&T
4. THERE ARE NO CEMETERIES ON OR WITHIN 100 FEET OF THE SUBJECT PROPERTY.
5. THE LEGAL DESCRIPTION OF THE SUBJECT PROPERTY IS THE SAME AS THE PROPERTY DESCRIBED IN THE PRELIMINARY TITLE REPORT.
6. THE LEGAL DESCRIPTION AS SHOWN IN THE TITLE REPORT MATHEMATICALLY CLOSES.
7. THERE IS NO OBSERVED EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL
8. THERE ARE NO WETLAND AREAS IN THE SUBJECT PROPERTY
9. THE SUBJECT PROPERTY HAS DIRECT ACCESS TO AND FROM SHATTUCK AVENUE, A PUBLIC RIGHT OF WAY AND VIRGINIA STREET, A PUBLIC RIGHT OF WAY.

LEGAL DESCRIPTION

LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF BERKELEY IN THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

BEGINNING AT A POINT ON THE EASTERN LINE OF SHATTUCK AVENUE, AS THE LINE OF SAID AVENUE NOW EXISTS, 50 FEET NORTHERLY FROM THE NORTHERN LINE OF VIRGINIA STREET, RUNNING THENCE NORTHERLY ALONG SAID EASTERN LINE OF SHATTUCK AVENUE TO THE SOUTHERN LINE OF LOT NO. 6 IN BLOCK "C", AS SAID LOT AND BLOCK ARE SHOWN ON THE MAP HEREINAFTER REFERRED TO; THENCE AT RIGHT ANGLES EASTERLY TO THE WESTERN LINE OF LAND CONVEYED TO M. S. CARNALL BY DEED OF RECORD IN BOOK 860 OF DEEDS, PAGE 116; THENCE SOUTHERLY ALONG SAID LAST NAMED LINE AND ALONG THE WESTERN BOUNDARY LINE OF LAND CONVEYED TO E. N. PROUTY BY DEED OF RECORD IN BOOK 826 OF DEEDS, PAGE 362, TO A LINE DRAWN EASTERLY AT RIGHT ANGLES TO SHATTUCK AVENUE THROUGH THE POINT OF BEGINNING; THENCE WESTERLY ALONG SAID LAST NAMED LINE TO THE POINT OF BEGINNING.

BEING A PORTION OF LOTS NOS. 1, 2, AND 3, IN BLOCK "C", AS SAID LOTS AND BLOCK ARE DELINEATED AND SO DESIGNATED UPON THAT CERTAIN MAP ENTITLED, PLAT OF THE PERCY TRACT, FILED APRIL 27, 1882, IN BOOK 7 OF MAPS, PAGE 52, ALAMEDA COUNTY RECORDS.

PARCEL 2:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERN LINE OF VIRGINIA STREET WITH THE EASTERN LINE OF SHATTUCK AVENUE, AS THE LINE OF SAID AVENUE NOW EXISTS; AND RUNNING THENCE NORTHERLY ALONG SAID LINE OF SHATTUCK AVENUE 50 FEET; THENCE AT RIGHT ANGLES EASTERLY 115 FEET, MORE OR LESS, TO THE WESTERN LINE OF LAND CONVEYED BY YORK AND WHITWORTH TO E. N. PROUTY BY DEED DATED APRIL 15, 1902 AND RECORDED IN BOOK 826 OF DEEDS, PAGE 362; THENCE SOUTHERLY ALONG SAID LAST NAMED LINE TO THE NORTHERN LINE OF VIRGINIA STREET; THENCE WESTERLY ALONG SAID LAST NAMED LINE TO THE POINT OF BEGINNING.

BEING A PORTION OF LOTS NOS. 1, 2, AND 3 IN BLOCK "C", AS SAID LOTS AND BLOCK ARE DELINEATED AND SO DESIGNATED UPON THAT CERTAIN MAP ENTITLED, PLAT OF THE PERCY TRACT, FILED APRIL 27, 1882, IN BOOK 7 OF MAPS, PAGE 52, ALAMEDA COUNTY RECORDS.

PARCEL 3:

LOT 6 IN BLOCK "C", AS SAID LOT AND BLOCK ARE SHOWN ON THE PLAT OF THE PERCY TRACT, FILED APRIL 27, 1882 IN BOOK 7 OF MAPS, PAGE 52, ALAMEDA COUNTY RECORDS. EXCEPTING THEREFROM, THE WESTERN 30 FEET THEREOF WHICH LIES WITHIN THE LINES OF SHATTUCK AVENUE, AS THE SAME NOW EXISTS, AS DESCRIBED IN THE DEED FROM WALDO M. YORK TO THE TOWN OF BERKELEY, DATED OCTOBER 27, 1884, RECORDED JULY 13, 1885 IN BOOK 286 OF DEEDS, AT PAGE 418, ALAMEDA COUNTY RECORDS.

APN: 058-2178-018-00

BASIS OF BEARINGS

THE BASIS OF BEARINGS OF THIS SURVEY IS TAKEN BETWEEN FOUND CITY MONUMENT #644 AND FOUND CITY MONUMENT # 643 ALONG WALNUT STREET BETWEEN CEDAR STREET AND VIRGINIA STREET AS SHOWN ON TRACT 7257, FILED NOVEMBER 29, 2001 IN BOOK 261 OF PARCEL MAPS, AT PAGES 95 TO 96, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA. TAKEN AS SOUTH 5°29'42" EAST.

REFERENCES

(R1) TRACT 7257, FILED NOVEMBER 29, 2001 IN BOOK 261 OF PARCEL MAPS, AT PAGES 95 TO 96, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R2) MAP ENTITLED "PLAT OF THE PERCY TRACT", FILED APRIL 27, 1882 IN BOOK 7 OF MAPS, AT PAGE 52, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R3) DEED RECORDED IN BOOK 860, AT PAGE 116, OFFICIAL RECORDS OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R4) GRANT DEED RECORDED FEBRUARY 10, 1977 IN REEL 4718, IMAGE 222, OFFICIAL RECORDS OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R5) UNRECORDED MAP, CITY OF BERKELEY MONUMENT MAP, PLAN 1305, 3065-057.

(R6) PARCEL MAP 9506, FILED AUGUST 13, 2008 IN BOOK 308 OF PARCEL MAPS, AT PAGES 72 TO 73, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R7) P.M. 8586, FILED JUNE 22, 2007 IN BOOK 298 OF PARCEL MAPS, AT PAGES 86 TO 87, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R8) DEED RECORDED IN BOOK 826 AT PAGE 362, OFFICIAL RECORDS OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

SURVEYOR'S CERTIFICATE

TO AMERICAN COMMONWEALTH ASSOCIATES, A LIMITED PARTNERSHIP; AND FIDELITY NATIONAL TITLE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(A), 6(B), 7(A), 7(B1), 7(C), 8, 9, 10, 11(A), 12, 13, 14, 16, 17, 18, AND 19 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON APRIL 15 AND 23, 2024.

JACQUELINE LUK P.L.S. 8934
FOR LUK & ASSOCIATES, INC.

DATE APRIL 30, 2029

PROFESSIONAL LAND SURVEYOR
JACQUELINE LUK
LS 8934
STATE OF CALIFORNIA

TABLE A NOTES

1. FOUND MONUMENTS ARE SHOWN ON THIS SHEET OF THE SURVEY.
2. THE STREET ADDRESS OF THE PROPERTY IS 1669-1685 SHATTUCK AVENUE AND 2109 VIRGINIA STREET, BERKELEY, CA
3. FLOOD ZONE DESIGNATION: THE PREMISES ARE LOCATED IN ZONE "X" (NON-SHADED) DEFINED AS "AREAS OF MINIMAL FLOOD," PER FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 06001C0019G, EFFECTIVE DATE: AUGUST 3, 2009.
4. THE TOTAL GROSS LAND AREA IS: 22,315 SQUARE FEET +/- OR 0.512 ACRES MORE OR LESS.
6. (A/B) ZONING REQUIREMENTS: PER THE CITY OF BERKELEY PLANNING AND ZONING DEPARTMENT, THE PROPERTY IS ZONED "C-NS" DEFINED AS "NORTH SHATTUCK COMMERCIAL DISTRICT."

   REFERENCE FOR "C-NS" ZONING IS MADE HERE TO THE CITY OF BERKELEY CODE, TITLE 23, DIVISON 2, CHAPTER 23.204, REGARDING PROPERTY DEVELOPMENT STANDARDS, MINIMUM SETBACKS, BUILDING HEIGHT LIMITATION, AND PARKING REQUIREMENTS ARE AS FOLLOWS:

   SETBACKS
   MINIMUM FRONT: 15 FEET
   MINIMUM INTERIOR SIDE: 5 FEET
   MINIMUM STREET SIDE: 8 FEET
   MINIMUM REAR: 10 FEET OR 10% OF LOT DEPTH, WHICHEVER IS LESS

   MAXIMUM HEIGHT: 35 FEET AND 3 STORIES

   MINIMUM PARKING REQUIREMENTS: NONE REQUIRED
7. (A/B1/C) EXTERIOR DIMENSIONS AND SQUARE FOOTAGE OF BUILDING AT GROUND LEVEL, AND NUMBER OF STORIES ARE SHOWN ON SHEET 2 OF THE SURVEY.
8. SUBSTANTIAL IMPROVEMENTS OBSERVED IN THE PROCESS OF CONDUCTING THE SURVEY ARE SHOWN.
9. THERE ARE 19 PARKING SPACES LOCATED ON THE SUBJECT PROPERTY.
10. THERE ARE NO DIVISIONS OR PARTY WALLS LOCATED ON THE SUBJECT PROPERTY WITH RESPECT TO ADJOINING PROPERTIES.
11. (A) LOCATION OF UTILITIES EXISTING ON OR SERVING THE SURVEYED PROPERTY AS DETERMINED BY OBSERVED EVIDENCE TOGETHER WITH EVIDENCE FROM PLAN OBTAINED FROM UTILITY COMPANIES OR PROVIDED BY CLIENT ARE SHOWN ON SHEET 2.
12. GOVERNMENTAL AGENCY SURVEY-RELATED REQUIREMENTS ARE SHOWN.
13. NAMES OF ADJOINING OWNERS OF PLATTED LANDS ARE SHOWN ON THIS SHEET OF THE SURVEY.
14. DISTANCE TO THE NEAREST INTERSECTING STREET IS SHOWN ON THIS SHEET OF THE SURVEY.
16. THERE IS NO OBSERVABLE EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS.
17. THERE IS NO OBSERVED EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS.
18. THERE ARE NO OFFSITE EASEMENTS TO THE SUBJECT PROPERTY.
19. PROFESSIONAL LIABILITY INSURANCE IN THE AMOUNT OF $2,000,000 IS HELD BY THE SURVEYOR.

BENCHMARK

ELEVATIONS SHOWN ARE BASED ON BENCHMARK 63N452, BEING CUT SQUARE ON THE TOP MIDDLE OF THE CURB AT THE SOUTH END OF THE MEDIAN ISLAND ON SHATTUCK AVENUE AT THE NORTH SIDE OF LINCOLN STREET. ELEVATION = 231.83 FEET, CITY OF BERKELEY DATUM.

NOTE

1) BEARING IS BASED ON THE MEAN BEARING OF SHATTUCK AVENUE AND WALNUT STREET.

SHEET INDEX

1) NOTES AND BOUNDARY SURVEY
2) TOPOGRAPHIC SURVEY

VICINITY MAP

NO SCALE

ALTA/NSPS LAND TITLE SURVEY

OF

1669-1685 SHATTUCK AVENUE AND 2109 VIRGINIA STREET
CITY OF BERKELEY, ALAMEDA COUNTY, CALIFORNIA
APRIL 2024

PREPARED BY
LUK AND ASSOCIATES
CIVIL ENGINEER – LAND PLANNERS – LAND SURVEYORS
738 ALFRED NOBEL DRIVE
HERCULES, CALIFORNIA 94547
(510) 724-3388

F:\Jobs\FILE2024\24071A10\ALTA-24071A10.dwg

JOB NO.: 24071A10 PLOT DATE: APRIL 30, 2024

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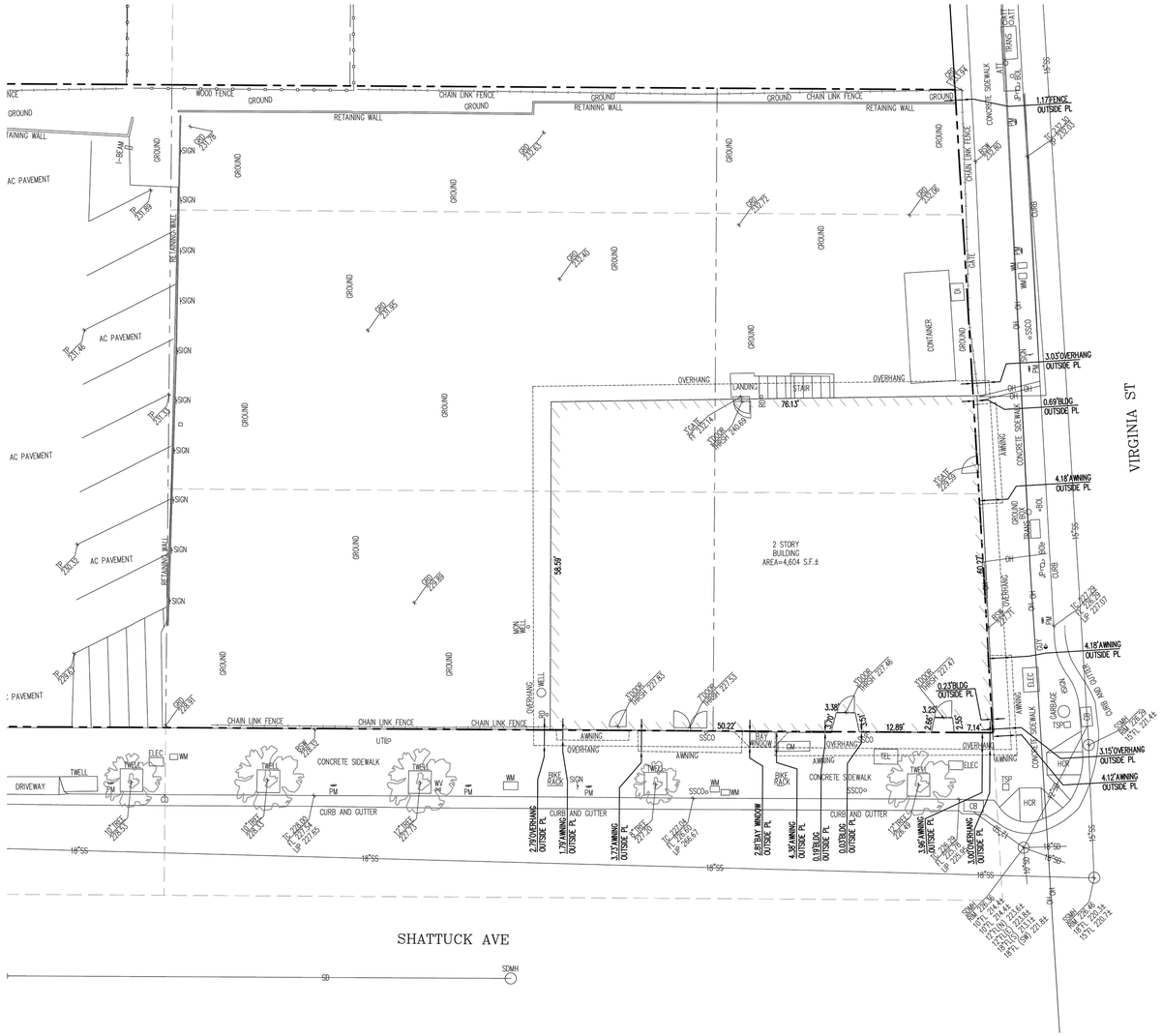
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JOB: 2341

SHEET:

SURVEY

A2.0a



LEGEND

SYMBOLS	DESCRIPTION
	BOUNDARY OF SUBJECT PROPERTU
	RIGHT OF WAY LINE
	INTERIOR PROPERTY LINE
	OLD LOT LINE
	BUILDING LINE
OH	OVERHEAD WIRE LINE
SD	STORM DRAIN LINE
SS	SANITARY SEWER LINE
TSP	TRAFFIC SIGNAL POLE
JP	JOINT POLE
AC PAVEMENT	ASPHALT CONCRETE
UTIL PANEL	UTILITY PANEL
HCR	HANDICAP RAMP
ELEC	ELECTRIC BOX
GM	GAS METER
BOL	BOLLARD
CB	CATCH BASIN
TEL	TELECOMMUNICATION BOX
DI	DRAIN INLET
WM	WATER METER
CD	CURB DRAIN
CO	CLEAN OUT
SSCO	SANITARY SEWER CLEAN OUT
TRANS	TRANSFORMER
GUY	GUY WIRE
WV	WATER VALVE
TWELL	TREE WELL
ATT	TLECOMMUNICATION BOX
PM	PARKING METER
SSMH	SANITARY SEWER MANHOLE
RD	ROOF DRAIN
MON WELL	MONITORING WELL
BSW 65.60	BACK OF SIDEWALK ELEVATION
TC 65.64	TOP OF CURB ELEVATION
TP 65.64	TOP OF PAVEMENT ELEVATION
FL 65.64	FLOW LINE ELEVATION
TOP STAIR 65.64	TOP OF STAIR ELEVATION
BOT STAIR 65.64	BOTTOM OF STAIR ELEVATION
TOP BLDG 65.64	TOP OF BUILDING ELEVATION
THRSH 65.60	THRESHOLD ELEVATION
CONC 65.60	TOP OF CONCRETE ELEVATION
	TREE

SCALE: 1" = 10'

NORTH

GRAPHIC SCALE

10 0 5 10 20

(IN FEET)

1 inch = 10 ft.

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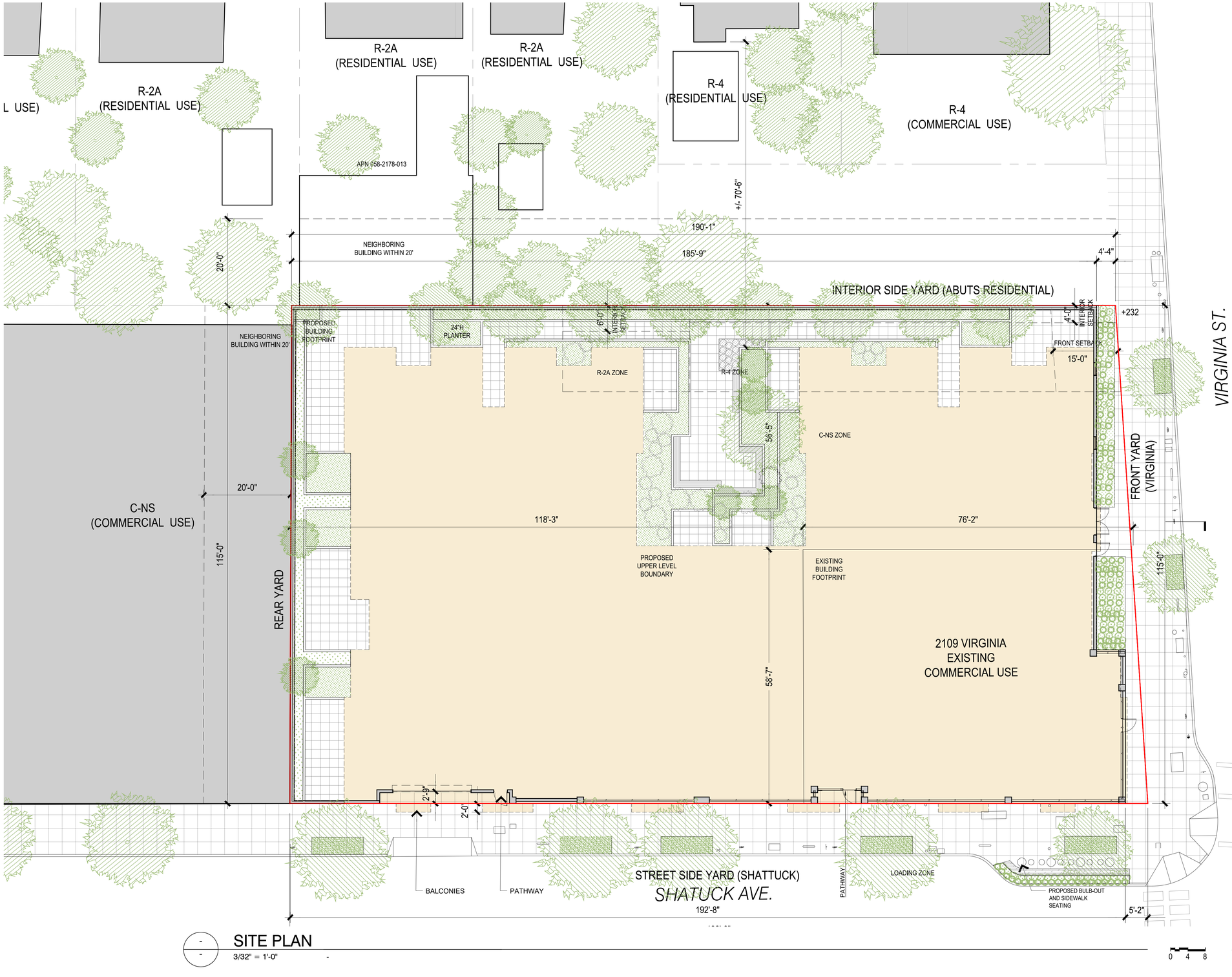
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SHEET:

SURVEY

A2.0b



SITE PLAN
3/32" = 1'-0"

0 4 8

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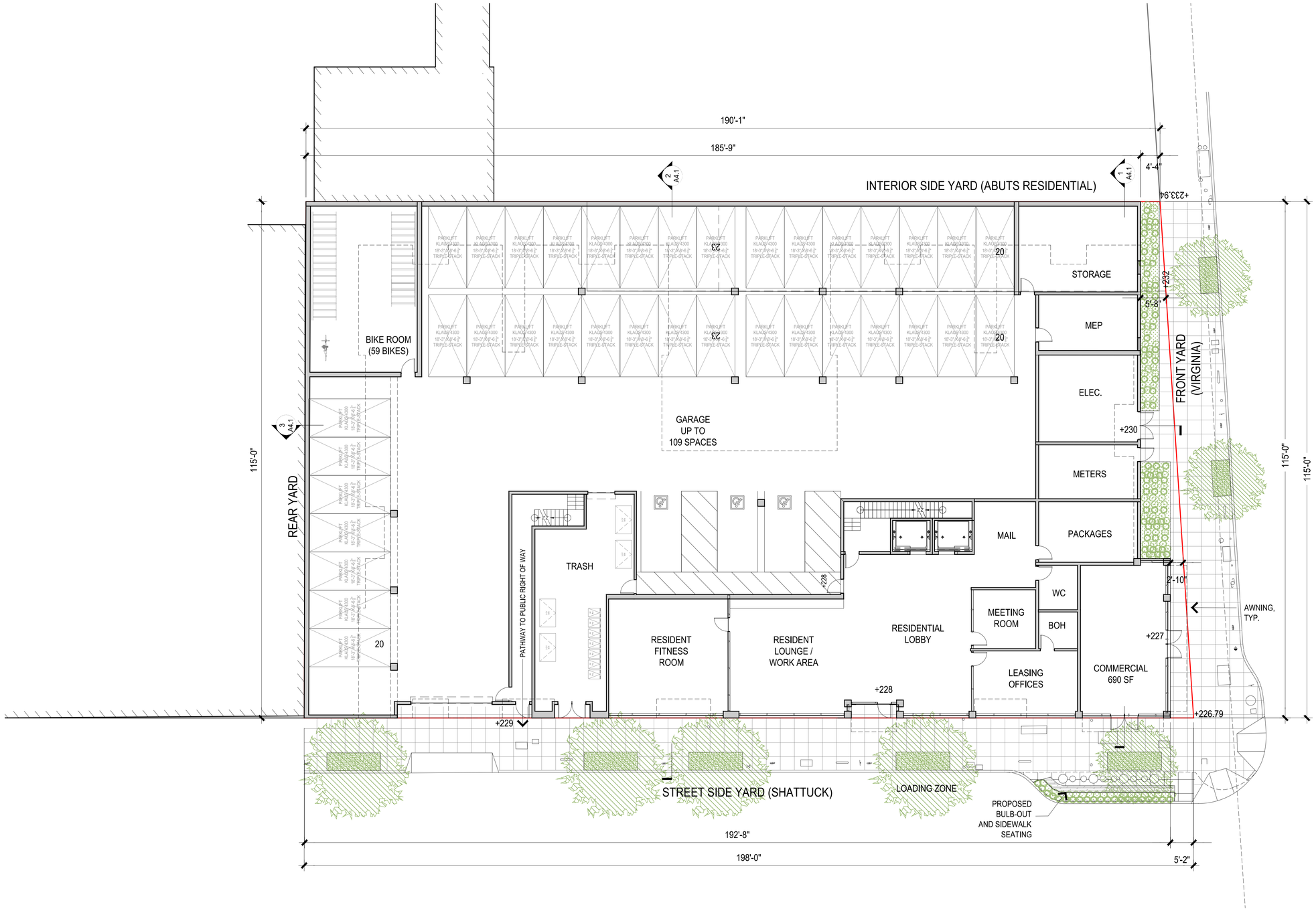
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SHEET:

PROPOSED SITE PLAN

A2.0c



PLAN AT GROUND LEVEL

3/32" = 1'-0"

0 4 8

N

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SHEET:

PROPOSED
FLOOR
PLAN

A2.1



STREET SIDE YARD (SHATTUCK)

PLAN AT LEVEL 2 PODIUM

3/32" = 1'-0"

0 4 8

N

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SHEET:

PROPOSED FLOOR PLAN

A2.2



PLAN AT LEVELS 3-7

3/32" = 1'-0"

0 4 8

N

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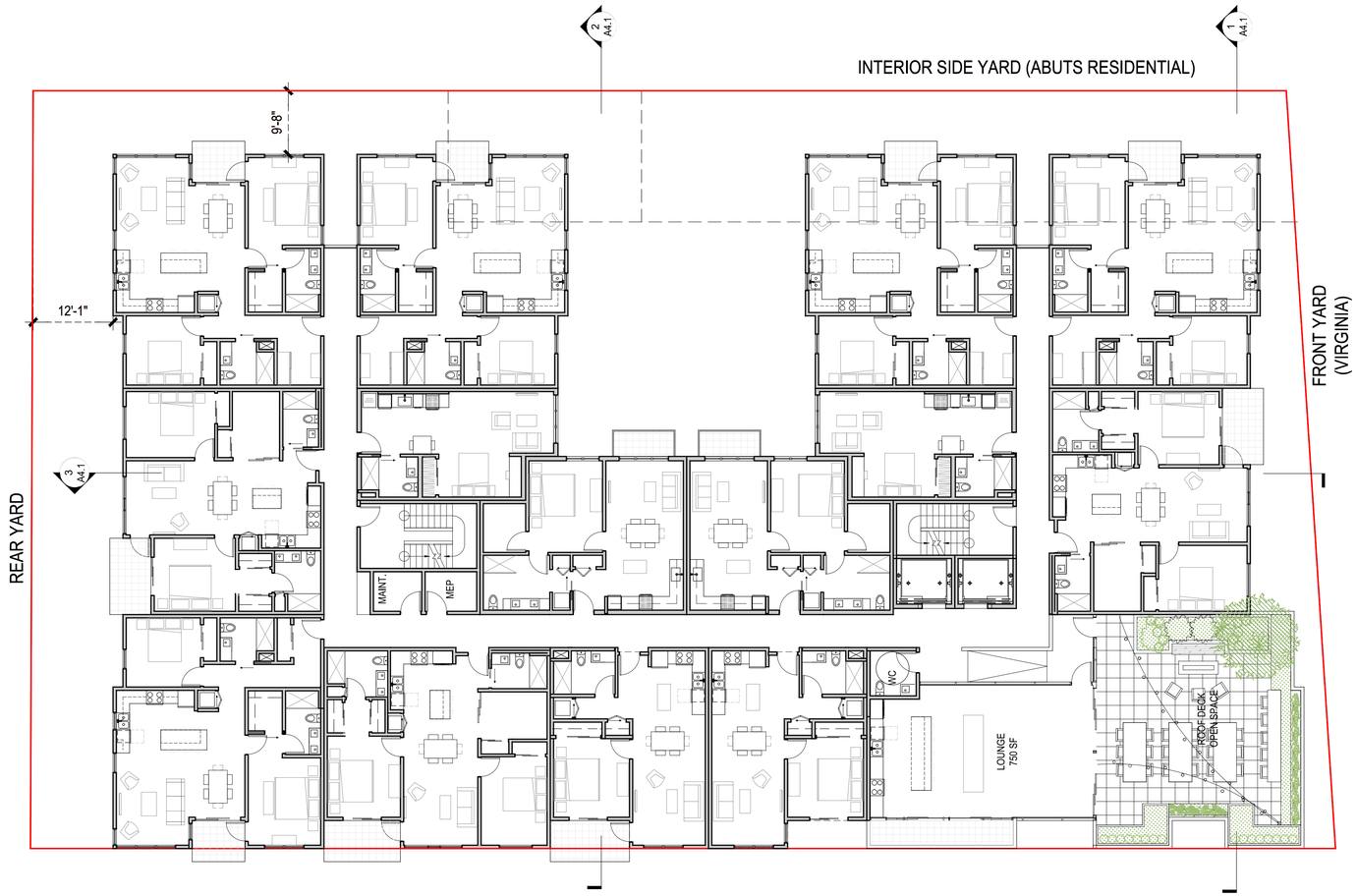
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PROPOSED
FLOOR
PLAN

A2.3



PLAN AT LEVEL 8

3/32" = 1'-0"

0 4 8

N

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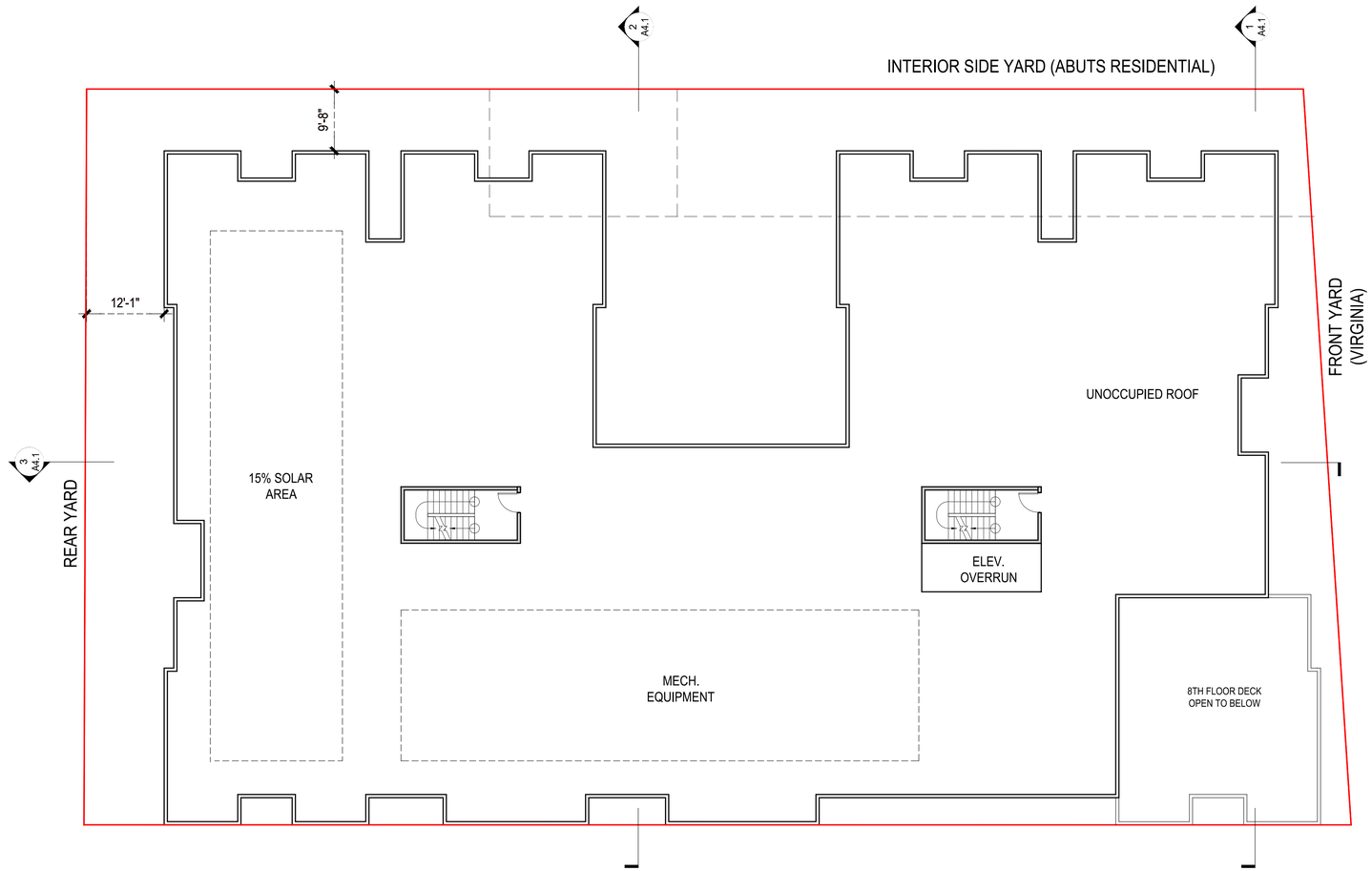
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JOB: 2341

SHEET:

PROPOSED
FLOOR
PLAN

A2.4



PLAN AT ROOF

3/32" = 1'-0"

0 4 8

N

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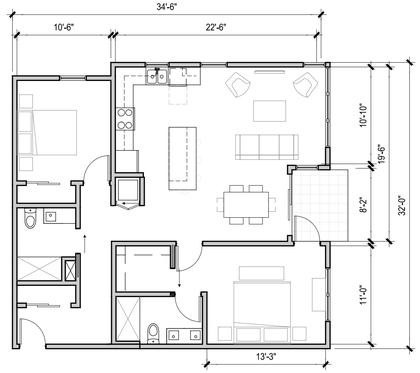
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JOB: 2341

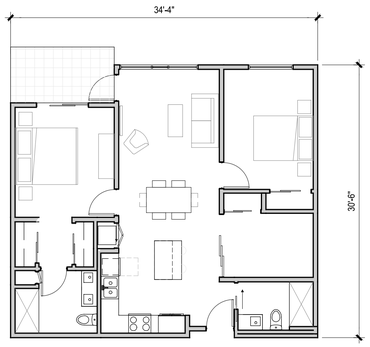
SHEET:

PROPOSED
ROOF
PLAN

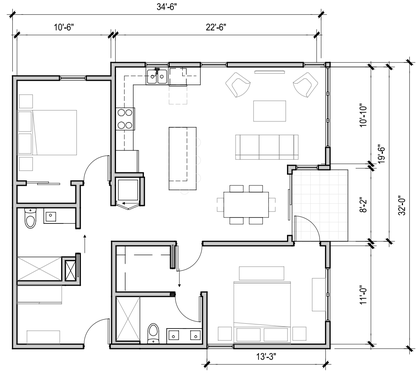
A2.5



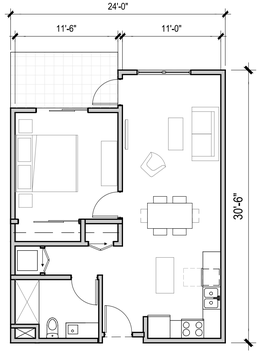
2BR CORNER UNIT AT WEST
1,075 SF



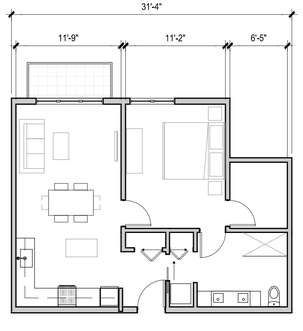
2BR PLUS OFFICE
1,000 SF



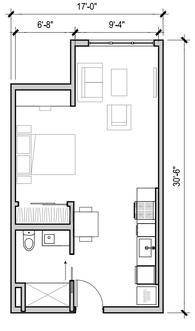
2BR CORNER UNIT AT EAST
1,075 SF



1BR
677 SF



1BR AT COURTYARD
706 SF



STUDIO
485 SF

TYPICAL UNIT PLANS

3/32" = 1'-0"

0 4 8

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SHEET:

PROPOSED
UNIT
PLANS

A2.6



1 A3.1 WEST ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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JOB: 2341

SHEET:

BUILDING ELEVATIONS

A3.1



1 A3.2 SOUTH ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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JOB: 2341

SHEET:

BUILDING ELEVATIONS

A3.2



1 A3.3 EAST ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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JOB: 2341

SHEET:

BUILDING ELEVATIONS

A3.3



1 A3.4 NORTH ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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JOB: 2341

SHEET:

BUILDING ELEVATIONS

A3.4



2 - VIRGINIA ST.

1/32"=1'-0" @ 11X17 1/16" = 1'-0" @ 24X36

0 4 8 16 32



1 - SHATTUCK AVE.

1/32"=1'-0" @ 11X17 1/16" = 1'-0" @ 24X36

0 4 8 16 32

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JOB: 2341

SHEET:

STREET STRIP ELEVATIONS

A3.5



4
A3.6
SHATTUCK LOOKING SOUTH - AFTER



2
-
VIRGINIA LOOKING WEST - AFTER



3
A3.6
SHATTUCK LOOKING SOUTH - BEFORE



1
-
VIRGINIA LOOKING WEST - BEFORE

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JOB: 2341

SHEET:

PHOTO MATCH VIEWS

A3.6



1
-

PERSPECTIVE VIEW - SHATTUCK LOOKING NORTHEAST

-

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JOB: 2341

SHEET:

CONCEPTUAL RENDERING

A3.7



1 - PERSPECTIVE VIEW - SHATTUCK LOOKING NORTHEAST

-

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JOB: 2341

SHEET:

CONCEPTUAL RENDERING

A3.8



1 - SIDEWALK VIEW - SHATTUCK LOOKING NORTH

-

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SHEET:

CONCEPTUAL RENDERING

A3.9

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1
-
PERSPECTIVE VIEW - SHATTUCK LOOKING SOUTHEAST
-

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JOB: 2341

SHEET:

CONCEPTUAL RENDERING

A3.10



1
-

PERSPECTIVE VIEW - VIRGINIA LOOKING WEST

-

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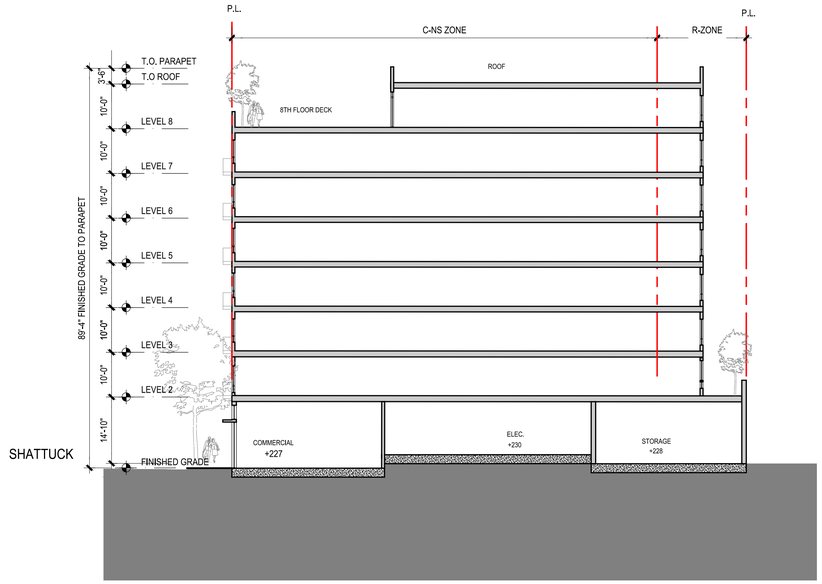
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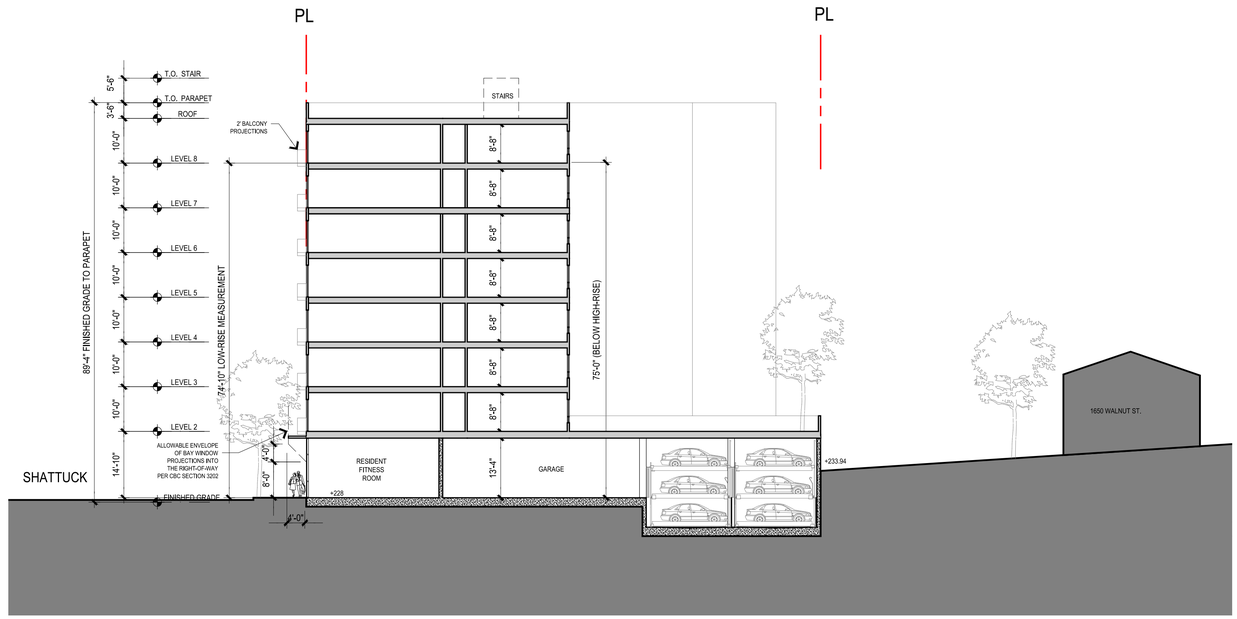
CONCEPTUAL RENDERING

A3.11



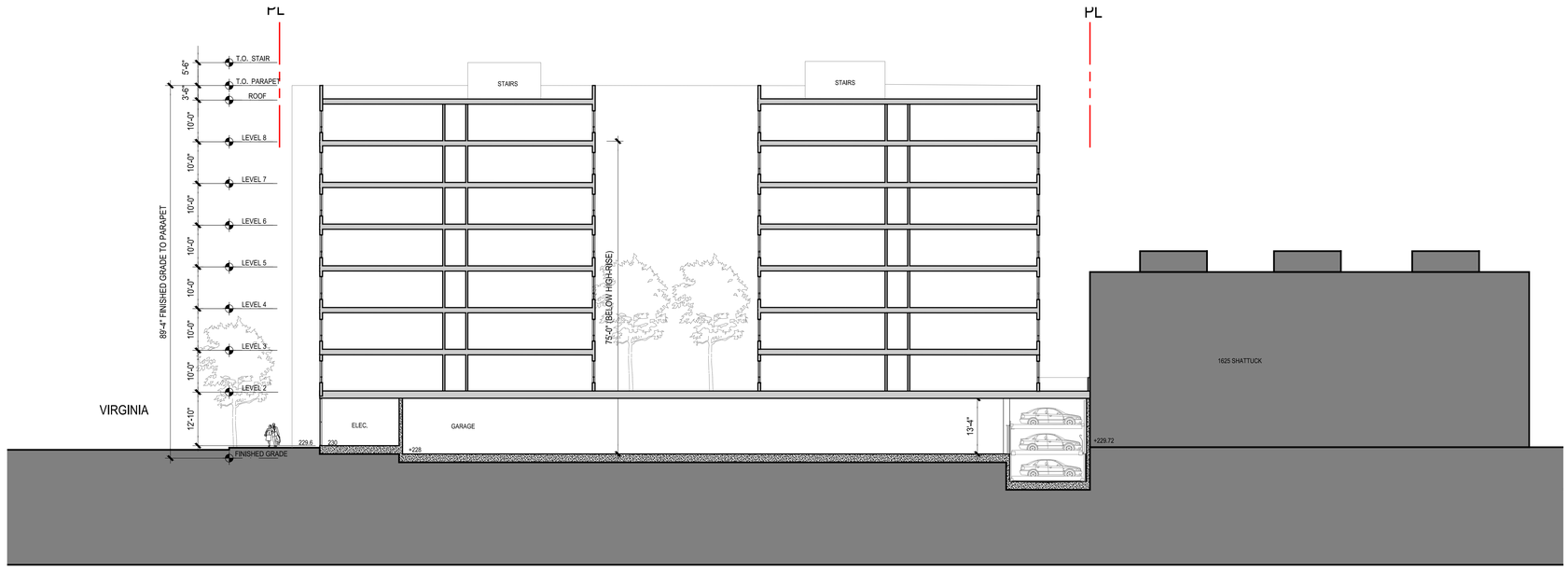
1 - EAST WEST SECTION

1/16" = 1'-0"



2 - EAST WEST SECTION

1/16" = 1'-0"



3 - NORTH SOUTH SECTION

1/16" = 1'-0"

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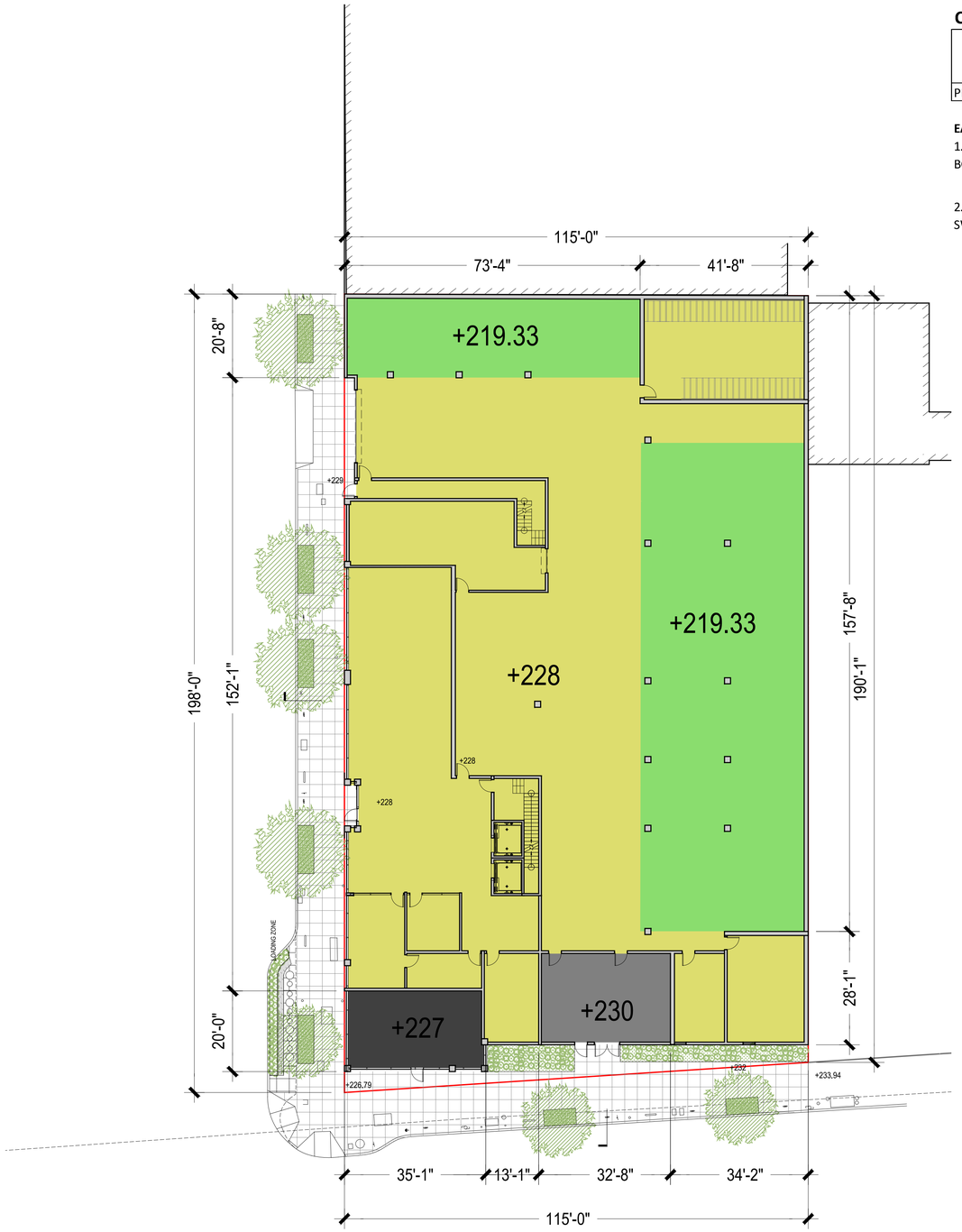
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JOB: 2341

SHEET:

PROPOSED SECTIONS

A4.1



1 - PRELIMINARY GRADING PLAN

1/16" = 1'-0"

CUT AND FILL CALCULATIONS

	CUT/FILL AREA	AVERAGE CUT/FILL DEPTH (FT)	TOTAL VOLUME (CY)
PROPOSED BUILDING and SITE	22,335	5.25	4,343

EARTHWORK NOTES:

1. EARTHWORK QUATNITY IS A ROUGH ESTIMATE BASED ON APPROXIMATE DEPTH OF BOTTOM OF BASEMENT PARKING LEVEL.

2. EARTHWORK QUANTITIES DO NOT TAKE INTO ACCOUNT SOIL SHRINKAGE, SOIL SWELLING, TRENCH SPOILS, SITE OVER-EXCAVATION REQUIREMENTS.

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SHEET:

PRELIMINARY
GRADING PLAN

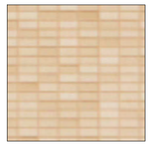
A5.1



METAL INFILL PANEL



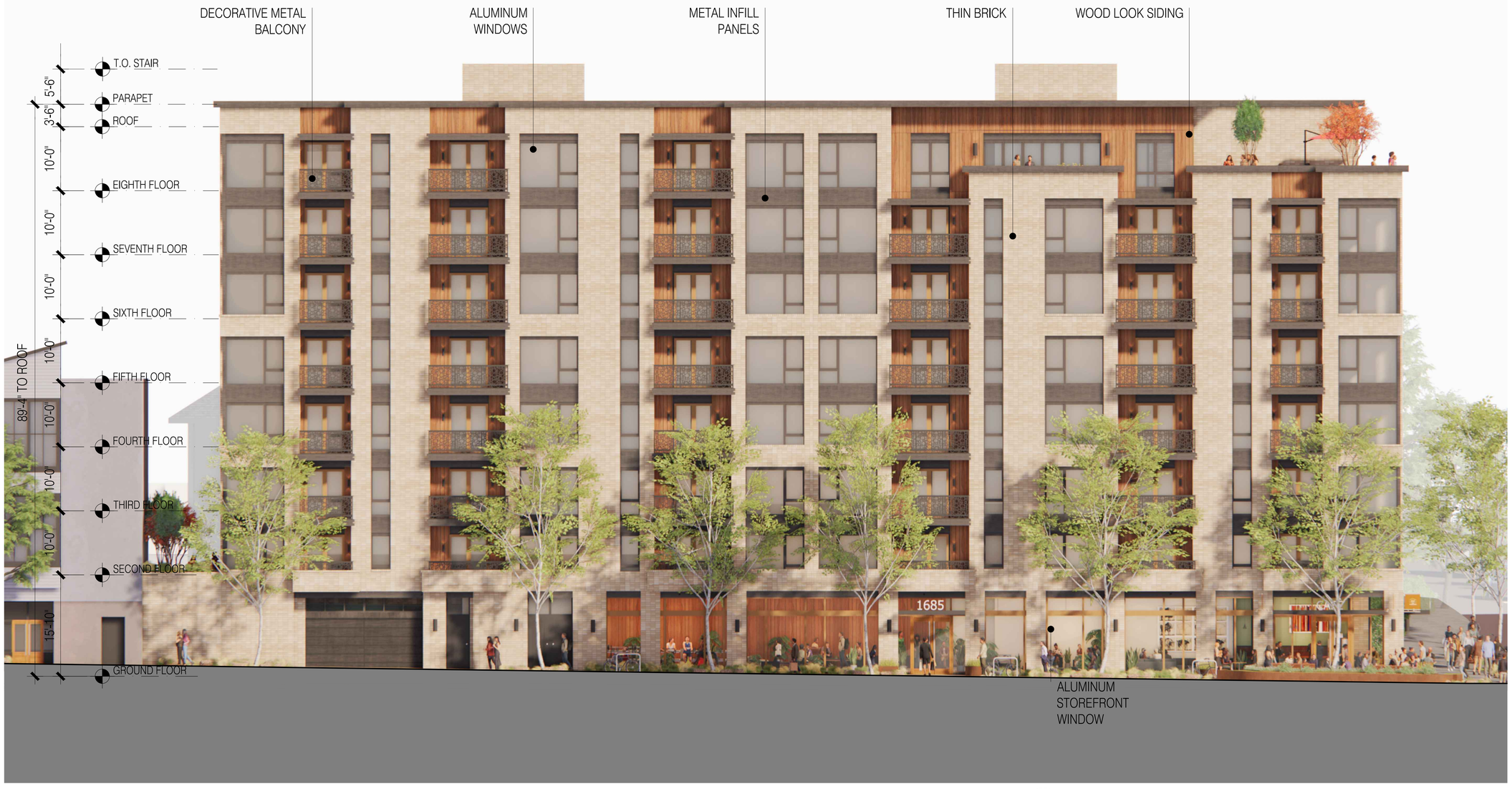
WOOD LOOK SIDING



THIN BRICK



DECORATIVE METAL BALCONY



1 - WEST ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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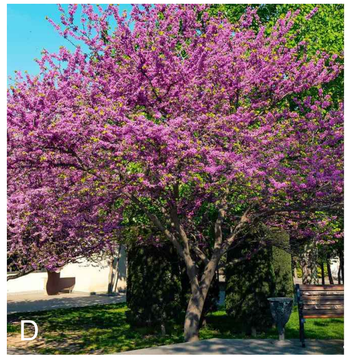
SHEET:

BUILDING MATERIALS

MAT



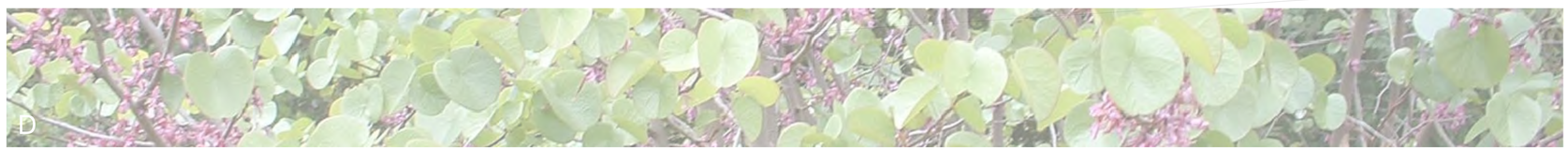


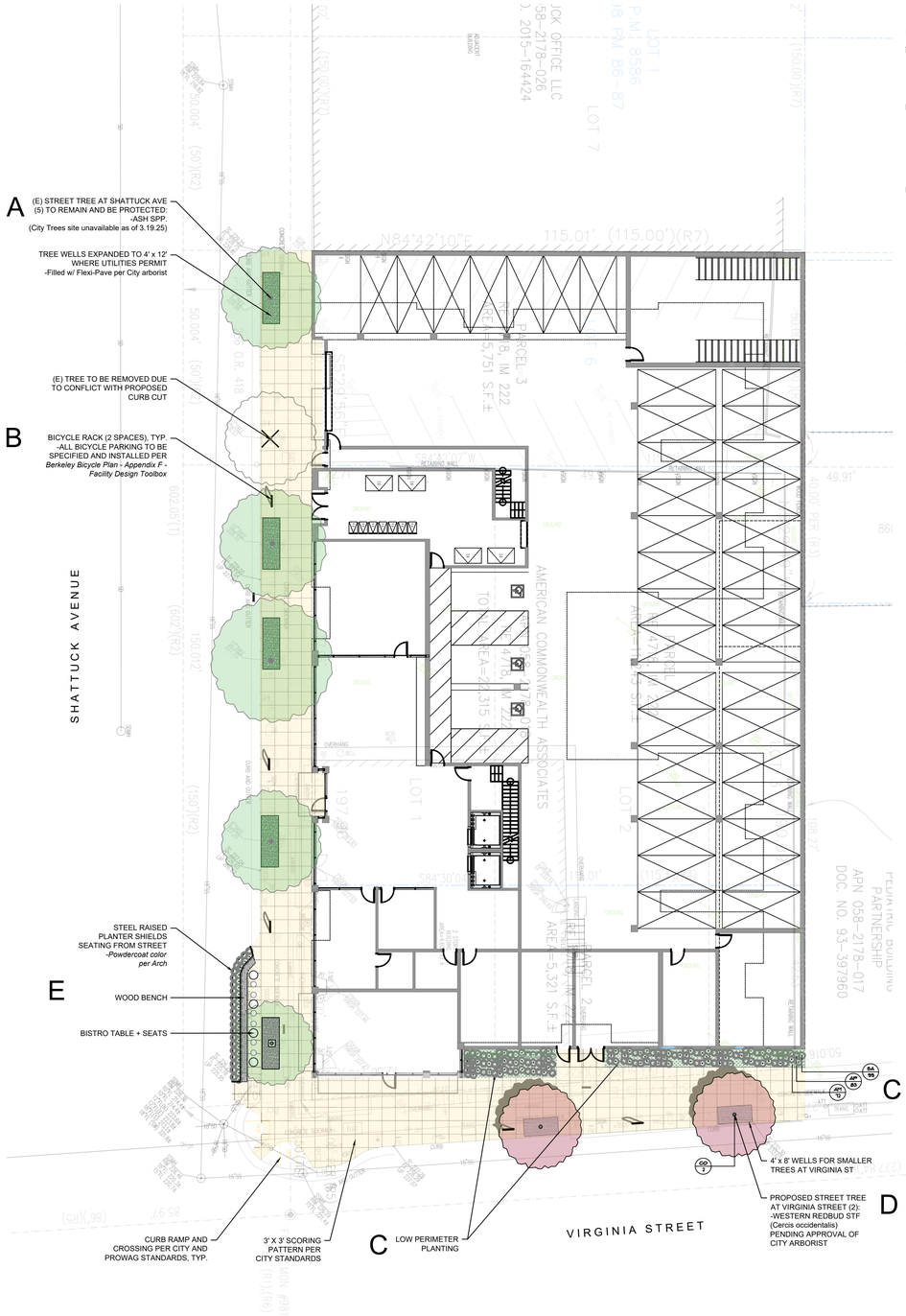












Plant List

Index	Latin Name	Common Name	Size	Qty	Spacing	WUCOLS	Exposure	FTP*	Notes + Pollinators Supported	CA Native
Trees										
AF	Acer negundo 'Flamingo'	Flamingo Box Elder	24" box STF	1	As Shown	M	SU, P	X	**Courtyard tree** - Specimen. *Alopiidris orbis, Abaspidia pomidoria, Anaxeuxyra stresyuhidia, Xixedhidia pompiloria*	C
CO	Cercis occidentalis	Western Redbud	24" box STF	2	As Shown	VL	SU, P	X	**Roof deck tree** - Edible. *Abaspidia pomidoria, Anaxeuxyra parenteskias, Aridipa argentopila, Ibidon kebulela, Cercipis directans*	X
CT	Citrus x meyeri		24" box	1	As Shown	M	SU		**Roof deck tree** - Edible.	
MD	Malus domestica	Multi-Grafted Apple	15 gal espalier	1	As Shown	M	SU		**Roof deck tree** - Edible.	
PT	Pittosporum tenuifolium 'Silver Sheen'	Silver Sheen Kohuhu	15 gallon	28	4'-0" o.c.	L	SU, P		**Courtyard tree** - Screening.	
Shrubs										
AA	Agave attenuata 'Boutin Blue', 'Nova'	Blue Fox Tail Agave	15 gallon	2	36"	L	any			
AH	Arctostaphylos densiflora 'Dr. Hurd'	Dr. Hurd Manzanita	15 gallon	4	As Shown	L	SU, P	X	**Courtyard shrub** - Accent. *Callophrys mossii, Plebejus acmon, Vespamorpha sulphurella*	C
BA	Bouteloua gracilis 'Blonde Ambition'	Blonde Ambition Blue Grama Grass	1 gallon	106	36"	L	SU, P	X	Paler flower than the species. *Hesperia comma, Hesperia juba, Neominois ridingsii, Ochlodes yuhnorotkar*	C
CM	Ceanothus 'Marie Simon'	Marie Simon Ceanothus (pale pink)	15 gallon	50	60"	L	SU, P			H
CS	Cornus sericea, C. 'Bailcrofters Hedgerow Gold'	Hedgerows Gold Redtwig Dogwood	15 gallon	2		M	any		**Courtyard shrub** - Accent.	X
DM	Dahlia 'Mystic Dreamer'	Mystic Dreamer Dahlia	1 gallon	5		M	SU, PA			
RW	Ribes sanguineum 'White Icicle'	White Icicle Flowering Currant	15 gallon	2		L	any		**Courtyard shrub** - Accent. Paler flower than the species.	C
MP	Mahonia pinnata	California Holly Grape			48"	L	any		**Courtyard shrub** - Accent.	
YF	Yucca flaccentosa + pallida 'Silver Anniversary'	Silver Anniversary Yucca (spineless)	10 gallon	3	48"	L	SU			
Groundcovers and Vines										
AM	Achillea millefolium 'Sonoma Coast'	Sonoma Coast Yarrow	1 gallon	72	18"	L	SU		Aethes smeathmanniana, Gillivaria pallidactyla, Homohadena fortunata, Hypena humuli, Schinia bella, Schinia florida, Schinia lucens, Schinia sanguinea, Schinia septentrionalis, Schinia spinosae, Schinia tortricoides, Schinia trifascia, Schinia volupia, Schinia yuccae, Spragueia apicalis, Spragueia haysiana, Spragueia leo, Spragueia margarites, Spragueia oslari, Spragueia phlogophora, Spragueia phoenicoptera, Spragueia purpurea, Spragueia rubrifrons, Spragueia sanguinea, Spragueia stigmosa, Spragueia variegata, Spragueia watsoni, Spragueia wyattorum, Tarachidia candefacta, Tarachidia erastrioides, Tarachidia flavicosta, Tarachidia hospes, Tarachidia lucens, Tarachidia mediofascia, Tarachidia pallescens, Tarachidia pallidula, Tarachidia pallipalpis, Tarachidia pallorina, Tarachidia pallorosea, Tarachidia pallorum, Tarachidia pallulata, Tarachidia pallustris, Tarachidia pallustrina, Tarachidia pallustrinoides, Tarachidia pallustrinoides, Tarachidia pallustrinoides







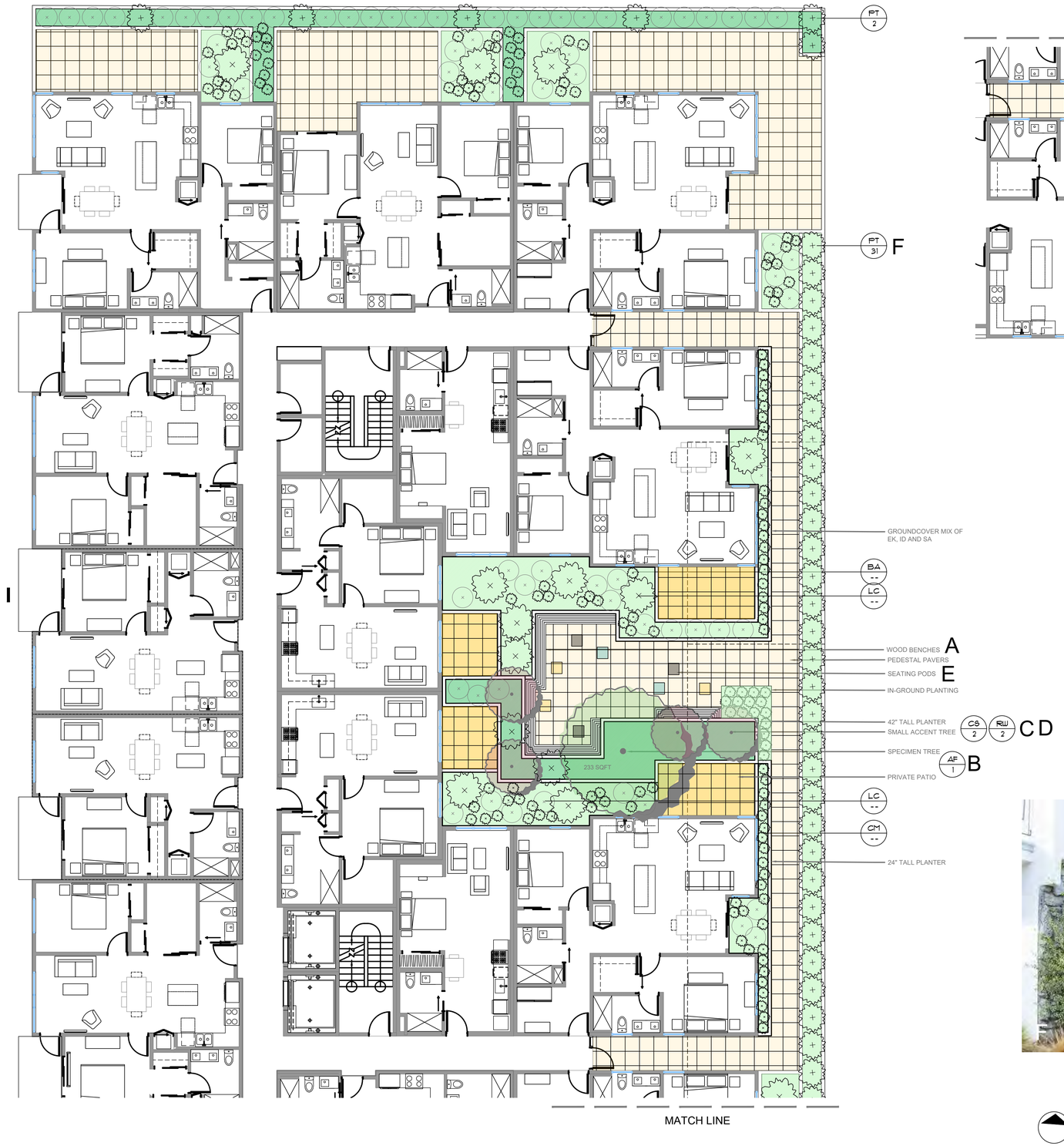


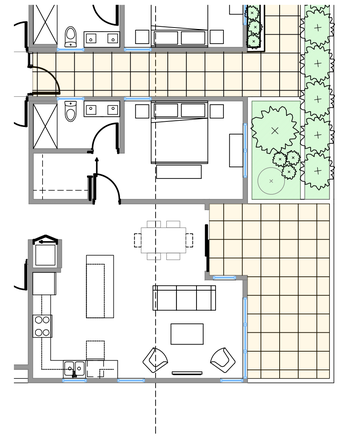














North 0 4 8 16 1/8"=1'-0"

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JOB: 2109

SHEET:

Second Level Courtyard

L2-CY


A

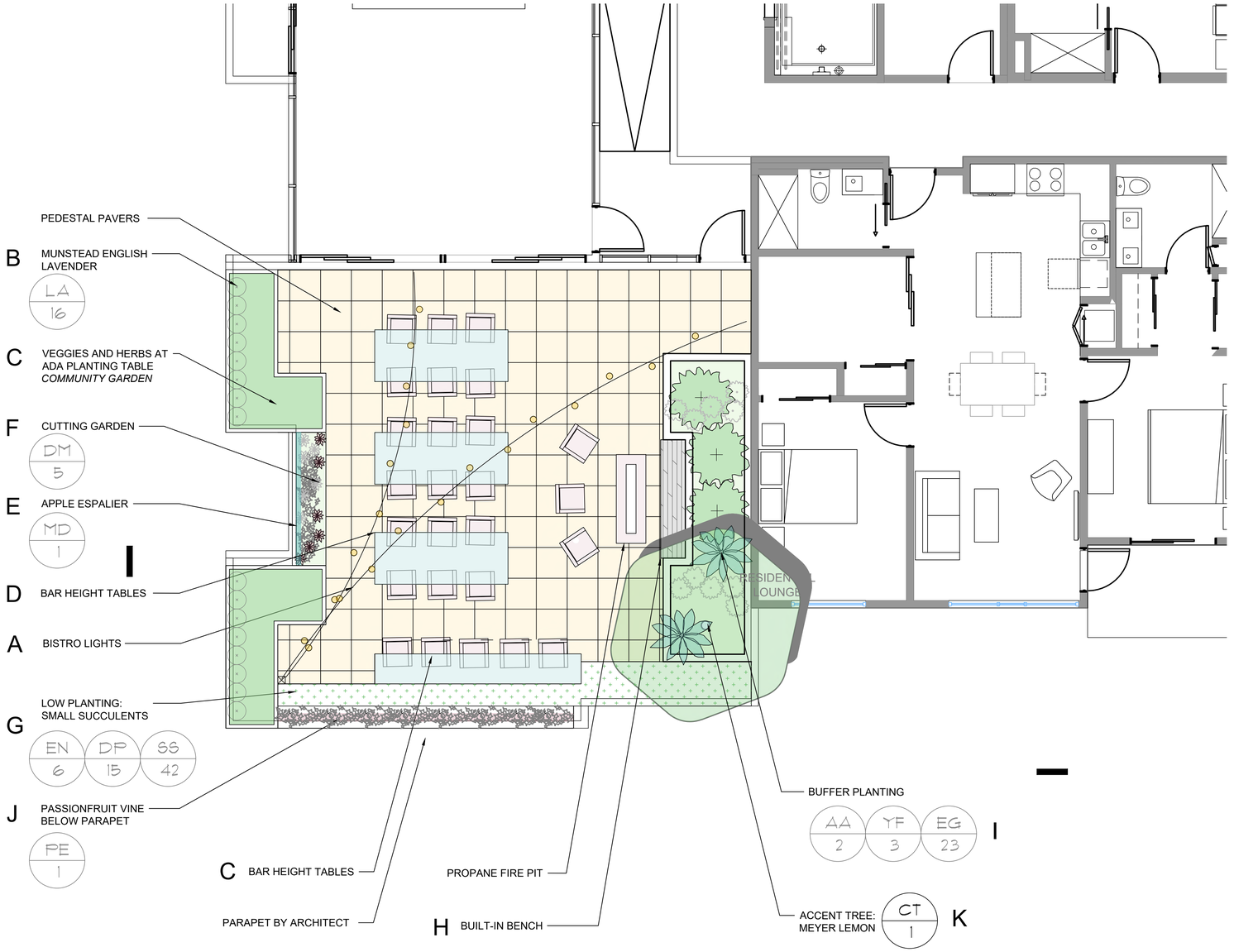

B


C


D


E


F




G


H


G


I


J


K

North

1/4" = 1'-0"

0 2 4 8

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JOB: 2109

SHEET:

Eighth Level
Roof Deck

L3-RD

STREET TREE COORDINATION NOTES:

a) PROPOSED STREET TREE SPECIES, LOCATION, AND CONDITIONS SUBJECT TO ONGOING REVIEW AND APPROVAL BY THE CITY OF BERKELEY'S MANAGING CONSULTING URBAN FORESTER AND ARBORIST. ~~PROPOSED STREET TREES ARE CURRENT WITH EXISTING UTILITIES AS OF xx.xx.2024 AND~~ WILL BE SUBJECT TO ADDITIONAL REVIEW AFTER PROPOSED UTILITIES ARE FINALIZED.

b) TREE PROTECTION FENCING LOCATIONS AND DETAILS TO BE ADDED TO THE DEMOLITION PLAN IN BUILDING PERMIT SET.

c) CLEARANCE PRUNING REQUIRES PRIOR APPROVAL OF THE CITY. APPROVED CLEARANCE PRUNING SHALL BE COMPLETED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BEST MANAGEMENT PRACTICES FOR PRUNING (INTERNATIONAL SOCIETY OF ARBORICULTURE) AND THE AMERICAN NATIONAL STANDARD FOR TREE CARE OPERATIONS (Z133.1) AND PRUNING (A300, PART 1). TREES SHALL NOT BE TOPPED OR HEADED BACK. TREE PRUNING SHALL BE COMPLETED TO REDUCE LIMBS FOR CLEARANCE WHILE MAKING THE SMALLEST CUTS POSSIBLE. TREE PRUNING SHOULD BE LIMITED TO MINOR BRANCHES. BRANCH REMOVAL OR REDUCTION CUTS (THINNING CUTS) ARE TO BE EMPLOYED RATHER THAN HEADING CUTS.

d) ALL EXISTING STREET TREES (INCLUDING ANY OF THEIR BRANCHES) ADJACENT TO PLANNED CONSTRUCTION SCAFFOLDING MUST BE PROTECTED FROM MECHANICAL INJURY.

e) ROOT PRUNING REQUIRES PRIOR APPROVAL OF THE CITY AND SHALL BE SUPERVISED BY THE PROJECT ARBORIST. SEE NOTES BELOW FOR MORE INFORMATION.

STREET TREE PROTECTION DURING CONSTRUCTION NOTES:

a) ALL TREE PROTECTION REQUIREMENTS AND RESTRICTIONS SHALL BE INCLUDED IN THE CONSTRUCTION NOTES AND PRINTED ON ALL COPIES OF THE PLANS. INCLUDE THE NAME AND PHONE NUMBER OF THE PARTY THAT WILL MONITOR THE SITE AND ENSURE THE TREE PROTECTION MEASURES ARE BEING FOLLOWED; AND WHAT THE MONITORING SCHEDULE WILL BE: **NAME / PHONE / SCHEDULE**

b) TREE PROTECTION ZONES: THE CALCULATED TREE PROTECTION ZONE IS THE ENTIRE DRIPLINE OF THE TREES.**THE SPECIFIED TREE PROTECTION ZONE IS THE ENTIRE PARKWAY (TREE WELL).** NO GRADING, EXCAVATION, CONSTRUCTION OR STORAGE OF MATERIALS SHALL OCCUR WITHIN THE SPECIFIED TREE PROTECTION ZONE. NO UNDERGROUND SERVICES INCLUDING UTILITIES, SUB-DRAINS, WATER OR SEWER SHALL BE PLACED IN THE TREE PROTECTION ZONE.

c) TREE PROTECTIONS: ADD TREE PROTECTION FENCING TO PROTECT THE EXPOSED DRIPLINE WITHIN THE PARKWAY (FIGURE 2). INSTALL 6 FOOT CHAIN-LINK OR WOOD FENCING TO PROTECT THE AREA WITHIN THE TREE WELL OF ANY PROTECTED TREE IN THE DEVELOPMENT AREA. FENCING SHALL BE MOUNTED TO POSTS THAT ARE DRIVEN INTO THE GROUND (SEE FIGURES 2 AND 3). ALL STREET TREE PROTECTION FENCING MUST PROTECT ENTIRE EXPOSED SOIL AREA WITHIN EACH TREE WELL. ~~WHERE THIS IS NOT POSSIBLE BECAUSE OF EXISTING STRUCTURES, TREE ROOTS, OR OTHER OBSTACLES, CHAIN-LINK PANELS MOUNTED TO STANCHIONS AND CONNECTED TO EACH OTHER MAY BE APPROVED. IN AREAS WHERE DIFFICULT TERRAIN MAKES THIS IMPRACTICAL, ORANGE CONSTRUCTION FENCING MAY BE APPROVED.~~

d) ALL FENCING SHALL HAVE SIGNAGE STATING THE REQUIREMENTS AND RESTRICTIONS, AND THE CONTACT INFORMATION FOR THE PROJECT ARBORIST.

e) ~~WHEN ANY APPROVED CONSTRUCTION ACTIVITY WILL OCCUR WITHIN THE DRIP LINE OF A PROTECTED TREE THAT IS NOT SURROUNDED BY PROTECTIVE FENCING, THE TRUNK SHALL BE PROTECTED BY WRAPPING IT WITH STRAW TUBES (WATTLE) OR VERTICAL WOOD SLATS (EX. 2X4), UP TO A MINIMUM OF 8 FEET FROM GRADE (SEE FIGURE 1, PAGE 6). SLATS SHALL BE ANGLED TO PROTECT THE ROOT FLARE AT THE BASE OF THE TREE, AND CLOSED CELL FOAM OR EQUIVALENT MATERIAL SHALL BE USED TO PROTECT THE TRUNK OF THE TREE WHERE IT CONTACTS THE SLATS. LATERAL BRANCHES BELOW 8 FEET SHALL ALSO BE PROTECTED. IN ADDITION, THE AREA SHALL BE COVERED WITH A 6 INCH LAYER OF MULCH TOPPED WITH 3/4 INCH PLYWOOD THAT IS FASTENED TOGETHER. IF ANY LARGE OR MOTORIZED EQUIPMENT (MINI EXCAVATOR, BOBCAT®, POWERED WHEELBARROW) WILL TRAVEL OVER THIS AREA, THE PLYWOOD MUST BE A MINIMUM OF 1 INCH AND ADEQUATE FOR THE WEIGHT OF THE EQUIPMENT THAT WILL TRAVEL OVER IT. IF LARGER EQUIPMENT (BACKHOE, TRACTOR) WILL BE USED, CONSULT THE CITY ARBORIST.~~ ***CONSTRUCTION ACTIVITY REFERS TO ANY MOVEMENT OF PEOPLE, TOOLS, OR EQUIPMENT; OR STORAGE OF ANY TOOLS, EQUIPMENT, OR SUPPLIES.***

f) IRRIGATION: ADD IRRIGATION TO WET THE SOIL IN THE PARKWAY TO A DEPTH OF 12 INCHES. ONCE SOIL IS AT FIELD CAPACITY, IRRIGATION CAN BE SCALED BACK TO REPLACE THE WATER LOST THROUGH EVAPOTRANSPIRATION (ET).

g) MULCH: ADD 4 - 6 INCHES OF COURSE ORGANIC MULCH. THE MULCH SHOULD NOT COME IN CONTACT WITH THE TRUNK BUT SHOULD BE 24 INCHES AWAY FROM THE TRUNK.

h) LOCATE AND EXPOSE ANY ROOTS 2 INCHES IN DIAMETER OR GREATER THAT MAY NEED TO BE PRUNED TO FACILITATE THE PROJECT. THIS INCLUDES ANY TRENCHING THAT WILL BE DONE AS PART OF FOUNDATION OR UTILITY INSTALLATION. CONTACT THE CITY ARBORIST IN ADVANCE TO LESSEN THE AMOUNT OF TIME THAT THE ROOTS WILL BE EXPOSED. IF ROOTS MUST BE LEFT EXPOSED FOR MORE THAN THREE DAYS, CONSULT THE CITY ARBORIST. **NOTE:** THE 2 INCH DIAMETER THRESHOLD FOR ROOTS IS A GUIDELINE THAT MAY BE ADJUSTED BY THE CITY ARBORIST DEPENDING ON THE SIZE AND CONDITION OF THE TREE, AND THE LOCATION OF THE ROOTS. THE CITY ARBORIST MAY INCREASE THE TPZ, OR IMPOSE OTHER RESTRICTIONS, WHEN THE DRIPLINE OF A TREE HAS BEEN ALTERED BY PRUNING OR UNUSUAL GROWTH PATTERNS. ANY ROOT PRUNING THAT WILL OCCUR WITHIN THE PARKWAY: ALL WORK IN THE AREA WILL REQUIRE PRIOR APPROVAL AND SHALL BE SUPERVISED BY THE PROJECT ARBORIST. ROOTS SHOULD BE CUT WITH A SAW TO PROVIDE A FLAT AND SMOOTH CUT. REMOVAL OF ROOTS LARGER THAN 2 INCHES IN DIAMETER SHOULD BE AVOIDED.

i) NO STORAGE OF BUILDING MATERIALS, REFUSE, EXCAVATED SPOILS, OR DUMPING OF POISONOUS MATERIALS, IS PERMITTED WITHIN THE DRIP LINE OF ANY PROTECTED TREE. POISONOUS MATERIALS INCLUDE, BUT ARE NOT LIMITED TO, PAINT, PETROLEUM PRODUCTS, CONCRETE OR STUCCO MIX, DIRTY WATER, OR ANY OTHER MATERIAL WHICH MAY BE DELETERIOUS TO TREE HEALTH.

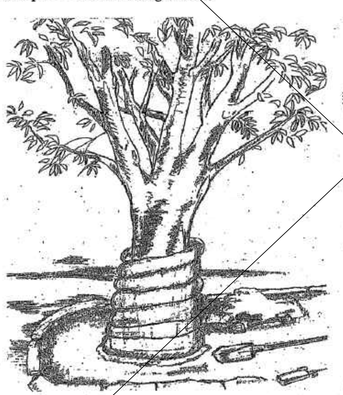
STREET TREE PLANTING NOTES:

1. FOR NEW PLANTING:
   a. THE CITY ARBORIST SHALL BE NOTIFIED, BY CALLING (510) 981-6660, PRIOR TO THE DELIVERY OF THE TREES FOR INSPECTION OF THEIR SIZE AND STRUCTURE.
   b. EACH TREE SHALL BE PROPERLY PLANTED AT OR JUST BELOW GRADE (<1"). SOIL AMENDMENT IS NOT RECOMMENDED. NO CONSTRUCTION RUBBLE OR NON-ORGANIC MATERIAL SHALL BE WITHIN THE TREE WELL. NATIVE SOIL IS PREFERRED.
   c. THE SURROUNDING SOIL OUTSIDE THE CONTAINER (ROOT BALL) SHOULD BE LIGHTLY COMPACTED TO ABOUT 4 INCHES BELOW GRADE WITH THE ROOT BALL HIGHER THAN THAT.
   d. 2 TO 2.5 INCHES OF BASE ROCK SHOULD BE APPLIED AROUND THE ROOT BALL LEAVING 1.5 TO 2 INCHES LEFT FOR THE MATERIAL.
   e. 15G CONTAINERS ARE APPROXIMATELY 15-16 INCHES IN DIAMETER AND THE MATERIAL SHOULD BE APPLIED TO THE APPROXIMATE EDGE OF THE ROOT BALL WITH THE TOP GRADE OF THE ROOT BALL UP TO 1 INCH BELOW THE TOP OF THE MATERIAL THAT WILL BE APPLIED.
   f. EACH NEW TREE SHALL HAVE AUTOMATIC DRIP IRRIGATION (NETAFIM PREFERRED) AND PROVIDE A MINIMUM OF 20 GALLONS PER WEEK BETWEEN MARCH 15 AND OCTOBER 15 FOR THE FIRST THREE YEARS. LARGER TREES MAY REQUIRE ADDITIONAL ~~BUBBLER5~~ DRIP LINES AND/OR EMITTERS. ~~BUBBLER5~~ DRIP EMITTERS SHOULD BE LOCATED ON TOP OF THE ROOT BALL WITHIN THIS 15-16 INCH CIRCLE AND NOT BE COVERED WITH MATERIAL. WHERE POSSIBLE, DRIP LINES AND EMITTERS ARE TO BE INSTALLED IN CONCENTRIC CIRCLES, STARTING 24" AWAY FROM THE TRUNK, SPACED AT 18" APART, COVERING THE ENTIRE TREE WELL.
   g. EACH EXISTING TREE TO REMAIN SHALL HAVE AUTOMATIC DRIP IRRIGATION (NETAFIM PREFERRED) AND PROVIDE A MINIMUM OF 20 GALLONS PER WEEK BETWEEN MARCH 15 AND OCTOBER 15 FOR THE FIRST THREE YEARS AFTER IT WAS PLANTED (PLANTING DATES AVAILABLE AT "CITY TREES" FROM CITY OF BERKELEY OPEN DATA, https://data.cityofberkeley.info/Natural-Resources/ City-Trees/9t35-jmin.) LARGER TREES MAY REQUIRE ADDITIONAL DRIP LINES AND/OR EMITTERS. DRIP EMITTERS SHOULD BE LOCATED AS FAR FROM THE TRUNKS OF MATURE TREES AS POSSIBLE. WHERE POSSIBLE, DRIP LINES AND EMITTERS ARE TO BE INSTALLED IN CONCENTRIC CIRCLES, STARTING 24" AWAY FROM THE TRUNK, SPACED AT 18" APART, COVERING THE ENTIRE TREE WELL.
   h. TREES THAT DIE WITHIN THE FIRST THREE YEARS MUST BE REPLACED AT THE PROPERTY OWNER'S EXPENSE.

Figure 1: Examples of Tree Trunk Protection

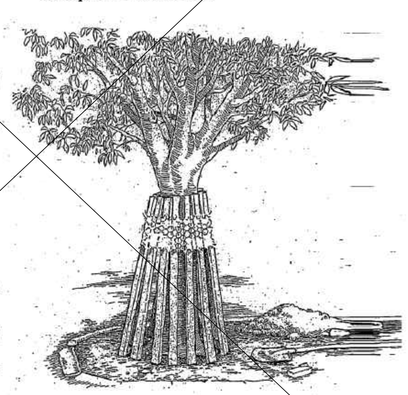
The following illustrations are examples of tree trunk protection measures. One of these examples shall be used when any approved construction activity takes place within the dripline of a protected tree that is not surrounded by protective fencing.

Example A – Straw tubing (wattle)



Example A. Illustration by Dwayne Walters

Example B – Wooden slats



Example B. Illustration from ISA Managing Trees During Construction, BMP

FIGURE 1 — TREE TRUNK PROTECTION EXAMPLES
(via City of Berkeley)

NOTE: As of 9.11.24, no construction activities are approved within the tree wells of any existing trees to remain. See Figures 2 and 3 for examples of acceptable tree protection. All TPF to protect entire exposed soil area within each tree well.

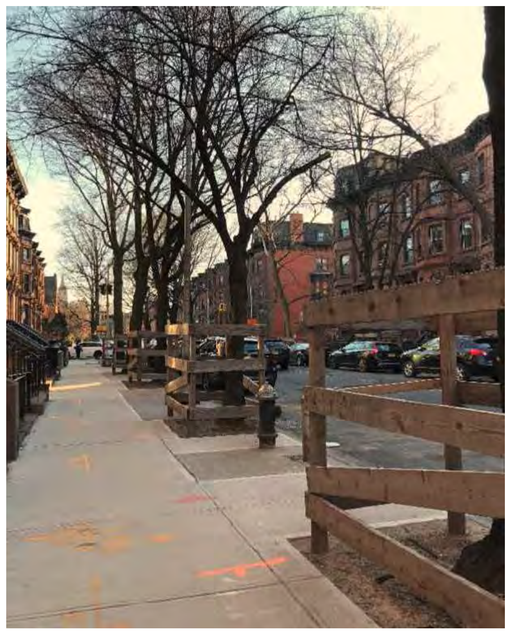
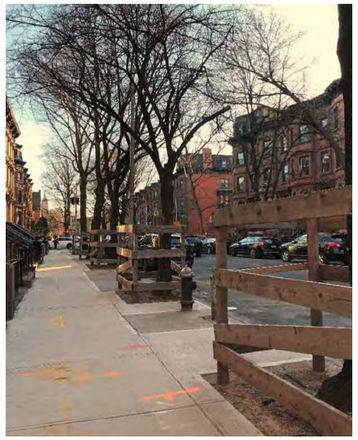


FIGURE 2 — TREE PROTECTION FENCE EXAMPLE
(via City of Berkeley - SEE DETAIL TP2 FOR NOTES)



FIGURE 3 — TREE PROTECTION FENCE EXAMPLE

SCALE FACTOR = 1



NOTES:
1. DRIVE 4X4 POSTS 24" INTO GRADE AT CORNERS OF TREE WELL; SPACE POSTS NO FURTHER THAN 5' ON CENTER.
2. SET HEIGHT OF FENCING AT 4'-6"
3. SECURE 2X6 OR 2X8 CROSS BOARDS TO FORM BARRIER TO ENTRY
4. AFFIX LAMINATED SIGN TO CROSS BOARDS THAT READS "DO NOT ENTER, ADJUST, OR REMOVE FENCING. CONTACT CITY ARBORIST TO ADJUST OR MODIFY FENCING: (510) 981-6660 OR TREES@BERKELEYCA.GOV"

TP2 TREE PROTECTION, TYPE 2
NTS

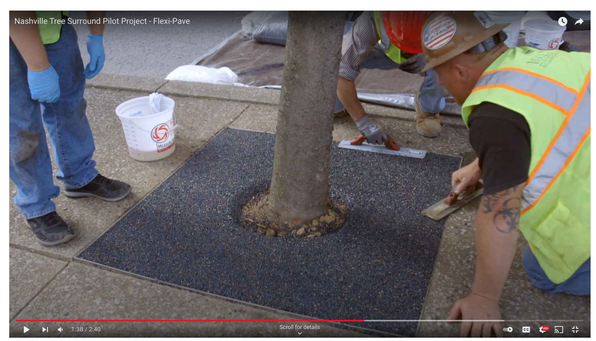


FIGURE 4 — FLEXI-PAVE EXAMPLE
(via City of Berkeley)

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JOB: 2109

SHEET:

Street Tree Notes and Details

L4-ST

HYDROZONE KEY				
	DESCRIPTION	PLANT TYPE	WATER USE TYPE	SQ. FT
	HYDROZONE #1	SHRUB/GC	LOW	371
	HYDROZONE #2	TREES	LOW	560

IRRIGATION WATER USE CALCULATIONS

WATER USE ESTIMATION

WATER TYPE	POTABLE
SITE ETo=	41.6

REGULAR LANDSCAPE AREAS

HYDROZONE #	HYDROZONE NAME	PLANT WATER USE TYPE	PLANT FACTOR (PF)	IRRIGATION METHOD	IRRIGATION EFFICIENCY	ETAF (PF/IE)	AREA (SQ. FT) (HA)	ETAF X AREA (HA)	ETWU (GAL/YR)	ACRE FEET/ YEAR	HCF/ YEAR	PERCENTAGE OF LANDSCAPE
1	SHRUBS/GC	LOW	0.2	DRIP	0.81	0.247	1,683	416	10,718	0.03	14.33	49%
2	SHRUBS/GC	MOD	0.5	DRIP	0.81	0.617	778	480	12,387	0.04	16.56	23%
3	TREES	LOW	0.2	BUBBLER	0.81	0.247	560	138	3,566	0.01	4.77	16%
4	TREES	MOD	0.5	BUBBLER	0.81	0.617	320	198	5,095	0.02	6.81	9%
5	VEGETABLES	HIGH	0.8	DRIP	0.81	0.988	86	85	2,191	0.01	2.93	3%
					TOTALS		3,427	1,317	33,956	0.10	45.40	100%

SPECIAL LANDSCAPE AREAS

HYDROZONE #	HYDROZONE NAME									
5	VEGETABLES			1	86					3%
				TOTALS	86					3%

MAWA	GALLONS/YR	40,995
	ACRE FEET/YR	0.13
	HCF/YR	54.81
ETWU	GALLONS/YR	33,956
	ACRE FEET/YR	0.10
	HCF/YR	45.40

SITE IRRIGATION EFFICIENCY	SITE PLANT FACTOR	MAWA COMPLIANT
79.0%	0.29	YES

ETAF Calculations	
REGULAR LANDSCAPE AREAS	
TOTAL ETAF x AREA	1,317
TOTAL AREA	3,427
AVG. ETAF	38.42%

MAWA FORMULA

MAXIMUM APPLIED WATER ALLOWANCE (MAWA) GALLONS PER YEAR

MAWA = (ETo)(0.62)[(LA x 0.45) + (0.55 x SLA)]

ETo = REFERENCE EVAPOTRANSPIRATION
0.55= ET ADJUSTMENT FACTOR
LA=LANDSCAPED AREA (SQUARE FEET)
0.62 = CONVERSION FACTOR (GALLONS/SQ.FT/YR)

ETWU FORMULA

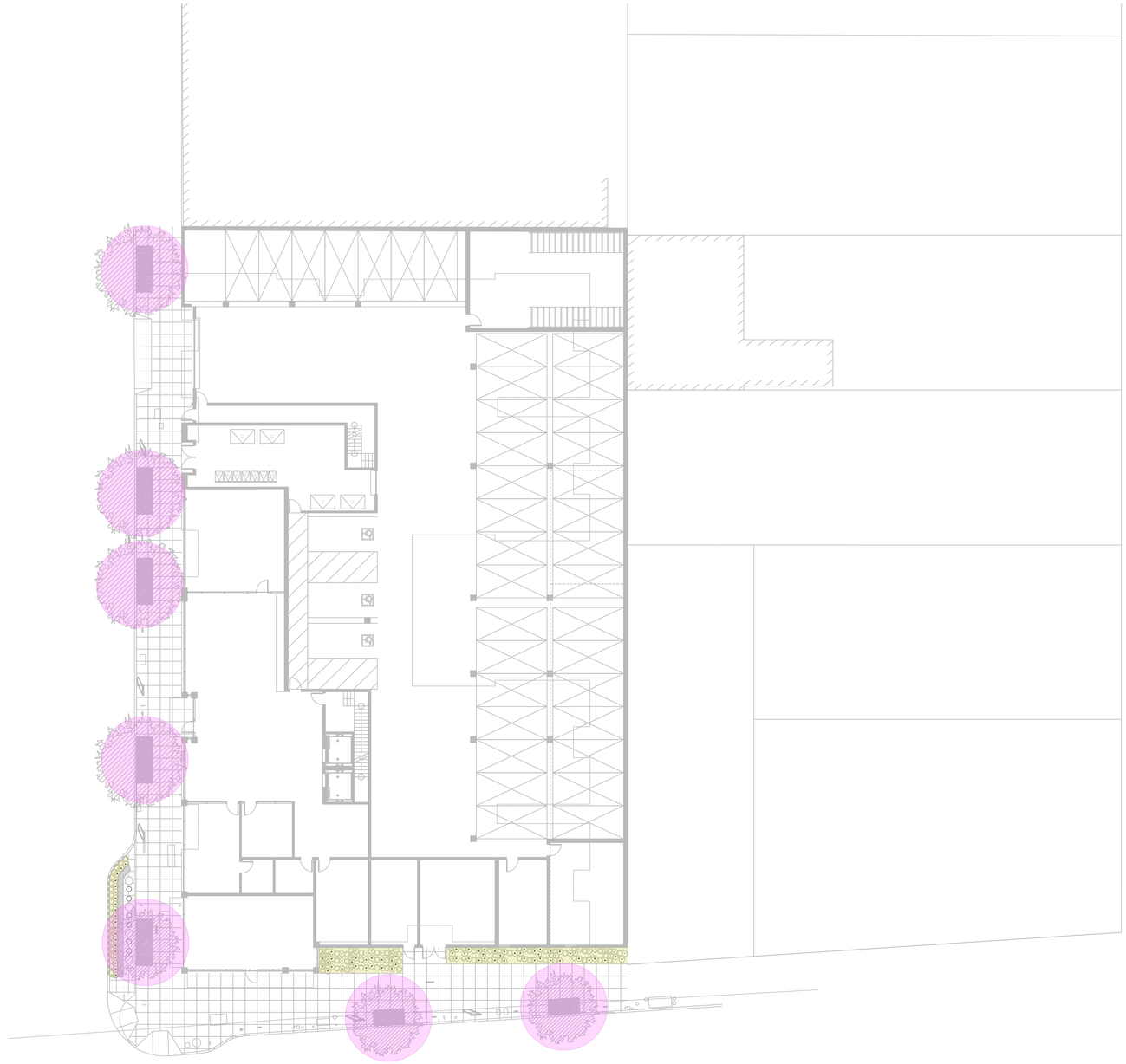
ESTIMATED TOTAL WATER USE (ETWU) GALLONS PER YEAR

ETWU= ((ETO)(.62)(ETAF x LA))

ETo = REFERENCE EVAPOTRANSPIRATION
PF = PLANT FACTOR FOR HYDROZONES
HA = HYDROZONE AREA (SQ.FT)
0.62 = CONVERSION FACTOR (GALLONS/SQ.FT/YR)

IE = IRRIGATION EFFICIENCY (0.81)-BUBBLER/DRIP

IE = IRRIGATION EFFICIENCY (0.75)-ROTORS/SPRAY



Irrigation Consultant:
Russell D. Mitchell Associates, Inc.
2760 Camino Diablo
Walnut Creek, CA 94597
tel 925.939.3985 ♦ fax 925.932.5671
www.rmairrigation.com

North

1/16" = 1'-0"

0 8 16 32

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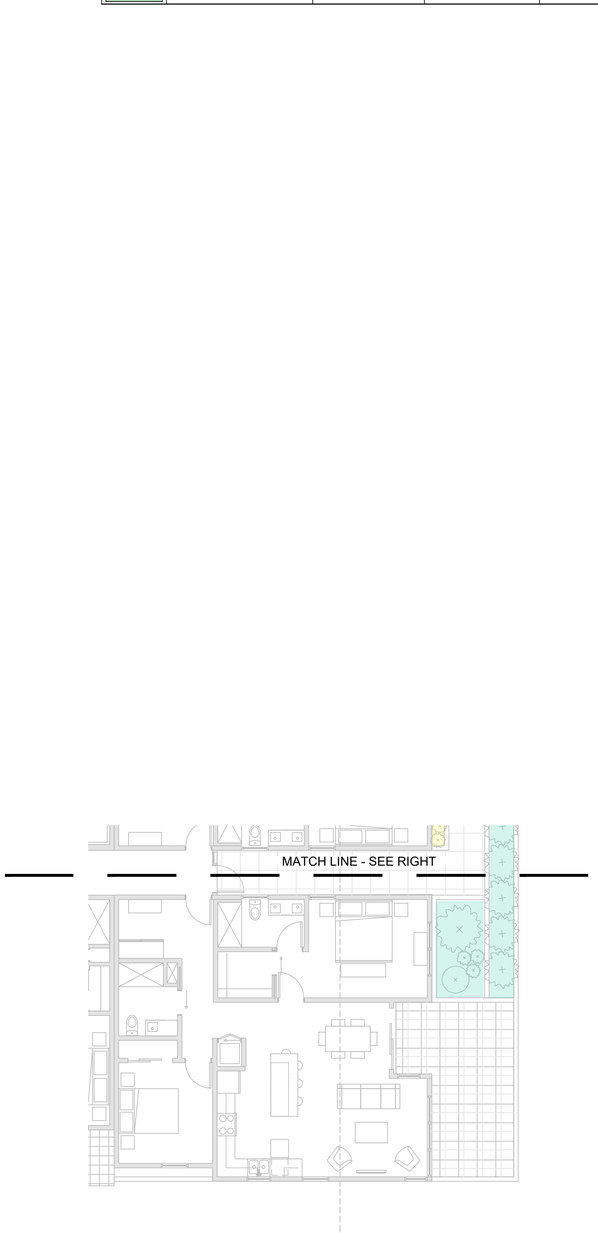
JOB: 2109

SHEET:

Ground Level
Hydrozone Plan

I1.0

HYDROZONE KEY				
	DESCRIPTION	PLANT TYPE	WATER USE TYPE	SQ. FT
	HYDROZONE #1	SHRUB/GC	LOW	1,163
	HYDROZONE #2	SHRUB/GC	MODERATE	778
	HYDROZONE #3	TREES	MODERATE	240





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North

3/16"=1'-0"
0 2 4 8

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ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HERE CONSTITUTE ORIGINAL AND UNPUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED, USED OR DISCLOSED WITHOUT WRITTEN CONSENT OF TRACHTENBERG ARCHITECTS.

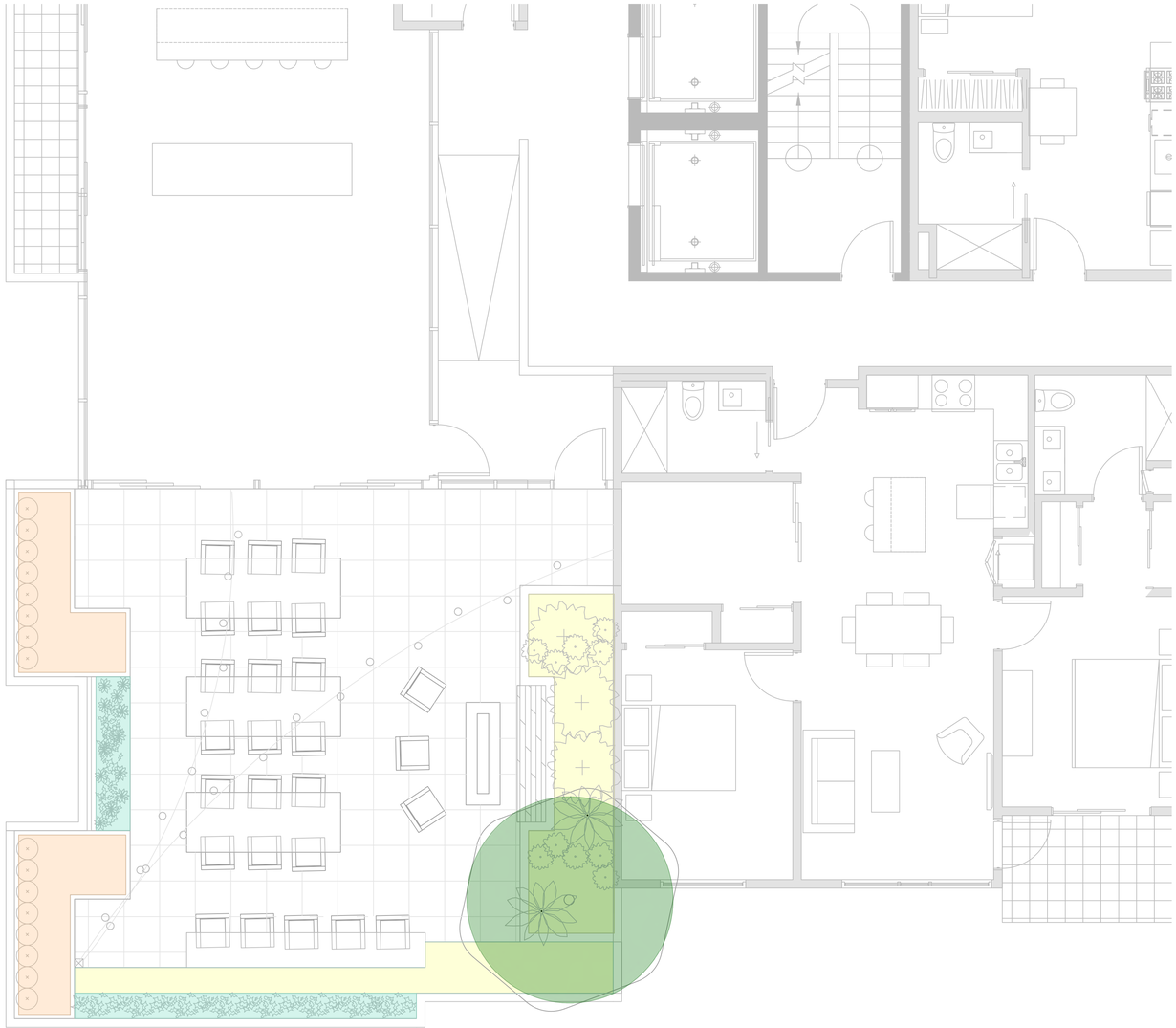
JOB: 2109

SHEET:

Second Level Courtyard - Hydrozone Plan

I2.0

HYDROZONE KEY				
	DESCRIPTION	PLANT TYPE	WATER USE TYPE	SQ. FT
	HYDROZONE #1	SHRUB/GC	LOW	149
	HYDROZONE #2	SHRUB/GC	MODERATE	48
	HYDROZONE #3	TREES	MODERATE	80
	HYDROZONE #4	VEGETABLE/HERBS	HIGH	86



North

0 2 4 8

1/4" = 1'-0"

TRACHTENBERG ARCHITECTS

2421 Fourth Street
Berkeley, California 94710
510.649.1414
www.TrachtenbergArch.com

PANORAMIC 1685 SHATTUCK

Berkeley, CA

12.11.2023 SB330 SUBMISSION
04.30.2024 STRUCTURAL CONCEPT
05.31.2024 ZONING APPLICATION
09.13.2024 ZONING SUBMITTAL
04.01.2025 ZONING RESUBMITTAL
07.24.2025 ZAB HEARING SET

ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HERE CONSTITUTE ORIGINAL AND UNPUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED, USED OR DISCLOSED WITHOUT WRITTEN CONSENT OF TRACHTENBERG ARCHITECTS.

JOB: 2109

SHEET:

Eigth Level Roof Deck - Hydrozone Plan

L3.0

CITY OF BERKELEY - CITY CLERK
2025 SEP 30 PM 2:52

Cover Page / Summary

City of Berkeley – ZAB Appeal Submission

Project: 2109 Virginia Street – Use Permit #ZP292409966

ZAB Approval Date: September 11, 2025

Appeal Submitted By: North Shattuck Alliance via Melinda E. Lopez

Contact Information: 1618/1620 Walnut Street, Berkeley, CA 94709 – melindaelopez@gmail.com

Summary of Appeal

This appeal requests City Council review of the Zoning Adjustments Board approval of the 2109 Virginia Street project. The appeal cites the following concerns:

1. Construction Impacts – Noise, dust, vibration, and management of toxic soil.
2. Labor Standards – Request for union labor for construction.
3. Tenant Disclosure – Notification of environmental monitoring and risks.
4. Water Resources – Potential impacts to creeks and aquifers.
5. Traffic & Parking – Congestion, safety, and overflow into neighborhood streets.
6. Operational Impacts – Noise and activity from 110 units.
7. Design & Massing – Change from 5 to 8 stories without adequate community notice.
8. Emergency Preparedness & Safety – Earthquake, fire, and emergency services concerns.
9. Neighborhood & Citywide Impacts – Low/moderate-income unit allocation, loss of green space, utility demands.
10. Density Bonus Transparency – Clarification of concessions, affordable unit percentage, and public benefit.
11. Proximity to Residences – Project is 150–700 feet from single-family homes ([insert square footage range]) with increased neighborhood impacts.
12. Community Health / Sensitive Receptors – Notification and protection for nearby pediatric and school populations, in very close proximity to the project.

Attachments

Full appeal letter

Appeal Letter

North Shattuck Alliance via Melinda E. Lopez

1618/1620 Walnut Street

Berkeley, CA 94709

melindaelopez@gmail.com

Date: September 25, 2025

City Clerk's Office

City of Berkeley

2180 Milvia Street

Berkeley, CA 94704

Re: Appeal of ZAB Decision on 2109 Virginia Street (September 11, 2025)

Dear City Clerk,

I am appealing the Zoning Adjustments Board's approval of the project at 2109 Virginia Street, granted on September 11, 2025. As residents living within the immediate impact area, we believe this project requires further review and stronger conditions to protect the health, safety, and livability of the neighborhood and future tenants.

1. Construction Impacts

- Daily construction noise from 8:00 AM – 5:00 PM will significantly disrupt nearby households. Comprehensive noise and vibration mitigation measures should be required.
- Air quality risks from dust, diesel emissions, and possible toxic vapors during excavation must be addressed through continuous monitoring and protective measures.

- The site's history of toxic contamination (Virginia Cleaners) requires independent soil testing, strict handling protocols, and clear reporting to the community.

2. Labor Standards

- The project should be conditioned to use **union labor**, ensuring fair wages, safety protections, and higher construction quality.

3. Toxic Soil and Tenant Disclosure

- Future tenants should receive **written disclosure** of any ongoing soil or groundwater monitoring and any health risks associated with the site.

4. Water Resources

- Impacts to nearby creeks, aquifers, and groundwater must be independently reviewed and mitigated.

5. Traffic & Parking Impacts

- The project's vehicle entrance from **Shattuck Avenue** will worsen existing congestion in a heavily traveled corridor.
- The proposed 110 parking space garage entrance/exit design raises safety concerns for pedestrians and cyclists.
- Overflow parking will spill into nearby residential streets, compounding the shortage of neighborhood parking.

6. Operational Impacts

- With 110 units and 2–4 occupants per unit; 110 parking spaces, noise generated by several hundred residents will affect neighborhood peace and livability.
- Additional deliveries, rideshare pickups, and service vehicles will intensify traffic circulation and double-parking risks.

7. Design & Massing

- The project increased from **5 stories to 8 stories** without clear public notification or adequate community input.
- Increased building scale raises new questions about traffic circulation, pedestrian/bike safety, and emergency vehicle access.

8. Emergency Preparedness & Safety

- The site lies in a **high seismic risk area**, and excavation plus an 8-story structure raise concerns about earthquake safety and soil stability.
- Fire and life safety systems must be fully disclosed, including sprinklers, evacuation plans, and emergency access.
- Hundreds of new residents will increase demands on police, fire, and ambulance services.

9. Neighborhood & Citywide Impacts

- The project includes **18 low- and moderate-income units (16% of total units)**. While positive, the affordability percentage did not increase with the jump from 5 to 8 stories. Deeper affordability commitments are warranted.
- Loss of trees and green space reduces urban canopy, stormwater management, and livability.
- Increased demand on utilities and city infrastructure has not been adequately addressed.

10. Density Bonus Transparency

- The community has not received clear disclosure of how the density bonus was calculated or which concessions were granted.
- The public should be informed of:
    - Additional market-rate units granted through the density bonus.
    - Waivers or incentives provided to the developer.
    - How the City ensures that concessions result in real community benefit, rather than disproportionate private profit.

11. Proximity to Residences and Nearby Homes

- The project at 2109 Virginia Street is located **between 150 and 700 feet** from nearby residences.
- Many of the neighboring properties are **single-family homes ranging from approximately [e.g., 1,200–2,500 sq ft]**, highlighting the contrast between the existing neighborhood scale and the proposed 8-story, 110-unit building.

- This close proximity and scale difference increase impacts of construction noise, dust, vibration, traffic, and operational disturbances on adjacent homes.
- The short distance also exacerbates safety and privacy concerns, including shadowing, line-of-sight issues, and increased exposure to air pollutants.

12. Community Health / Sensitive Receptors

- The project site has a history of toxic contamination from Virginia Cleaners, which may pose risks during excavation and construction.
- The **Berkeley Pediatric Medical Group (1650 Walnut Street, 150 feet away)** and **Berkeley Arts Magnet School (2015 Virginia Street, 300 feet away)** are located near the project.
- We appeal to the City Council to ensure that these sensitive receptors—particularly **newborns, children, and medically vulnerable populations**—are notified and that protective measures are in place to minimize exposure to hazardous substances.
- Transparency and proactive communication are critical to protect public health and mitigate risks to nearby families and children.

Request

We respectfully request that the **City Council overturn or modify the ZAB approval** of 2109 Virginia Street, or impose stronger conditions to:

- Strengthen construction noise, dust, and toxic soil safeguards.
- Require use of union labor.
- Mandate tenant disclosure of environmental conditions.
- Mitigate parking, traffic, and emergency service impacts.
- Increase affordable housing percentage to reflect expanded height and density.
- Provide full transparency regarding density bonus concessions and regulatory incentives awarded to the developer.
- Notify sensitive receptors near the site, including pediatric and school populations, and ensure protections for public health.

The community supports responsible housing development, but this project must meet higher standards of safety, equity, and accountability.

Thank you for your consideration.

Sincerely,

North Shattuck Alliance via Melinda E. Lopez

Petition Signatures (Neighbors Supporting Appeal)

We, the undersigned residents of Berkeley, California, support this appeal of the ZAB decision for 2109 Virginia Street:

North Shattuck Alliance appeal

#	Name	Address	Email	Signature	Date
1 2	Melinda E Lopez/John Lopez	1618/1620 Walnut St. Berk., CA 94709	melindaelopez@gmail.com johnlopez8801@gmail.com	(see letter)	9/25/25
3 4	Glen Stevick/Liz Stevick Scherer see attached letter	1636 Walnut St., Berk., CA 94709	gstevick@gmail.com Lizstevick@gmail.com	(see letter)	9/25/25
5 6	Vijesh Unnikrishman/Rohini Kumar	1632 Walnut Street, Berk., CA 94709	unnikvij@gmail.com rohini.kumar@mac.com	(see signature on next page)	9/25/25
7	James Hendry see attached letter	2043 Lincoln Street, Berk., CA 94709 – The Whittemore/ Woodworth House Landmark	jameshendry@sbcglobal.net		9/25/25
8 9	Michael Apte/ Ursula Schultz	1623/1628 Walnut St., Berk., CA 94709	mgapte@gmail.com/ schulzu5@gmail.com	M. Schultz	9/25
10	Karen Streets Virgus Streets	1614 Walnut Street, Berk., CA 94709	Karen.streets@gmail.com	Karen Streets Virgus Streets	9/25 9/25
11	Anna may	1619 Walnut	annasmay6@yahoo.com	Anna	9/25
12	SCOTT Wheeler	1619-A Walnut	scottsvine2@comcast.Net	SW	9-25-25

September 25, 2025

To: City of Berkeley – ZAB

From: Glen Stevick and Elizabeth Scherer
1636 Walnut Street, Berkeley, CA 94709

Re: Appeal of ZAB Approval 2109 Virginia Street – Use Permit #ZP292409966

Dear City of Berkeley / ZAB,

We are appealing your decision to approve this project based on the following listed below. We live adjacent and behind the project at 1636 Walnut Street.

1. **SB 330 Housing Crisis Act of 2019**
   In light of the fact that Berkeley, and in particular District 4, have added far more housing than their share in the state.

2. **Accessory Dwelling Unit Ordinance in the City of Berkeley**
   According to certain estimates, continued supportive policies for ADUs that protect homeowner and rental rights can yield close to 5000 new housing units in Berkeley – which is roughly 60% of the city's goals set through 2030.

3. **Minimal regulatory requirements for property size expansion**
   Height step-down between the proposed 8 story apartments and one and two-story single-family and muti-unit homes in our neighborhood

4. **Inadequate and incoherent design decisions**
   The design choices for the proposed apartment project raises significant concerns.

5. **Lack of congruence with the community**
   The current design proposal along Shattuck lacks the thoughtful integration needed to complement the unique, small-business-friendly nature of North Berkeley.

6. **Urban heat islands and their environmental impact**
   High-density clusters of tall apartment buildings exacerbate the urban heat island (UHI) effect, disproportionately impacting marginalized communities and worsening climate change.

7. **Developer friendly policies at the disregard of residents**
   While Berkeley housing code allows flexibility in how affordable units are distributed within a development, this approach is fundamentally unenforceable.

8. **Opaque permitting, review and approval process**

9. Increased local conjestion

Each of these issues is discussed in more detail in the following document put together by the North Shattuck Alliance.

Best regards,

Glen Stevick

Elizabeth Scherer

North Shattuck Alliance

Member Emails:
melindaelopez@gmail.com
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unnikvij@gmail.com
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mgapte@gmail.com
415jazz@gmail.com
catlady_1619@hotmail.com
rhojati1@yahoo.com

September 27, 2024

By Electronic Mail

ZAB Board
2180 Milvia Street
Berkeley, CA. 94704
cmariscal@berkeleyca.gov

CC: Council Member District 4, Mayor of Berkeley, Rep. California Senate District 9 Nancy Skinner

RE: Memorandum in Support of Reconsideration of the proposed 8-Story Building at 2109 Virginia, Adjacent to Two-Story Single-Family Homes, No. ZP-2018-0172.

Dear ZAB, Cecelia Mariscal,

We are the neighbors adjacent to the proposed 8-story building at 2109 Virginia St. We are very supportive of adding housing and many of us have restored properties, provided housing and proposed smart fill-in housing in our neighborhood.

We have several concerns regarding the 2109 Virginia Street project:

- There appears to have been outdated cleanup and measurement protocols, dating back over 30 years, were utilized to assess and manage the toxic waste generated by the historical commercial operations of Virginia Cleaners on the proposed development site. These protocols may have been inappropriately applied to classify the site as safe for construction

- There appears to have been environmental, safety, and intrusion of privacy posed by the project to existing two-story single and multi-unit homes adjacent to the proposed large disparity of size and volume of the 8-story building that has yet to be researched and evaluated before the permit approval is granted

- There appears to have been concerns around significant duress to quality of life and safety of current residents, many of them elderly, living in the immediate city block of the proposed building, due to deficiency in parking, police, utilities, and other public needs demanded by the introduction of almost 100+ additional units which has not been researched and evaluated before the permit approval is granted

- There appears to have been inconsistent use of design and zoning requirements such as gradual story/height step-down rules and other design rules approved to be applied to high-density parts of Berkeley being applied to low density parts of the proposed site without proper research and evaluation before the design should be considered ready for review.

- There appears to have been no consideration of the concrete urban heat island effects being created by this project without removal of open space with virtually no offsets being researched and evaluated as part of the proposed design being considered for permitting

- There appears to have been no consideration of the smart infill housing that has already occurred in Berkeley, which has added more such units that most other cities in California and specifically District 4 which has added more such units than any other Districts in Berkeley. In fact, residents along Walnut Street in District 4 have added smart infill housing (6 out of 9 residents on this petition on walnut street have added infill housing) and hence request the housing density per city block be used as a measure of equity and fairness to be researched and assessed factoring in the existing smart infill housing provisioned in district 4 and more specifically in the proposed city block to ensure balance of density of housing distribution per city block in Berkeley

- There appears to be no consideration of the advantages of smart infill into single family home areas, which would provide to lower income residents the numerous positive characteristics of single-family home areas (lower crime, lower pollution, higher income, more greenery, less concrete and better health and hence must be part of the evaluation of proposed housing plan to incorporate the societal and economic enablement assessments factoring existing smart infill housing vs. proposed 8 story complex.[1]

We, Berkeley residents of North Shattuck Alliance , oppose this proposed project in its form as submitted and request the ZAB and city council to enforce judgment and good common sense to guide the approval of this project. Without appropriate action from the city, we would [will?] have no recourse left but to pursue legal action against the approval of the [a] permit.

Detailed points of residents of North Shattuck Alliance Memorandum

8. **SB 330 Housing Crisis Act of 2019**
   As long-term residents of Berkeley, tenants and homeowners, we have all first-hand experience and witnessed the significant economic and emotional pressure the housing crisis in the Bay Area and the state of California. The historic act that was passed by the state, is a testament to the courage of Sacramento to change the course of housing shortfalls in our community

9. **Accessory Dwelling Unit Ordinance in the City of Berkeley**

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[1] Single-Family Zoning in California: A Statewide Analysis, A California Zoning Atlas Report, Stephen Menendian, Shahan Shahid Nawaz & Samir Gambhir, Othering & Belonging Institute, May 22, 2024, https://belonging.berkeley.edu/single-family-zoning-california-statewide-analysis.

City of Berkeley has been at the forefront of encouraging innovative approaches and formats to put a dent in the housing crisis, such as supportive ADU ordinance passed by the city. ADUs according to innumerable policy experts are affordable, low cost to develop, environmentally friendly, safe and smart in infilling neighborhoods with housing density. According to certain estimates, continued supportive policies for ADUs that protect homeowner and rental rights can yield close to 5000 new housing units in Berkeley – which is roughly 60% of the city's goals set through 2030. Several residents in our community, provide ADUs, even sometimes overcoming adversities from the planning department. 6 out of 9 residents in this petition have provided in-fill housing in their properties.

However, the SB 330 act has also resulted in unintended consequences, which are untenable for our community and if faced, probably untenable for residents and even lawmakers across the city, county and state.

10. **Minimal regulatory requirements for property size expansion**
Height step-down between the proposed 8 story apartments and one and two-story single-family and muti-unit homes in our neighborhood is essential to ensure a balanced transition between differing building scales. Studies show that abrupt height differences can cause significant overshadowing, leading to a reduction in sunlight by up to 50% for adjacent properties, negatively affecting residents' quality of life[2]. In addition, step-down designs help maintain neighborhood privacy by limiting direct sightlines from taller buildings into single-family yards and homes. Research from urban design studies also suggests that transitioning heights can reduce wind tunnel effects common in densely built areas, improving pedestrian comfort by lowering wind speeds by 15-20%[3]. Overall, this approach fosters a visually harmonious streetscape and protects the character and property values of residential neighborhoods. Especially in a neighborhood, where there is a significant portion of elderly residents who are aging-in-place, the proposed construction puts a threat and likely force many of us to be displaced from our homes due to safety and quality of life impairment.
Ask– the city must request analysis and evaluation of sunlight and wind effects on quality of life and safety of residents in the immediate vicinity of proposed structure and/or reduce proposed building size to mitigate risks

11. **Inadequate and incoherent design decisions**
The design choices for the proposed apartment project raises significant concerns. For instance, the inclusion of a car park for 93 vehicles directly contradicts Berkeley's push for walkable, transit-oriented housing, as exemplified by the University Avenue project. Prioritizing such extensive parking will only encourage more car ownership and traffic, which runs counter to Berkeley's goals for sustainable, pedestrian-friendly development. Additionally, the elimination of setbacks, justified solely by the inclusion of low-income housing, introduces serious risks for resident safety by restricting accessibility for fire and emergency personnel. Given the likely price point of these units, it's highly likely that many residents will be families and higher-income individuals who per studies have shown to own two cars, further increasing the parking burden on nearby streets. This will lead to more cars circling for parking, especially

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[2] https://www.mdpi.com/1660-4601/17/14/5014
[3] https://windtechconsult.com/20-seriously-effective-wind-mitigation-strategies-for-your-next-project/

in this locale where elderly citizens and schoolchildren from Berkeley Arts Magnet Elementary School inhabit posing significant safety concerns.

Ask – the city must request analysis and evaluation of realistic demands of likely residents and family structure, their car ownership, proposed parking slots and the impact on nearby street parking availability to ensure the right balance of transit-orientated housing goals are met without endangering current residents safety in walkability and convenience to accessible street parking in the vicinity and/or reduce proposed building size to mitigate risks

12. **Lack of congruence with the community**

The current design proposal along Shattuck lacks the thoughtful integration needed to complement the unique, small-business-friendly nature of North Berkeley. Iconic places like the Cheeseboard Collective, which embodies Berkeley's values of independence, employee ownership, and prioritizing community over profit, are vital to the area's cultural and historical significance. A large-scale, developer-driven project with ground floor commercial storefronts risks disrupting this community-centric character. These new high-rises that are appearing in Berkeley, have not been able to attract local community-based businesses due to their high rent demands and therefore being leased by large national chains Adding commercial storefronts on Virginia Street—a completely residential area—raises concerns about maintaining the neighborhood's tranquility and balance. Just as it would be illogical to place a large-scale housing development in the heart of a commercial district like 4th Street, introducing commercial activity on a quiet residential street would disrupt the established character of the area. And with the likely rent burden, such a storefront being occupied by a national chain like a pizza hut or a seven-eleven or a clothing store is incongruent. Thoughtful design choices that align with community values are essential for maintaining safety, accessibility, and the neighborhood's integrity.

Ask – the city must require re-layout of the proposed commercial storefronts away from Virginia street and include analysis and evaluation of the rent burden on such an establishment and ensure the rent is controlled to make the storefronts affordable to local businesses (representative businesses such as Poulet, GoingPlaces) versus national chains

13. **Urban heat islands and their environmental impact**

High-density clusters of tall apartment buildings exacerbate the urban heat island (UHI) effect, disproportionately impacting marginalized communities and worsening climate change. These towering structures, often made of heat-absorbing materials like concrete and steel, trap heat in urban areas, making cities significantly warmer—by as much as 12°F compared to lower density regions.[4] The urban heat island effects already existing in Berkeley can be viewed using the hot stop mapping available on Climate Central's website[5,6]. This not only increases energy consumption through higher demand for air conditioning, but also leads to more greenhouse gas emissions, fueling the climate crisis. What's more, these heat islands disproportionately affect low-income and working-class communities, where green spaces and cooling

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[4] https://journalism.columbia.edu/news/urban-heat-island-effect-making-new-yorkers-hotter-study-finds.

[5] https://journalism.columbia.edu/news/urban-heat-island-effect-making-new-yorkers-hotter-study-finds.

[6] https://climatecentral.observablehq.cloud/urban-heat-hot-spots/conus-map

infrastructure are often lacking. By prioritizing sustainable, human-centered urban planning - such as reducing building density, integrating renewable energy solutions, and expanding green spaces—we can fight back against climate injustice and create healthier, more equitable cities for all.

Ask – the city must require a heat island effect analysis of the proposed structure and its environmental impact including the overall impact on environmental burden to the community and its residents health and quality of life and/or reduce proposed building size to mitigate risks

14. **Developer friendly policies at the disregard of residents**

While Berkeley housing code allows flexibility in how affordable units are distributed within a development, this approach is fundamentally unenforceable. Developers can easily prioritize profit by placing all affordable units on the less desirable lower floors while reserving the more valuable upper floors for high-paying buyers. There's no effective mechanism in place to ensure a fair distribution of affordable units, and without stricter regulations, developers are likely to exploit this loophole. This leads to a situation where promises of affordability are undermined by market-driven interests, and the concerns of existing neighborhoods about towering eight-story buildings next to single-family homes are completely disregarded. Ultimately, this approach benefits developers, not the broader community, and leaves too much room for manipulation.

Ask – the city must amend its design requirement policy around affordable housing allotment to within a building to pre-set and stipulate how many unites on which floor and of what design type (ex. 1, 2, 3 bedrooms) to ensure developers cannot game the system and/or reduce proposed building size to mitigate risks

15. **Opaque permitting, review and approval process**

The opaque zoning process for developers compared to everyday citizens creates significant issues for the community. When developers propose projects, there is often minimal communication, with only a notice posted on the proposed site providing an email and phone number for contact. In contrast, when residents want to make even a small addition to their property, they must go through multiple rounds of notifications, obtain signatures from neighbors, and follow several bureaucratic steps. This inconsistency in the process is problematic, especially for the diverse community that lives in the neighborhood, including elderly residents aging in place, working families, single parents, and those who are not tech-savvy. The lack of clear, accessible communication in zoning matters makes the process exclusionary and ableist, effectively undermining due process. Major projects that can disrupt the neighborhood should not be sprung upon residents without proper, transparent engagement. Lastly, the City is not being transparent in terms of the housing it has provided compared to other Cites and how the new housing has been distributed throughout the City.

Ask – the city must provide density increase analysis and evaluation for proposed building factoring in how the proposed building affects the fair and equitable increase in density versus other similar neighborhoods in District 4 and other districts within the city

Conclusion:

Berkeley has an average vacancy rate of 9-13%, meaning around 5,000 rental units are currently unoccupied out of 50,000 total. Despite the introduction of a vacancy tax in 2024, it is unclear whether this will effectively incentivize landlords to release these units into the market. Current incentives encourage property owners to keep units off the market, and simply building more

housing—particularly under the banner of affordable housing—won't guarantee these units are made available at low-income rates. Large developers, especially those who sell the finished housing to commercial property management firms, often exploit legal loopholes due to their significant financial and legal resources, making it difficult to achieve true affordability. Claims that state law and Berkeley's middle housing policy will empower small developers to build small multi-unit projects or duplexes that align with the ethos of the city are largely inaccurate. As a detailed analysis highlights, 25 developers are responsible for building 25% of all housing units in the U.S., even though there are 60,000 developers nationwide[7]. This trend is driven by large developers' access to public markets and capital, enabling them to undertake giant projects—far from what Berkeley envisions with its housing goals. Experts, including the Berkeley Rental Board Chair, remain skeptical that building large market-rate units will significantly improve affordability[8]. In summary, we believe un-fettered development with disregard to the community is not the answer to fixing current distorted housing policies and perverse incentives.

We, the community of North Shattuck Alliance, should not be at the receiving end of well-meaning housing policies that create unintended consequences. We sincerely request the city and state government to help us preserve our rights and our homes by addressing the requested asks at the earliest. We are willing to work closely with the city and the developer to achieve an amicable resolution that addresses our concerns.

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[7] https://www.noahpinion.blog/p/why-small-developers-are-getting

[8] https://www.berkeleyside.org/2023/10/23/berkeley-affordable-housing-construction

JAMES E. HENDRY

2043 Lincoln Ave.
Berkeley, CA 94709
(415) 867-9596
northberkeleyvictorian@gmail.com

City Clerk
City of Berkeley
Hand-delivered

RE: Protest of Zoning Adjustment Board (ZAB) decision to approve Project #ZP2024-0066 (2109 Virginia Street)

On September 11, 2025 ZAB approved the above project through Agenda Item #7A.

This letter is part of the combined neighborhood protest of ZAB's approval of the project. As a resident of Berkeley located within 300 feet of the project the cost of filing a protest is $500 (attached).

In addition to any comments and concerns raised by other commenters to this protest relating to this specific project (incorporated by reference), this protest raises the following issues.

- **The proposed project's location above a former toxic waste site raises numerous environmental issues that were not sufficiently considered;**
- **The proposed mitigation of the project to "commercial" standards is insufficient for a property that will be occupied by children and adults;**
- **The project's exemption from a CEQA review is not supported as there are "site project-specific significant effects which are peculiar to the project" and the project is not consistent with the applicable City general plans**
- **The calculation of the density bonus was flawed and overstated the number of allowable units**
- **Justification for the waivers and concessions granted to the project were insufficient**
- **The project may impact pre-existing residential properties and rent-controlled units**
- **The public space requirements are inadequate and do not allow any public access**
- **The effect of the project (such as parking ingress/egress, delivery services, and Uber/Lyft drop-off) on public transit was not adequately considered**

Thank you for your consideration of this protest.

Sincerely,

JAMES HENDRY

September 29, 2025

To: City of Berkeley – ZAB

From: Ramin Hojati & Mary C. Maslund
Address: 1640 Walnut str #A, 94709
Phone: 510-205-9215 / 510-551-6689

Re: Appeal of ZAB Approval 2109 Virginia Street – Use Permit #ZP292409966

Dear City of Berkeley / ZAB,

I / We are appealing your decision to approve this project based on the following:

1. **SB 330 Housing Crisis Act of 2019,** in light of the fact that Berkeley, and in particular District 4, have added far more housing than their share in the state.

2. **Accessory Dwelling Unit Ordinance in the City of Berkeley**
Homeowner ADUs can yield close to 5000 new housing units in Berkeley.

3. **Minimal regulatory requirements for property size expansion**
Height difference between proposed 8 story apartments and single family homes.

4. **Lack of congruence with the community**
The current design proposal along Shattuck lacks the thoughtful integration

5. **Urban heat islands and their environmental impact**
High-density tall apartment buildings exacerbate the urban heat island (UHI) effect.

6. **Developer friendly policies at the disregard of residents**
While Berkeley housing code allows flexibility in how affordable units are distributed within a development, this approach is fundamentally unenforceable.

7. **Building over a toxic waste site by capping the waste**

Best regards,

9/29/25

Mary Maslund 9/29/25

September 29, 2025

To: City of Berkeley – ZAB

From: CORNELIA VAN DER HAVE
Address: 1627 WALNUT, BERKELEY
Phone: 510.693.9011

Re: Appeal of ZAB Approval 2109 Virginia Street – Use Permit #ZP292409966

Dear City of Berkeley / ZAB,

I / We are appealing your decision to approve this project based on the following:

1. **SB 330 Housing Crisis Act of 2019,** in light of the fact that Berkeley, and in particular District 4, have added far more housing than their share in the state.

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7. **Building over a toxic waste site by capping the waste**

Best regards,

SEPT. 29. 2025

PROTEST TO 2109 VIRGINIA STREET (ZP-2024-0066)

I support and am protesting the proposed construction of the above project and ask the Berkeley City Council to reject the project.

1 NAME:	Deshawn Carter
ADDRESS:	1647 ~~the~~ Walnut St. Berkeley CA
PHONE/E-MAIL	510467-3901
SIGNATURE/DATE	09/28/25
2 NAME:	Emmy Pierce
ADDRESS:	1700 Walnut st
PHONE/E-MAIL	[redacted]
SIGNATURE/DATE	9/28/2025
3 NAME:	Emily Miler
ADDRESS:	1647 Walnut St. Berkeley, CA
PHONE/E-MAIL	951-239-9261
SIGNATURE/DATE	09/28/25
4 NAME:	Frank Stratton
ADDRESS:	1643 Walnut St
PHONE/E-MAIL	501-505-2096
SIGNATURE/DATE	9/28/25

PROTEST TO 2109 VIRGINIA STREET (ZP-2024-0066)

I support and am protesting the proposed construction of the above project and ask the Berkeley City Council to reject the project.

5	NAME: VIJESH UNNIKRISHNAN
	ADDRESS: 1632 WALNUT St, BERKELEY, CA 94709
	PHONE/E-MAIL 612-207-3788 / unnikvij@gmail.com
	SIGNATURE/DATE 9/28/25
	NAME: James Hendry
6	ADDRESS: 2043 Lincoln St. Berkeley
	PHONE/E-MAIL
	SIGNATURE/DATE 9/27/25
	NAME: Julie Rodgers
7	ADDRESS: 1624 Walnut St. 9/27/25
	PHONE/E-MAIL
	SIGNATURE/DATE
8	NAME: Antonio Cortijo-Rodgers
	ADDRESS: 1624 Walnut St. 9/27/25
	PHONE/E-MAIL
	SIGNATURE/DATE

owner

Second Letter owner

lives at apartments upstairs

lives at apartments downstairs

PROTEST TO 2109 VIRGINIA STREET (ZP-2024-0066)

I support and am protesting the proposed construction of the above project and ask the Berkeley City Council to reject the project.

9	NAME: Carol Worrall
	ADDRESS: 1631 Walnut St.
	PHONE/E-MAIL 970-901-8116
	SIGNATURE/DATE Carol Worrall 9/28-25
10	NAME: Emma Bergmann
	ADDRESS: 1631 Walnut St. Apt. D
	PHONE/E-MAIL 707-849-6279
	SIGNATURE/DATE Emma Bergmann 9/28/25
11	NAME: Vanessa Kim Ivelich
	ADDRESS: 1631 Walnut St Apt J
	PHONE/E-MAIL 510 684-8709
	SIGNATURE/DATE V.K. Ivelich 28 September 2025
12	NAME: SOUKAINA ECBANI
	ADDRESS: 1633 Walnut St, APT # 1
	PHONE/E-MAIL 321-978-2401
	SIGNATURE/DATE S 9/29/25

(1618) Melinda

PROTEST TO 2109 VIRGINIA STREET (ZP-2024-0066)

I support and am protesting the proposed construction of the above project and ask the Berkeley City Council to reject the project.

13	NAME: Neda Sabera (lessor)
	ADDRESS: ms.n.sabera@gmail.com 1640 Walnut St Apt A Berkely CA, 94709
	PHONE/E-MAIL 857-218-8525
	SIGNATURE/DATE 9/28/25
14	NAME: PERRY Boswell (lessor)
	ADDRESS: 1722 WALNUT ST.
	PHONE/E-MAIL 702-292-0505 KMNOAINC@GMail.com
	SIGNATURE/DATE 9/28/2025
15	NAME: Andrea Satin (lessor)
	ADDRESS: 1631 Walnut
	PHONE/E-MAIL 510-323-2223
	SIGNATURE/DATE 9/29/25
16	NAME: Melinda E. Lopez (owner)
	ADDRESS: 1618 Walnut St
	PHONE/E-MAIL 415 828 6455 melindaelopez3@gmail.com
	SIGNATURE/DATE 9/29/25

PROTEST TO 2109 VIRGINIA STREET (ZP-2024-0066)

I support and am protesting the proposed construction of the above project and ask the Berkeley City Council to reject the project.

Same as #8 duplicate Signature

NAME:	Antonio Cortijo
ADDRESS:	1624 Walnut St.
PHONE/E-MAIL	
SIGNATURE/DATE	Sept 27 · 2025
NAME:	Rohini Kumar
ADDRESS:	1632 Walnut St, Berkeley, 94709
PHONE/E-MAIL	612-203-9449 / rohini.kumar@mac.com
SIGNATURE/DATE	Rohini Kumar Sep 26, 2025
NAME:	
ADDRESS:	
PHONE/E-MAIL	
SIGNATURE/DATE	
NAME:	
ADDRESS:	
PHONE/E-MAIL	
SIGNATURE/DATE	

17

OWNER

PROTEST TO 2109 VIRGINIA STREET (ZP-2024-0066)

I support and am protesting the proposed construction of the above project and ask the Berkeley City Council to reject the project.

18

NAME:	Mary Burnham
ADDRESS:	1625 Walnut St.
PHONE/E-MAIL	(415) 254-9817
SIGNATURE/DATE	Mary A. Burnham
NAME:	
ADDRESS:	
PHONE/E-MAIL	
SIGNATURE/DATE	
NAME:	
ADDRESS:	
PHONE/E-MAIL	
SIGNATURE/DATE	
NAME:	
ADDRESS:	
PHONE/E-MAIL	
SIGNATURE/DATE	

Lessor

2109 Virginia Street – we are protesting – appealing the approved project

8 stories, 110 units, 100 parking spaces, 2 yr construction – 7 am - ?, Monday – Sunday ?over a toxic site

We are within 300 feet of the project and will be heavily impacted as homeowners and residents

We, the undersigned residents of Berkeley, California, support this appeal of the ZAB decision for 2109 Virginia Street:

North Shattuck Alliance appeal

#	Name	Address	Email	Signature	Date
19 1	Alida Comtois	1609 Walnut Street			09/30 owner
2 Lessor	Eshan Ahman Kim Richards	1611 Walnut			
3	Sally LevinsonTr	1612 Walnut Street			
4	John Levinson Tr Etal				
5	Karen Streets	1614 Walnut Street		See other	
6	Virgus Streets			page	
7	Melinda E. Lopez	1618 Walnut Street		see other page	
8		1618A Walnut Street			
20 9	KIM RICHARDS	1611 Walnut St.		Kim Richards	10/1 Lessor

PROTEST TO 2109 VIRGINIA STREET (ZP-2024-0066)

I support and am protesting the proposed construction of the above project and ask the Berkeley City Council to reject the project.

21	NAME: Suzanne Perkins
	ADDRESS: 1612 Walnut Street, Apt 3N, Berkeley, CA 94709
	PHONE/E-MAIL 510-549-1144 bgordon9962@hotmail.com
	SIGNATURE/DATE Suzanne Perkins September 29, 2025
22	NAME: Bertram Gordon
	ADDRESS: 1612 Walnut St, Berkeley, CA 94709
	PHONE/E-MAIL 510-549-1144
	SIGNATURE/DATE 29 September 2025
23	NAME: Anita Susan Grossman
	ADDRESS: 1612 Walnut # 1N
	PHONE/E-MAIL 510 849-2610 / asg1947@yahoo.com
X	SIGNATURE/DATE Anita Susan Grossman 9/29/25
	NAME:
	ADDRESS:
	PHONE/E-MAIL
	SIGNATURE/DATE

2109 Virginia Street – we are protesting – appealing the approved project

8 stories, 110 units, 100 parking spaces, 2 yr construction – 7 am - ?, Monday – Sunday ?over a toxic site

We are within 300 feet of the project and will be heavily impacted as homeowners and residents

We, the undersigned residents of Berkeley, California, support this appeal of the ZAB decision for 2109 Virginia Street:

North Shattuck Alliance appeal

#	Name	Address	Email	Signature	Date
LINCOLN STREET					
1	James Hendry owner	2043 Lincoln Street (The Whittenmore/ WoodworthHouse Landmark	See signed letter		
WALNUT STREET					
2	Robert Arnold	1600 Walnut Street			
3	Kara Louie				
4 owner	Stephen Schachter	1602 Walnut Street		Stephen. Schachter @hotmail.com	9/29/25 owner
5	Maureen Beck				
6	Elaine Kawakami Tr	1608 Walnut Street			

24

PROTEST TO 2109 VIRGINIA STREET (ZP-2024-0066)

I support and am protesting the proposed construction of the above project and ask the Berkeley City Council to reject the project.

25

NAME:	CORNELIA VAN DER HAVE
ADDRESS:	1627 WALNUT STREET
PHONE/E-MAIL	510.693.9011 CNVDH@SBCGLOBAL.NET
SIGNATURE/DATE	SEPT. 29. 2025
NAME:	
ADDRESS:	
PHONE/E-MAIL	
SIGNATURE/DATE	
NAME:	
ADDRESS:	
PHONE/E-MAIL	
SIGNATURE/DATE	
NAME:	
ADDRESS:	
PHONE/E-MAIL	
SIGNATURE/DATE	

Thank you for your consideration.

Sincerely,

North Shattuck Alliance via Melinda E. Lopez

Petition Signatures (Neighbors Supporting Appeal)

We, the undersigned residents of Berkeley, California, support this appeal of the ZAB decision for 2109 Virginia Street:

North Shattuck Alliance appeal

#	Name	Address	Email	Signature	Date
1 2	Melinda E Lopez/John Lopez	1618/1620 Walnut St. Berk., CA 94709	melindaelopez@gmail.com johnlopez8801@gmail.com	(mel) (jon)	9/25/25
3 4	Glen Stevick/Liz Stevick Scherer see attached letter	1636 Walnut St., Berk., CA 94709	gstevick@gmail.com Lizstevick@gmail.com	(mel) (liz)	9/25/25
5 6	Vijesh Unnikrishman/Rohini Kumar	1632 Walnut Street, Berk., CA 94709	unnikvij@gmail.com rohini.kumar@mac.com	(mel) (mel)	9/25/25
7	James Hendry see attached letter	2043 Lincoln Street, Berk., CA 94709 – The Whittemore/ Woodworth House Landmark	jameshendry@sbcglobal.net		9/25/25
8 9	Michael Apte/ Ursula Schultz	1623/1628 Walnut St., Berk., CA 94709	mgapte@gmail.com/ schulzu5@gmail.com	(mel) (u. schultz)	9/25
10	Karen Streets Virgus Streets	1614 Walnut Street, Berk., CA 94709	Karen.streets@gmail.com	(mel) (mel)	9/25 9/25
11	Anna may	1619 Walnut	annasmay6@yahoo.com	(mel)	9/25
12	SCOTT Wheeler	1619-A Walnut	scottsvine2@comcast.Net	(mel)	9-25-25

PROTEST TO 2109 VIRGINIA STREET (ZP-2024-0066)

I support and am protesting the proposed construction of the above project and ask the Berkeley City Council to reject the project.

NAME:Michael Apte
ADDRESS: and owner 1628 Walnut St. 1623 Walnut St, Berkeley 94709
PHONE/E-MAIL 510-610-4172/mgapte@gmail.com
SIGNATURE/DATE 9/29/25
NAME: Ursula Schulz and owner 1628 Walnut St.
ADDRESS: 1623 Walnut St, Berkeley CA 94709
PHONE/E-MAIL 510-206-1598
SIGNATURE/DATE Ursula Schulz 9/25/25
NAME: Evelyn Apte
ADDRESS: 1630 Walnut St., Berkeley 94709
PHONE/E-MAIL 510-590-7448
SIGNATURE/DATE Even R. Apte
NAME: Oliver Apte
ADDRESS: 1628 Walnut St., Berkeley 94709
PHONE/E-MAIL oliverapte@gmail.com
SIGNATURE/DATE 9/29/25

PROTEST TO 2109 VIRGINIA STREET (ZP-2024-0066)

I support and am protesting the proposed construction of the above project and ask the Berkeley City Council to reject the project.

35

NAME:	Paul Molin
ADDRESS:	2137 Virginia St, Berkeley CA 94709
PHONE/E-MAIL	
SIGNATURE/DATE	9.20.24
NAME:	James
ADDRESS:	
PHONE/E-MAIL	
SIGNATURE/DATE	
NAME:	
ADDRESS:	
PHONE/E-MAIL	
SIGNATURE/DATE	
NAME:	
ADDRESS:	
PHONE/E-MAIL	
SIGNATURE/DATE	

Zoning Adjustments Board Staff Report

APP # ZP2024-0066

Sept 11, 2025

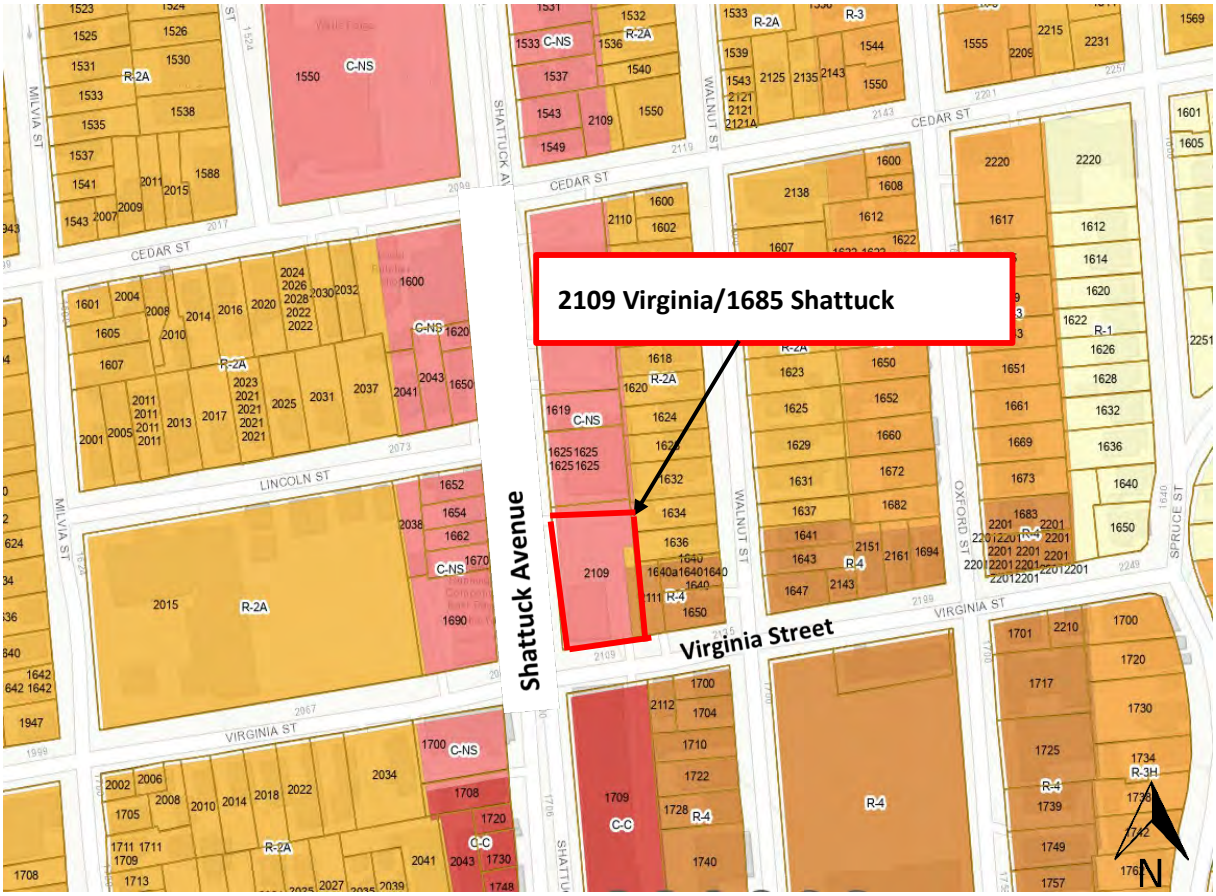
Use Permit for a Project at address 2109 Virginia Street



Project Facts	Project Description:
Applicant: Isaiah Stackhouse. Stackhouse, De La Pena, Trachtenberg Architects **Property Owner:** American Commonwealth Associates **Project Address:** 2109 Virginia Street/1685 Shattuck Avenue **GP Land Use:** Neighborhood Commercial (NC), Medium Density Residential (MDR), High Density Residential (HDR) **Zoning:** North Shattuck Commercial (C-NS), Restricted Multiple-Family Residential District (R-2A), Multi-Family Residential District (R-4) **Site Size:** .51 acres **CEQA:** Exempt pursuant to Section 15183.3 ("Streamlining for Infill Projects") **Vesting Date:** December 27, 2023 **Date Deemed Complete:** July 23, 2024 **Project Planner:** Singeh Saliki	The applicant is seeking approval to demolish a 2-story commercial building (4,604 square feet) and surface parking lot, and construct an 8-story (89 feet and 4 inches) 112,969 square-foot mixed-use residential development with 110 dwelling units (including 9 Very Low-Income and 9 Moderate Income units), 690 square feet of ground floor commercial space, 109 off-street vehicle parking spaces and 64 bicycle parking spaces. **Zoning Permits Requested:** 1. **Demolition.** Use Permit under BMC Section 23.326.070(A) **"Main Non-Residential Building"** to demolish a non-residential building 2. **New Construction.** Use Permit under BMC Section 23.202.020 (A) **"Allowed Land Uses"** to construct a new mixed-use development. 3. **New Construction.** Use Permit under BMC Section 23.204.020 (A) **"Allowed Land Uses"** to construct a new mixed-use development. 4. **New Floor Area.** Use Permit under BMC Section 23.204.030(A)(1) **"Floor Area Permit Requirements"** to create new floor area of 2,000 square feet or more. 5. **Building Height.** Administrative Use Permit under BMC Section 23.304.050(A) **"Projections Above Height Limits"** to exceed the allowed height limit with a rooftop projection. **Staff Recommendation:** Staff recommends that ZAB determine the project is exempt from CEQA, pursuant to Section 15183.3 of the CEQA Guidelines ("Streamlining for Infill Projects"), and approve ZP2024-0066 pursuant to BMC Section 23.406.040 (E) "Findings for Approval" and subject to the attached Findings and Conditions of Approval.

ZONING MAP

Figure 1: Vicinity and Zoning Districts Map



Comparison of Adjacent Properties			
Vicinity	**GP Land Use**	**Zoning**	**Current Use**
Subject Property	Neighborhood Commercial (NC)	North Shattuck Commercial (C-NS), Restricted Multiple-Family Residential (R-2A), Multi-Family Residential (R-4)	Commercial Building
North	Neighborhood Commercial (NC)	North Shattuck Commercial (C-NS),	Commercial Building
South	Avenue Commercial (AC)	Corridor Commercial (C-C)	Multi-Family Residential
East	High Density Residential (HDR)	Multi-Family Residential (R-4)	Commercial Office
West	Neighborhood Commercial (NC)	North Shattuck Commercial (C-NS),	Commercial Building

AERIAL


1626
Lindamood-Bell
Berkeley Learning Center
1630
Lindamood-Bell Berkeley
Learning Center
Summer Reading Camp
1632
Compass
Café Parisien
1634
Shattuck Ave.
1636
1645
1679
1640
2109
Berkeley Pediatrics
Going Places Travel
College Admission Prep
Virginia St

STREET ELEVATION



BACKGROUND

Subject Site

The site is a rectangular north-south-oriented corner lot that gently slopes downward to the southwest. It is located on the northeast corner of Shattuck Avenue and Virginia Street in the North Berkeley neighborhood. The site is one parcel (Accessor Parcel Number APN 058-2178-018) consisting of three previously merged lots, resulting in a split-zoned 22,513 square foot lot. Table 1 below shows a breakdown of the lot size by Zoning District.

2109 Virginia Street, Split-Zoned Lot Total Area: 22, 513 square feet	
North Shattuck Commercial District (C-NS)	~20,000 square feet
Restricted Multiple-Family Residential District (R-2A)	~600 square feet
Multi-Family Residential District (R-4)	~2,000 square feet

Table 1. Site Zoning

The area is characterized by residential and commercial buildings that are one to three stories tall. Housing types include single-family homes, duplexes, and small apartment buildings. There are existing on-street metered parking spaces along the frontages of Shattuck Avenue and Virginia Street. The property is served by Alameda County Transit buses and is less than one mile from the North Berkeley BART Station and half a mile from the Downtown Berkeley BART Station. There are various local shops, restaurants, services, public parks, and the University of California, Berkeley, all within a half-mile of the site.

Site History

The site is developed with a surface parking lot in the northern portion and a 4,604-square-foot, two-story commercial building in the southwest corner. The parking lot is accessed from a driveway at the northern end of the site on Shattuck Avenue. The original building was constructed in 1906 as a mixed-use building (commercial and residential) that was later expanded in footprint and used only for commercial uses. The building was occupied by a variety of commercial tenants over the years, including Virginia Cleaners as the largest and longest-standing tenant (1920-1967). The building suffered a number of fires during its history. A 1981 fire nearly destroyed the entire building; it was substantially rebuilt in 1983.

The building is built to the property line along Virginia Street and Shattuck Avenue. It has four ground-floor storefronts, two of which are vacant. It is recognizable most recently as home to the restaurant Poulet, which occupied the southwestern corner of the building from 1979-2023. A travel agency occupies the northwestern corner of the building and fronts Shattuck Avenue.

ANALYSIS

Project Scope

The proposed project would demolish the existing 2-story commercial building and surface parking lot to construct a new 112,969-square-foot mixed-use building. The project utilizes the State Density Bonus and includes the following primary components:

- 8 stories, 89 feet and 4 inches in height to the top of the roof parapet
- 110 dwelling units – 14 studios, 28 one-bedroom, 41 two-bedroom, and 27 three-bedroom (178 bedrooms total)
- 9 Very Low-Income (VLI) and 9 Moderate Income (MI) dwelling units
- 7,060 square feet of usable open space including:
    - 2,670 square feet podium deck
    - 320 square foot podium private patios
    - 1,030 square foot roof deck
    - 3,040 square feet unit balconies
- 690 square feet of ground-floor commercial space
- 109 vehicle parking spaces – for residential use
- 64 bicycle parking spaces – 59 residential long-term, 4 residential short-term, and 1 commercial

Findings

Draft findings for approval can be found in Attachment 2 to the staff report.

2023-2031 Housing Element

The 2023-2031 Housing Element adopted by the City Council on January 18, 2023, identifies the project site as an opportunity site. Opportunity Sites are vacant or underutilized sites with near-term potential for residential or mixed-use development. Due to the site size exceeding 0.5 acres, it was identified as a "High Potential" site for redevelopment of residential uses, with a capacity of 50 dwelling units per acre.

Environmental Review

The proposed project is exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15183.3 of the CEQA Guidelines ("Streamlining for Infill Projects").

An environmental checklist (Attachment 8) was prepared for the project in accordance with CEQA Sections 15183.3 and 15162, utilizing the Housing Element's Environmental Impact Report (EIR, SCH#2010032073) for a consistency analysis. This consistency analysis was prepared pursuant to *State CEQA Guidelines* Section 15183 ("Projects Consistent with a Community Plan, General Plan, or Zoning"), which provides that projects "consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site." This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies. The analysis found no new information of substantial importance meeting the criteria listed in the *State CEQA Guidelines* Section 15183 ("Projects Consistent with a Community Plan, General Plan, or Zoning"). The analysis concluded that the proposed project would not result in any new impacts that would require additional mitigation measures beyond those required by the Housing Element EIR.

Base Project and Density Bonus

The applicant has requested a density bonus under the State Density Bonus Law (Govt. Code Section 65915). Under the City's density bonus procedures, the "base project[1]" is 55 units, as the maximum allowable density for the site. The 3-story base project and the resulting 8-story proposed project both have an average unit size of 1,032 square feet. By providing 9 Very Low-Income and 9 Moderate Income units on site (30 percent of the 55-unit base density), the project is eligible for a 100 percent density bonus, or 55 additional units. Therefore, the applicant proposes 55 additional units above the base density for a total of 110 dwelling units. The table below includes the Density Bonus calculations. The proposed density bonus project would provide double the number of residential units anticipated for a 0.51-acre site, as identified in the Housing Element.

[1] Per the City's Density Bonus Procedures (DBP), the base project is the largest project allowed on the site that is fully compliant with district development standards (i.e. height, setbacks, usable open space, parking, etc.), or, the *maximum allowable density* for the site. The City uses the DBP to calculate the maximum allowable density for a site where there is no density standard in the zoning district, and to determine the number of units in the proposed project, which is the number of base project units plus the number of density bonus units that can be added according to the percentage of BMR units proposed, per Government Code, Section 65915(f).

Base Project Units [a]	Qualifying Units	Percent Density Bonus	Number of Density Bonus Units [a]	Proposed Project Units [a]
55	9 VLI units (15% of BP) 9 MI units (15% of BP)	100%	55 (100% of BP)	110

Notes:

a. Pursuant to Government Code 65915(q), all unit calculations are rounded up to the next whole number.

Abbreviations: % = percent

Concession and Waivers Pursuant to State Density Bonus Law (CA Govt. Code Section 65915)

A **concession** is a modification of a development standard that reduces the cost of providing affordable housing. The City may only deny the concession if it finds that the concession would have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low-income, very-low income, and moderate-income households, or if the concession would be contrary to State or Federal law. Staff believes such a finding cannot be made.

The project is entitled to 3 concessions (or incentives) under Government Code Section 65915(d), and an unlimited number of waivers under Section 65915(e). The applicant is requesting 2 concessions for the project:

- **Public Art In-lieu Fee.** A Concession from BMC Chapter 23.316 to allow an exemption from the Percentage for Public Art on Private Projects in-lieu fee; and
- **On-Grade Parking.** A Concession to relocate the underground parking in the base project to above grade in the proposed project.

A **waiver** is a modification of a development standard that would otherwise physically preclude the construction of the project with the permitted density bonus and concessions. The City may only deny the waivers if it finds that the waivers would have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low-income, very-low income, and moderate-income households, or if the waiver would be contrary to State or Federal law. Staff believes such a finding cannot be made.

The applicant is requesting 11 waivers from the following development standards:

North Shattuck Commercial District (C-NS):

- **Main Building Height.** Waiver from BMC Section 23.204.090(D)(1) "Basic Development Standards" for a mixed-use project to exceed the 35-foot maximum height limit by adding 54 feet, 4 inches, for a total of 89 feet, 4 inches, and exceed the 3-story limit by adding 5 stories, for a total of 8 stories.
- **Residential Window Setback**. Waiver from BMC Section 23.204.090(D)(4) "Residential Window Setback" to reduce the setback for a Mixed-Use building, opposite a required window in any habitable room of a residential use, to 0 feet, 0 inches where 10 feet is required.
- **Interior Side Setback.** Waiver from BMC Section 23.304.030(C)(2) "Lots Adjacent to Residential Districts" to reduce the interior side setback to 0 feet, 0 inches for the interior side where 5 feet is required.
- **Parking.** Waiver from BMC Section 23.322.070(D)(1) **"Excess Off-Street Parking"** to exceed the maximum number of off-street residential parking.

Restricted Multiple Family Residential District (R-2A):

- **Main Building Height.** Waiver from BMC Section 23.202.090(D)(1) "Basic Development Standards" to exceed the 35-foot maximum by adding 54 feet, 4 inches for a total of 89 feet, 4 inches, and exceed the 3-story limit by adding 5 stories, for a total of 8 stories.
- **Lot Coverage.** Waiver from BMC Section 23.202.090(D)(2) "Supplemental Development Standards" to exceed the 40% lot coverage limit for a 3-story building on a corner lot by adding 60% for a total of 100% lot coverage.
- **Interior Side Setback**. Waiver from BMC Section 23.202.090(D)(1) "Basic Development Standards" to reduce the interior side setback to 0 feet, 0 inches on the first and second story where 4 feet is required.

Multi-Family Residential District (R-4):

- **Main Building Height.** Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to exceed the 65-foot maximum height by adding 24 feet, 4 inches for a total of 89 feet, 4 inches and exceed the 6-story limit by adding 2 stories, for a total of 8 stories.
- **Lot Coverage.** Waiver from BMC Section 23.202.110(E)(2) "Supplemental Development Standards" to exceed the 40% lot coverage limit for a 6-story building on a corner lot in by adding 60% for a total of 100% lot coverage.
- **Front Setback.** Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to reduce the front setback to 2 feet, 10 inches on the western side of the lot and 5 feet, 8 inches on the eastern side of the lot where 15 feet is required.

Multi-Family Residential District (R-4) cont'd:

- **Interior Side Setback.** Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to reduce the interior side setback to 0 feet, 0 inches for stories 1-2 where 4 feet is required, and provide a 9 foot, 8-inch setback for 3-8 stories, where:
    - 6 feet is required for the third story,
    - 8 feet is required for the fourth story,
    - 10 feet is required for the fifth story, and
    - 12 feet is required for the sixth story.

ADVISORY BODY REVIEW

Landmarks Preservation Commission Review: Demolition Referral

The project involves the demolition of a commercial building over 40 years old. A Historic Resources Evaluation (HRE) for the property was completed by Left Coast Architectural History on April 23, 2024. The HRE found that the original building was constructed in 1906 and had multiple subsequent additions; a 1981 fire destroyed most of the structure and was it was reconstructed in an entirely different architectural style in 1983. The HRE concluded that the building does not meet the criteria for listing in the California Register or a City of Berkeley Landmark or Structure of Merit. Pursuant to BMC Section 23.326.070(C) "Landmarks Preservation Commission Review", the proposed demolition was referred to the Landmarks Preservation Commission (LPC) for review prior to the Zoning Adjustment Board's consideration of the Use Permit. The LPC reviewed the demolition referral on October 7, 2024, took no action to designate the building as a City Landmark or Structure of Merit, and recommended the Zoning Adjustment Board consider a Condition of Approval to include an interpretive display regarding Le Poulet's role in the farm-to-table movement in Berkeley.

Design Review Committee Review: Preliminary Design Review

On May, 15, 2025, the Design Review Committee (DRC) reviewed the project design for 1685 Shattuck Avenue and 2103-09 Virginia Street, gave a favorable recommendation on the preliminary design as presented, and provided the following direction for Final Design Review: ***Motion: (Cameron Woo) Second (Janet Tam) VOTE (5-0-0-2) Gaffney and Muszynski - absent***

Recommendations:

Site Design / Neighborhood Context

- Recommend more active uses on Shattuck.
- Would prefer larger step back on east, even if less on North side.

Exterior Finishes

- Consider alternate colors and materials; take North Shattuck adjacent scale and structures into consideration.

Landscaping

- Recommend trees on the east podium edge for neighbor privacy; consider columnar trees.
- Consider alternate programming and landscape for the courtyard that doesn't need the pool feature, if stagnate.

Windows / Building Details

- Consider more privacy for windows on east side, with light spill in mind as well.
- Further develop ground floor storefronts for more pedestrian interest and detail.
- Consider a storefront design on the west side that could accommodate more ground floor retail in future phases.
- Provide sun control on the west and south sides.

Community Meeting

Prior to submitting this application to the city, the applicant installed a pre-application poster on site in May 2024 and invited interested neighborhood organizations as well as owners and tenants located within 300 feet of the project site to a project preview meeting. The meeting was held virtually on May 23, 2024, and attended by 7 individuals (meeting minutes are included as Attachment 6). Their concerns included the height of the building, remediation of environmental hazards on the site, parking, target residents and unit types. After the neighborhood meeting, staff received 2 letters (1 neighborhood organization and 1 citizen) which expressed concerns about the building height, size, remediation of environmental hazards on the site, number and type of units, parking, target residents, and local businesses rents.

Prior to and shortly after the May 15, 2025 DRC meeting, staff received 3 letters from citizens. Two letters inquired about the status of the project and the DRC meeting. The third letter expressed concerns about the building's height and size.

On July 10, 2025, the City mailed public hearing notices to property owners and tenants within 300 feet of the project site, and to interested neighborhood organizations. The City posted notices at three nearby locations within the neighborhood. The applicant requested to remove the project from the Action Calendar of the July 24, 2025, ZAB public hearing.[2] At that public hearing, staff received 3 letters from citizens expressing concerns about the building height and size, environmental impacts, parking, emergency response, community input, and local businesses.

On August 20, 2025, the City received 3 letters from citizens who attended the North Shattuck community workshop about the Corridors Zoning Update. Two letters were previously received at the July 24, 2025, ZAB public hearing. The third letter expressed concerns about the building scale and materials, traffic, and street frontage.

On August 28, 2025, the City mailed new public hearing notices. At the time of writing this report, staff has received no letters about the project.

See Attachment 7 for all neighborhood comment letters.

[2] The applicant asked for the project to be rescheduled to a new date in order to correct a mistake discovered in the CEQA analysis document.

POLICY CONSISTENCY

Housing Accountability Act

Pursuant to the Housing Accountability Act (HAA), California Government Code Section 65589.5(j), when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

1. The development would have a specific adverse impact on public health or safety[3] unless disapproved, or approved at a lower density; and
2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

Evidence: The project is a "housing development project" consisting of a mixed-use building with at least two-thirds of the floor area in residential use. The Base Project includes Use Permits and/or Administrative Use Permits[4] to allow: demolition, new construction, new floor area, and complies with applicable, objective general plan and zoning standards. Government Code Section 65589.5(j)(3) provides that a request for a density bonus "shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision." Therefore, the City may not deny the Base Project or density bonus request or reduce the density with respect to those units without basing its decision on the written findings under Section 65589.5(j), above.

The project complies with the zoning standards. Although the project includes Use Permits or Administrative Use Permits to modify standards not associated with the base project, there are no objective criteria in the findings. Therefore, the project still complies with the HAA. The ZAB has the discretion to approve, deny, or modify the request according to the zoning findings, provided the action does not reduce the project density or effectively deny the project by making it infeasible, unless the ZAB is also able to make the required findings for denial set forth under Section 65589.5(j), above.

Staff has not identified any adverse impacts that could occur with the construction of the project.

[3] A "specific, adverse impact" means "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete."

[4] The City has determined that the "protections afforded by the HAA and the definition of a base project for density bonus calculations apply to a housing development project up to and including the maximum development allowed with use permits and/or administrative use permits."

Housing Crisis Act of 2019 – Senate Bill (SB) 330

The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development. A "housing development project" can include any of the following: residential units only; mixed use consisting of residential and nonresidential uses in which at least two-thirds of the square-footage is designated residential, and transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

Government Code Section 65905.5(a) states that if a proposed housing development project complies with the applicable, objective general plan and zoning standards in affect at the time an application is deemed complete, then the city shall not conduct more than five hearings in connection with the approval of that housing development project. This includes all public hearings in connection with the approval of the housing development project and any continuances of such public hearings. The city must consider and either approve or disapprove the project at any of the five hearings consistent with applicable timelines under the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920)).

> Evidence: The September 11, 2025 ZAB hearing represents the third public hearing for the proposed project since the project was deemed complete. The City can hold up to two additional public hearings on this project, if needed. One of those hearings must be reserved for any possible appeal to the City Council.

Government Code Section 65913.10(a) requires that the City determine whether the proposed development project site is a historic site at the time the application for the housing development project is deemed complete. The determination as to whether the parcel is a historic site must remain valid during the pendency of the housing development project, unless any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities.

> **Evidence:** A Historic Resource Evaluation was prepared for the project on April 23, 2024 and determined that the property does not qualify for listing in the California Register or as a City of Berkeley Landmark or Structure of Merit. The LPC reviewed the demolition referral on October 7, 2024, and took no action.

General Plan Consistency

The 2002 General Plan contains several policies applicable to the project, including the following:

1. **Policy LU-3 Infill Development:** Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.

2. **Policy LU-7 Neighborhood Commercial Areas:** Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.

3. **Policy LU-26 Neighborhood Quality of Life:** Maintain and improve Neighborhood Commercial areas, such as Elmwood, Solano, and North Shattuck, as pedestrian-friendly, visually attractive areas and ensure that Neighborhood Commercial areas fully serve neighborhood needs.

   Evidence: The project repurposes an underutilized Housing Opportunity Site with a mixed-use

building and is consistent with surrounding land uses. It would improve the quality of the built environment by providing new housing and commercial opportunities. Active frontages on Shattuck Avenue contribute to the vitality of the street and would bring new residents and business patrons along a major commercial and transit corridor. The project also includes a corner bulb-out with seating and new street trees along Shattuck Avenue and Virginia Street, creating a more attractive and pedestrian-friendly streetscape.

4. **Policy LU-23 Transit-Oriented Development:** Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit service such as Downtown Berkeley.

5. **Policy H-17 Transit Oriented New Construction:** Encourage construction of new high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plans, design review guidelines and the Climate Action Plan.

   Evidence: The project would construct additional housing (110 dwelling units) and ground-floor commercial space in close proximity to transit, jobs, and neighborhood services. The site is served by Alameda County Transit buses and is less than one mile from the North Berkeley BART Station and half a mile from the Downtown Berkeley BART Station.

6. **Policy H-19 Regional Housing Needs:** Encourage adequate housing production to meet City needs and the City's share of regional housing needs.

   Evidence: The project would comply with the General Plan's Regional Housing Needs policy by providing affordable units (9 VLI and 9 MI) in addition to increasing the City's overall housing supply by adding 110 new dwelling units in close proximity to transit. The project implements the Housing Element by providing more units than identified for the site.

Attachments

1. Table 1-3: Project Chronology, Special Characteristics, Development Standards
2. Draft Findings
3. Conditions of Approval
4. Project Plans, received July 9, 2025
5. Notice of Public Hearing
6. Community Meeting Minutes
7. Neighbor Correspondence
8. Environmental Checklist

Attachment 1

Table 1-3: Project Chronology, Special Characteristics, Development Standards

Table 1: Project Chronology

Date	Action
December 27, 2023 (vesting date)	SB 330 complete Preliminary Housing Development Project Application submitted
June 3, 2024	SB 330 Use Permit Application submitted
July 3, 2024	Application deemed complete
August 2, 2024	Processing Status Letter [a]
September 2024 – July 2025	Application processing
October 7, 2024	Landmarks Preservation Commission hearing (demo referral)
May 15, 2025	Design Review Committee meeting
July 10, 2025	Public hearing notices mailed/posted
July 24, 2025	ZAB hearing (Item removed to be rescheduled to a future meeting)
August 28, 2025	Public hearing notices mailed/posted
September 11, 2025	ZAB hearing

Notes:
a. Application processing reflects the project compliance review, including CEQA if applicable, after the application is deemed complete. Submittals are reviewed within 30 days of receipt, pursuant to the Permit Streamlining Act.

Table 2: Special Characteristics

Characteristic	Applicability	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	This fee applies to net newly constructed nonresidential gross floor area over 7,500 square feet. The project would add 690 square feet of commercial space; therefore, the fee does not apply.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		
Affordable / Inclusionary Housing Requirements (BMC Chapter 23.328)	Yes	The project is a housing development project, as defined in BMC 23.328.020[a], and would provide at least 20 percent of residential units, pay an in-lieu fee based on the residential unit floor area of the project, or a combination. The project would provide 9 Below Market Rate (BMR) units (9 Very Low-Income (VLI) units) and would be required to pay an in-lieu fee to satisfy the remainder of the requirement.
Bird Safe Buildings (BMC Section 23.304.150)	Yes	The project is subject to these requirements and a Condition of Approval to demonstrate compliance at building permit is included.
Coast Live Oak Trees (BMC Chapter 6.52)	No	There are no Coast Live Oak (*Quercus agrifolia*) trees on the project site.
Creeks	No	No creek or culvert, as defined by BMC Chapter 17.08, exists on or within 30 feet of the project site.

Density Bonus	Yes	The project would provide 9 Very Low-Income units and 9 Moderate-Income units, or 30 percent of the Base Project units, and qualifies for a 100% percent density bonus, or 55 bonus units.
Hard Hats (BMC Chapter 13.107)	No	The project was vested under the Housing Crisis Act of 2019 prior to the January 1, 2024 effective date of the ordinance, and therefore these provisions do not apply.
Historic Resources	No	The existing building is more than 40 years old and was referred to the Landmarks Preservation Commission (LPC) for review (BMC Section 23.326.070(C)). On October 7, 2024 the LPC took no action to initiate a Landmark or Structure of Merit designation and recommended that the ZAB approve the demolition.
Housing Accountability Act (HAA) (Gov't Code Section 65589.5(j))	Yes	The project proposes a mixed-use residential building, and meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2)[b]. The base project complies with applicable, objective general plan and zoning standards, and thus section (j) of the Housing Accountability Act applies, and the project cannot be denied at the density proposed unless the findings for denial can be made. See Policy Consistency Section of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Crisis Act of 2019 (SB 330)	Yes	The project meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2)[b]. See the Policy Consistency Section for additional discussion on the sections of SB 330 that apply to the project.
Housing Element Opportunity Sites	Yes	1685 Shattuck Avenue/2109 Virginia Street is a 0.52 acre lot currently developed with a 2-story 9,205 square-foot non-residential building and a vacant surface parking lot. It was identified as an opportunity site and is listed in Table C-10, "Opportunity Sites – No Rezone Required", in the Housing Element Update.
Rent Controlled Units	No	The project would involve the demolition of a non-residential structure and no rent-controlled units.
Residential Preferred Parking (RPP)	No	The site is located in an RPP zone. However, the project is not eligible for RPP permits per BMC Section 14.72.080(C)(1) "Issuance of Permits" as no permits shall be issued to residents in newly constructed residential units.
Seismic Hazards (SHMA)	No	The project site is not located within an area susceptible to landslide/liquefaction/fault rupture as shown on the State Seismic Hazard Zones map. [c]

Soil/Groundwater Contamination	Yes	The project site is on the Cortese List (listed under 1685 Shattuck Avenue), and within the City's Environmental Management Area. It was occupied by a dry cleaner from 1920 to 1970, and a 5,000-gallon underground storage tank was removed in July 1987. The site was remediated under the oversight of the DTSC in 1987 and assessed by the San Francisco Bay Regional Water Quality Control Board (RWQCB) in 1999. The applicant submitted Phase I and II reports, which were preliminarily reviewed by the City of Berkeley's Toxics Division and subsequently by LSA Consultants to prepare an environmental checklist in accordance with CEQA Section 15183.3 ("Streamlining for Infill Projects") and 15162 ("Subsequent EIRs and Negative Declarations"). The Phase I ESA identified a past contamination issue, so a Phase II ESA was subsequently prepared. The Phase II ESA found that any remaining soil or groundwater impacts are minimal and consistent with the conditions described in the case closure letters granted by the DTSC in 1987 and the San Francisco Bay RWQCB in 1999. Because no land use restrictions or continuing obligations were required by DTSC and the San Francisco Bay RWQCB, the Phase II ESA concluded that no further assessment or regulatory oversight is necessary. The CEQA analysis found that the project would not have significant environmental effects that have not already been analyzed in the Housing Element EIR or that are more significant than those previously analyzed. Standard Conditions of Approval related to hazardous materials would apply.
Transit	Yes	The project site is located within a half mile of the Downtown Berkeley Bay Area Rapid Transit (BART) Station, less than a mile from the North Berkeley BART Station, and is serviced by several Alameda County Transit lines.

Notes:

a. BMC 23.328.020(E) defines a "Housing Development Project" for purposes of inclusionary housing requirements as "a development project, including a Mixed-Use Residential project involving the new construction of at least one Residential Unit. Projects with one or more buildings or projects including multiple contiguous parcels under common ownership or control shall be considered as a sole Housing Development Project and not as individual projects.

[b]. Government Code Section 65589.5(h)(2) "Housing development project" means a use consisting of any of the following: (A) residential units only, (B) mixed-use developments consisting of residential and nonresidential uses in which at least two-thirds of the square footage is designated for residential use, and (C) transitional or supportive housing. Government Code Section 65905.5(b)(3)(C) "Housing development project" includes a proposal to construct a single dwelling unit. This subparagraph shall not affect the interpretation of the scope of paragraph (2) of subdivision (h) of Section 65589.5.

c. California Department of Conservation. DOC Maps: Geologic Hazards. Available: https://maps.conservation.ca.gov/geologichazards/

d. Cortese List is an annually updated list of hazardous materials sites complied pursuant Government Code Section 65962.5.

Table 3: Project Data and C-NS North Shattuck Commercial District Development Standards BMC Sections 23.204.130 and 23.322 Parking and Loading

Standard		Existing (full Project Site)	Addition/ (Reduction)	Proposed (full Project Site)	Permitted/ Required (C-NS only)
Lot Area (sq. ft.)		22,315	0	22,315	n/a
Lot Area in C-NS Only		19,788	0	19,788	n/a
Gross Floor Area (sq. ft.)		9,208	113,716	122,924	n/a
Commercial Floor Area		9,208	(8,518)	690	n/a
Residential Floor Area		0	107,745	107,745	n/a
Floor Area Ratio		0.48	5.73	6.21	No max (for mixed-use residential)
Dwelling Units	Project Total	0	110	110	n/a
Building Height (ft. - in.)	Maximum (ft.)	-	-	89'-4"	35'-0"
	Stories	2	6	8	3
Building Setbacks (ft. - in.)	Front (Virginia St)	0	2'-10" to 5'-2"	2'-10" to 5'-2"	0
	Street Side (Shattuck Ave)	0'-0"	No change	0'-0"	0'-0"
	Interior Side (East)	55'-5"	(55'-5") to 20'	0'-0" to 35'-7"	5'-0" min
	Rear (North)	118'-3"	(118'-3") to 105'-9"	0'-0" to 12'-6"	No max.
Usable Open Space (sq. ft.)		0	7,060	7,060	40 sq. ft. per dwelling unit min
Automobile Parking	Residential	19	84	109	55 maximum when near transit (0.5 spaces per du)
	Commercial (690 sq. ft.)	0	0	0	0 required per AB 2097[a]
Bicycle Parking	Commercial (690 sq. ft.)	0	1	1	1 space per 2,000 sq. ft. of commercial
	Residential – Long Term	0	59	59	1space per 3 bedrooms
	Residential – Short Term	0	4	4	1 space per 40 bedrooms

_____ = Concession or Waiver requested to modify the district standard

Abbreviations: sq. ft. = square feet; max. = maximum; min. = minimum; n/a = not applicable; % = percent; avg. = average, ft = feet ('), in. = inches (")

Notes:

[a] AB-2097, effective January 1, 2023, prohibits local jurisdictions from requiring minimum parking for most non-residential uses located within 1/2 mile of public transit.

Table 4: R-2A Restricted Multiple-Family Residential District Development Standards BMC Sections 23.202.090 (for the portion of the project in R-2A)

Standard		Existing	Addition/ (Reduction)	Proposed	Permitted/ Required
Lot Area in R-2A (sq. ft.)		584	0	584	n/a
Building Height (ft. - in.)	Maximum (ft.)	-	-	89'-4"	35'
Building Setbacks (ft. - in.)	Front (abuts R-4)	n/a	n/a	n/a	n/a
	Side Street (abuts C-NS)	n/a	n/a	n/a	n/a
	Interior Side (East)	-	-	Interior 0'-0" (stories 1-2) interior 9'-8" (stories 3-8)	4'-0" min (stories 1-2) 6'-0" (story 3)
	Rear (abuts C-NS)	n/a	n/a	n/a	n/a
Lot Coverage		-	-	100%	40% max

_____ = Concession or Waiver requested to modify the district standard

Abbreviations: sq. ft. = square feet; max. = maximum; min. = minimum; n/a = not applicable; % = percent; avg. = average, ft = feet ('), in. = inches (")

Table 5: R-4 Multi-Family Residential District Development Standards BMC Sections 23.204.130 (for the portion of the project in R-4)

Standard		Existing	Addition/ (Reduction)	Proposed	Permitted/ Required
Lot Area in R-4 (sq. ft.)		1,970	0	1,970	n/a
Building Height (ft. - in.)	Maximum (ft.)	-	-	89'-0"	65' max
Building Setbacks (ft. - in.)	Front (Virginia Street)	n/a	n/a	2'-10" to 5'-8"	15'-0" min
	Side Street (Abuts C-NS)	n/a	n/a	n/a	n/a
	Interior Side (East)			0'-0" (Stories1-2) 9'-8" (Stories 3-8)	4'-0" (stories 1-2) 6'-0" (story 3) 8'-0" (story 4) 10'-0" (story 5) 12'-0" (story 6)
	Rear (abuts R-2A)	n/a	n/a	n/a	n/a
Lot Coverage (%)		-	-	96%	40% max

_____ = Concession or Waiver requested to modify the district standard

Abbreviations: sq. ft. = square feet; max. = maximum; min. = minimum; n/a = not applicable; % = percent; avg. = average, ft = feet ('), in. = inches (")

Attachment 1

Table 1-3: Project Chronology, Special Characteristics, Development Standards

Table 1: Project Chronology

Date	Action
December 27, 2023 (vesting date)	SB 330 complete Preliminary Housing Development Project Application submitted
June 3, 2024	SB 330 Use Permit Application submitted
July 3, 2024	Application deemed complete
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September 2024 – July 2025	Application processing
October 7, 2024	Landmarks Preservation Commission hearing (demo referral)
May 15, 2025	Design Review Committee meeting
July 10, 2025	Public hearing notices mailed/posted
July 24, 2025	ZAB hearing (Item removed to be rescheduled to a future meeting)
August 28, 2025	Public hearing notices mailed/posted
September 11, 2025	ZAB hearing

Notes:
a. Application processing reflects the project compliance review, including CEQA if applicable, after the application is deemed complete. Submittals are reviewed within 30 days of receipt, pursuant to the Permit Streamlining Act.

Table 2: Special Characteristics

Characteristic	Applicability	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	This fee applies to net newly constructed nonresidential gross floor area over 7,500 square feet. The project would add 690 square feet of commercial space; therefore, the fee does not apply.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		
Affordable / Inclusionary Housing Requirements (BMC Chapter 23.328)	Yes	The project is a housing development project, as defined in BMC 23.328.020[a], and would provide at least 20 percent of residential units, pay an in-lieu fee based on the residential unit floor area of the project, or a combination. The project would provide 9 Below Market Rate (BMR) units (9 Very Low-Income (VLI) units) and would be required to pay an in-lieu fee to satisfy the remainder of the requirement.
Bird Safe Buildings (BMC Section 23.304.150)	Yes	The project is subject to these requirements and a Condition of Approval to demonstrate compliance at building permit is included.
Coast Live Oak Trees (BMC Chapter 6.52)	No	There are no Coast Live Oak (*Quercus agrifolia*) trees on the project site.
Creeks	No	No creek or culvert, as defined by BMC Chapter 17.08, exists on or within 30 feet of the project site.

Density Bonus	Yes	The project would provide 9 Very Low-Income units and 9 Moderate-Income units, or 30 percent of the Base Project units, and qualifies for a 100% percent density bonus, or 55 bonus units.
Hard Hats (BMC Chapter 13.107)	No	The project was vested under the Housing Crisis Act of 2019 prior to the January 1, 2024 effective date of the ordinance, and therefore these provisions do not apply.
Historic Resources	No	The existing building is more than 40 years old and was referred to the Landmarks Preservation Commission (LPC) for review (BMC Section 23.326.070(C)). On October 7, 2024 the LPC took no action to initiate a Landmark or Structure of Merit designation and recommended that the ZAB approve the demolition.
Housing Accountability Act (HAA) (Gov't Code Section 65589.5(j))	Yes	The project proposes a mixed-use residential building, and meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2)[b]. The base project complies with applicable, objective general plan and zoning standards, and thus section (j) of the Housing Accountability Act applies, and the project cannot be denied at the density proposed unless the findings for denial can be made. See Policy Consistency Section of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Crisis Act of 2019 (SB 330)	Yes	The project meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2)[b]. See the Policy Consistency Section for additional discussion on the sections of SB 330 that apply to the project.
Housing Element Opportunity Sites	Yes	1685 Shattuck Avenue/2109 Virginia Street is a 0.52 acre lot currently developed with a 2-story 9,205 square-foot non-residential building and a vacant surface parking lot. It was identified as an opportunity site and is listed in Table C-10, "Opportunity Sites – No Rezone Required", in the Housing Element Update.
Rent Controlled Units	No	The project would involve the demolition of a non-residential structure and no rent-controlled units.
Residential Preferred Parking (RPP)	No	The site is located in an RPP zone. However, the project is not eligible for RPP permits per BMC Section 14.72.080(C)(1) "Issuance of Permits" as no permits shall be issued to residents in newly constructed residential units.
Seismic Hazards (SHMA)	No	The project site is not located within an area susceptible to landslide/liquefaction/fault rupture as shown on the State Seismic Hazard Zones map. [c]

Soil/Groundwater Contamination	Yes	The project site is on the Cortese List (listed under 1685 Shattuck Avenue), and within the City's Environmental Management Area. It was occupied by a dry cleaner from 1920 to 1970, and a 5,000-gallon underground storage tank was removed in July 1987. The site was remediated under the oversight of the DTSC in 1987 and assessed by the San Francisco Bay Regional Water Quality Control Board (RWQCB) in 1999. The applicant submitted Phase I and II reports, which were preliminarily reviewed by the City of Berkeley's Toxics Division and subsequently by LSA Consultants to prepare an environmental checklist in accordance with CEQA Section 15183.3 ("Streamlining for Infill Projects") and 15162 ("Subsequent EIRs and Negative Declarations"). The Phase I ESA identified a past contamination issue, so a Phase II ESA was subsequently prepared. The Phase II ESA found that any remaining soil or groundwater impacts are minimal and consistent with the conditions described in the case closure letters granted by the DTSC in 1987 and the San Francisco Bay RWQCB in 1999. Because no land use restrictions or continuing obligations were required by DTSC and the San Francisco Bay RWQCB, the Phase II ESA concluded that no further assessment or regulatory oversight is necessary. The CEQA analysis found that the project would not have significant environmental effects that have not already been analyzed in the Housing Element EIR or that are more significant than those previously analyzed. Standard Conditions of Approval related to hazardous materials would apply.
Transit	Yes	The project site is located within a half mile of the Downtown Berkeley Bay Area Rapid Transit (BART) Station, less than a mile from the North Berkeley BART Station, and is serviced by several Alameda County Transit lines.

Notes:

a. BMC 23.328.020(E) defines a "Housing Development Project" for purposes of inclusionary housing requirements as "a development project, including a Mixed-Use Residential project involving the new construction of at least one Residential Unit. Projects with one or more buildings or projects including multiple contiguous parcels under common ownership or control shall be considered as a sole Housing Development Project and not as individual projects.

[b]. Government Code Section 65589.5(h)(2) "Housing development project" means a use consisting of any of the following: (A) residential units only, (B) mixed-use developments consisting of residential and nonresidential uses in which at least two-thirds of the square footage is designated for residential use, and (C) transitional or supportive housing. Government Code Section 65905.5(b)(3)(C) "Housing development project" includes a proposal to construct a single dwelling unit. This subparagraph shall not affect the interpretation of the scope of paragraph (2) of subdivision (h) of Section 65589.5.

c. California Department of Conservation. DOC Maps: Geologic Hazards. Available: https://maps.conservation.ca.gov/geologichazards/

d. Cortese List is an annually updated list of hazardous materials sites complied pursuant Government Code Section 65962.5.

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Gross Floor Area (sq. ft.)		9,208	113,716	122,924	n/a
Commercial Floor Area		9,208	(8,518)	690	n/a
Residential Floor Area		0	107,745	107,745	n/a
Floor Area Ratio		0.48	5.73	6.21	No max (for mixed-use residential)
Dwelling Units	Project Total	0	110	110	n/a
Building Height (ft. - in.)	Maximum (ft.)	-	-	89'-4"	35'-0"
	Stories	2	6	8	3
Building Setbacks (ft. - in.)	Front (Virginia St)	0	2'-10" to 5'-2"	2'-10" to 5'-2"	0
	Street Side (Shattuck Ave)	0'-0"	No change	0'-0"	0'-0"
	Interior Side (East)	55'-5"	(55'-5") to 20'	0'-0" to 35'-7"	5'-0" min
	Rear (North)	118'-3"	(118'-3") to 105'-9"	0'-0" to 12'-6"	No max.
Usable Open Space (sq. ft.)		0	7,060	7,060	40 sq. ft. per dwelling unit min
Automobile Parking	Residential	19	84	109	55 maximum when near transit (0.5 spaces per du)
	Commercial (690 sq. ft.)	0	0	0	0 required per AB 2097[a]
Bicycle Parking	Commercial (690 sq. ft.)	0	1	1	1 space per 2,000 sq. ft. of commercial
	Residential – Long Term	0	59	59	1space per 3 bedrooms
	Residential – Short Term	0	4	4	1 space per 40 bedrooms

_____ = Concession or Waiver requested to modify the district standard

Abbreviations: sq. ft. = square feet; max. = maximum; min. = minimum; n/a = not applicable; % = percent; avg. = average, ft = feet ('), in. = inches (")

Notes:

[a] AB-2097, effective January 1, 2023, prohibits local jurisdictions from requiring minimum parking for most non-residential uses located within 1/2 mile of public transit.

Table 4: R-2A Restricted Multiple-Family Residential District Development Standards BMC Sections 23.202.090 (for the portion of the project in R-2A)

Standard		Existing	Addition/ (Reduction)	Proposed	Permitted/ Required
Lot Area in R-2A (sq. ft.)		584	0	584	n/a
Building Height (ft. - in.)	Maximum (ft.)	-	-	89'-4"	35'
Building Setbacks (ft. - in.)	Front (abuts R-4)	n/a	n/a	n/a	n/a
	Side Street (abuts C-NS)	n/a	n/a	n/a	n/a
	Interior Side (East)	-	-	Interior 0'-0" (stories 1-2) interior 9'-8" (stories 3-8)	4'-0" min (stories 1-2) 6'-0" (story 3)
	Rear (abuts C-NS)	n/a	n/a	n/a	n/a
Lot Coverage		-	-	100%	40% max

_____ = Concession or Waiver requested to modify the district standard

Abbreviations: sq. ft. = square feet; max. = maximum; min. = minimum; n/a = not applicable; % = percent; avg. = average, ft = feet ('), in. = inches (")

Table 5: R-4 Multi-Family Residential District Development Standards BMC Sections 23.204.130 (for the portion of the project in R-4)

Standard		Existing	Addition/ (Reduction)	Proposed	Permitted/ Required
Lot Area in R-4 (sq. ft.)		1,970	0	1,970	n/a
Building Height (ft. - in.)	Maximum (ft.)	-	-	89’-0”	65’ max
Building Setbacks (ft. - in.)	Front (Virginia Street)	n/a	n/a	2’-10” to 5’-8”	15’-0” min
	Side Street (Abuts C-NS)	n/a	n/a	n/a	n/a
	Interior Side (East)			0’-0” (Stories1-2) 9’-8” (Stories 3-8)	4’-0” (stories 1-2) 6’-0” (story 3) 8’-0” (story 4) 10’-0” (story 5) 12’-0” (story 6)
	Rear (abuts R-2A)	n/a	n/a	n/a	n/a
Lot Coverage (%)		-	-	96%	40% max

_____ = Concession or Waiver requested to modify the district standard

Abbreviations: sq. ft. = square feet; max. = maximum; min. = minimum; n/a = not applicable; % = percent; avg. = average, ft = feet (’), in. = inches (”)

Zoning Adjustments Board Findings

App # ZP2024-0066

Use Permit for a Project at 2109 Virginia Street

Sept 11, 2025

Project Facts

Applicant: Isaiah Stackhouse. Stackhouse, De La Pena, Trachtenberg Architects

Property Owner: American Commonwealth Associates

Project Address: 2109 Virginia Street/1685 Shattuck Avenue

GP Land Use:
Neighborhood Commercial (NC), Medium Density Residential (MDR), High Density Residential (HDR)

Zoning:
North Shattuck Commercial (C-NS), Restricted Multiple-Family Residential District (R-2A), Multi-Family Residential District (R-4)

Site Size: .51 acres

CEQA: Exempt pursuant to Section 15183.3 ("Streamlining for Infill Projects")

Vesting Date: December 27, 2023

Date Deemed Complete: July 23, 2024

Project Planner: Singeh Saliki

Project Description:

The applicant is seeking approval to demolish a 2-story commercial building (4,604 square feet) and surface parking lot, and construct an 8-story (89 feet and 4 inches) 112,969 square-foot mixed-use residential development with 110 dwelling units (including 9 Very Low-Income and 9 Moderate Income units), 690 square feet of ground floor commercial space, 109 off-street vehicle parking spaces and 64 bicycle parking spaces.

Permits Requested:

1. **Demolition.** Use Permit under BMC Section 23.326.070(A) **"Main Non-Residential Building"** to demolish a non-residential building
2. **New Construction.** Use Permit under BMC Section 23.202.020 (A) **"Allowed Land Uses"** to construct a new mixed-use development.
3. **New Construction.** Use Permit under BMC Section 23.204.020 (A) **"Allowed Land Uses"** to construct a new mixed-use development.
4. **New Floor Area.** Use Permit under BMC Section 23.204.030(A)(1) **"Floor Area Permit Requirements"** to create new floor area of 2,000 square feet or more.
5. **Building Height.** Administrative Use Permit under BMC Section 23.304.050(A) **"Projections Above Height Limits"** to exceed the allowed height limit with a rooftop projection

Waivers	Concessions
1. Building Height 2. Residential Window Setback 3. Parking 4. Lot Coverage 5. Interior Side Setback 6. Front Setback	1. Public Art In-lieu Fee 2. On-Grade Parking

Staff Recommendation

Staff recommends that ZAB determine the project is exempt from CEQA, pursuant to Section 15183.3 of the CEQA Guidelines ("Streamlining for Infill Projects"), and approve ZP2024-0066 pursuant to BMC Section 23.406.040 (E) "Findings for Approval" and subject to the attached Findings and Conditions of Approval.

CEQA

Qualified Infill Checklist

The project is exempt from the requirements of CEQA pursuant to Section 15183.3 of the CEQA Guidelines ("Streamlining for Infill Projects").

Evidence: The project is located in an urban area on a previously developed site. It is consistent with the applicable General Plan designations and policies, and with the applicable zoning designations and regulations. An environmental checklist was prepared for the project in accordance with CEQA Sections 15183.3 and 15162, utilizing the Housing Element's Environmental Impact Report (EIR, SCH#2010032073) for a consistency analysis. The analysis concluded that the proposed project would not result in any new impacts that would require additional mitigation measures beyond those required by the Housing Element EIR.

FINDINGS FOR APPROVAL

As required by BMC Section 23.406.040 (E) (1-4) "Findings for Approval," the following findings shall be made:

1. To approve a Use Permit, the ZAB shall find that the proposed project or use:

   a) Will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or visiting in the area or neighborhood of the proposed use; and

   Evidence: The project will not be detrimental to the health safety, peace, morals, comfort or general welfare of person residing or visiting in the area because the project is consistent with all applicable C-NS, R-2A, and R-4 District standards, qualifies for concessions and waivers for the standards granted pursuant to State Density Bonus, Government Code, Section 65915, and will not unreasonably obstruct sunlight, air , or views.

   The increase in shadows would be limited to certain times of days during winter and summer, on adjacent properties. Specifically, in the summer, portions of buildings to the east would experience additional shade in the late afternoon, and the buildings to the west would experience additional shade in the morning. In the winter, additional shade would extend to buildings to the northwest in the morning, to the building in the north at noon, and to the buildings in the east in the late afternoon. The project site is on a major commercial corridor, significantly slopes down from east to west, and abuts R-4 lots to the east, which allow heights up to 65 feet with a Use Permit. Therefore, even though the project will create new shadow impacts on neighboring buildings, the projected impacts will be in line with what is expected within a built urban environment.

The reduction in setbacks is consistent with development patterns found in the neighborhood, where commercial and mixed-use buildings are built up to the property line, and is permissible under a density bonus waiver to allow the construction of dwelling units; the project would not be detrimental to air quality.

b) Will not 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.

Evidence: The project will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or the general welfare of the City because the project will benefit the immediate and surrounding neighborhoods by replacing an underutilized commercial building with 110 additional housing units, including 18 below-market-rate units, which contribute to the local and regional housing stock, and ground floor commercial space that may provide services conveniently accessible to the nearby neighborhoods, and accessible by public transit. The 110 units proposed for an opportunity site, as identified in the Housing Element, will be accompanied by a commensurate amount of parking intended to mitigate any potential strain on the current on-street parking supply that may result from the mixed-use project.

2. To approve the Use Permit, the ZAB must also make any other Use Permit findings specifically required by the Zoning Ordinance for the proposed project.

DEMOLITION

Pursuant to BMC Section 23.326.070(D) "Demolition of Non-Residential Buildings," the following findings shall be made: (1) the demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City, and (2) the demolition is required to allow a proposed new building or other proposed new use, will remove a building that is unusable for activities compatible with the purpose of the district or infeasible to modify for such uses, will remove a structure that is an uninhabitable attractive nuisance to the public, or is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority.

Evidence: The proposed ground-floor commercial space is compatible with existing development patterns along Shattuck Avenue and Virginia Street and will accommodate neighborhood-serving commercial uses. The project aligns with the district's objectives to provide a mix of commercial and residential development that is compatible with the existing uses within the C-NS district. The project redevelops an underutilized lot with a mixed-use building that will provide more housing opportunities. The demolition of the existing 4,604-square-foot, two-story commercial building is necessary to allow the proposed new mixed-use building with 110 dwelling units, which cannot be accommodated in the existing building envelope. The project demolishes an

underutilized parking lot and commercial building with vacant ground-floor tenants to be replaced with a mixed-use building that contains active frontages on Shattuck Avenue. The project implements the goals of the Housing Element by providing twice the number of units identified for the site.

DENSITY BONUS

A. Pursuant to Government Code Section 65915, the Zoning Adjustments Board finds that:
    1. Under the City's methodology for implementing density bonuses, the base project consists of 55 units;
    2. The project will provide at least 9 Very Low Income and 9 Moderate Income qualifying units in the 55-unit base project, as more fully set forth in Condition 33;
    3. The project is entitled to a density increase of 100 percent over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element, under the requirements of Government Code Section 65915(b) and (f), plus three concessions or incentives. This equates to a density bonus of up to 55 units above the base project, for a total of up to 110 units.

B. In accordance with Government Code Section 65915(d) and (k), the Zoning Adjustments Board hereby grants the following concessions in order to provide for affordable housing costs:

    1. **Public Art In-lieu Fee**. A Concession from BMC Chapter 23.316 to allow an exemption from the Percentage for Public Art on Private Projects in-lieu fee; and

    2. **On-Grade Parking**. A Concession to relocate the underground parking in the base project to above grade in the proposed project.

C. In accordance with Government Code Section 65915(d), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds that the approval of the concessions is required to provide for affordable rents, as provided in Government Code Section 65915(d)(1)(A) because 1) approval of the concession would result in identifiable and actual cost reduction; 2) approval of the concession would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) would not be contrary to State or Federal law.

D. In accordance with Government Code Section 65915(e) the Zoning Adjustments Board hereby grants the following waivers to modify development standards as necessary to accommodate these density bonus units.

North Shattuck Commercial District (C-NS)

1. Waiver from BMC Section 23.204.090(D)(1) "Basic Development Standards" for a mixed-use project to exceed the 35-foot maximum height limit by adding 54 feet, 4 inches, for a total of 89 feet, 4 inches, and exceed the 3-story limit by adding 5 stories, for a total of 8 stories;
2. Waiver from BMC Section 23.204.090(D)(4) "Residential Window Setback" to reduce the setback for a Mixed-Use building, opposite a required window in any habitable room of a residential use to 0 feet, 0 inches where 10 feet is required;
3. Waiver from BMC Section 23.304.030(C)(2) "Lots Adjacent to Residential Districts" to reduce the interior side setback to 0 feet, 0 inches for the interior side where 5 feet is required;
4. Waiver from BMC Section 23.322.070(D)(1) "Excess Off-Street Parking" to exceed the maximum number of off-street residential parking;

Restricted Multiple Family Residential District (R-2A)

5. Waiver from BMC Section 23.202.090(D)(1) "Basic Development Standards" to exceed the 35-foot maximum by adding 54 feet, 4 inches for a total of 89 feet, 4 inches, and exceed the 3-story limit by adding 5 stories, for a total of 8 stories;
6. Waiver from BMC Section 23.202.090(D)(2) "Supplemental Development Standards" to exceed the 40% lot coverage limit for a 3-story building on a corner lot by adding 60% for a total of 100% lot coverage;
7. Waiver from BMC Section 23.202.090(D)(1) "Basic Development Standards" to reduce the interior side setback to 0 feet, 0 inches on the first and second story where 4 feet is required;

Multi-Family Residential District (R-4)

8. Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to exceed the 65-foot maximum height by adding 24 feet, 4 inches for a total of 89 feet, 4 inches and exceed the 6-story limit by adding 2 stories, for a total of 8 stories;
9. Waiver from BMC Section 23.202.110(E)(2) "Supplemental Development Standards" to exceed the 40% lot coverage limit for a 6-story building on a corner lot by adding 60% for a total of 100% lot coverage;
10. Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to reduce the front setback to 2 feet, 10 inches on the western side of the lot and 5 feet, 8 inches on the eastern side of the lot where 15 feet is required; and
11. Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to reduce the interior side setback to 0 feet, 0 inches for stories 1-2 where 4 feet is required, and provide a 9 foot, 8-inch setback for 3-8 stories.

E. In accordance with Government Code Section 65915(e), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds that the approval of waivers is required 1) to construct the proposed project at the density permitted under State law; 2) approval of requested waivers will not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) approval of the requested waivers will not be contrary to State or Federal law.

HOUSING ACCOUNTABILITY ACT

The Housing Accountability Act, Government Code Section 65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that: (1) the development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; and (2) there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.

Evidence: The project includes construction of an 8-story (89 feet and 4 inches) 112,969 square-foot mixed-use residential development with 110 dwelling units (including 9 Very Low-Income and 9 Moderate Income units), 690 square feet of ground floor commercial space. Because the base project complies with applicable, objective general plan and zoning standards, Section 65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified.

PERMIT FINDINGS FOR THE C-NS ZONING DISTRICT

As required by BMC Section 23.204.090 (E) "Permit Findings," the following findings shall be made: To approve an AUP or Use Permit for a project in the C-NS district, the review authority must make the findings in Section 23.406.040 (Use Permits) and find that the proposed use or structure:

1. Is compatible in design and character with the commercial district and the adjacent residential neighborhoods;

   Evidence: The project is compatible in design and character to the commercial district and adjacent residential neighborhoods because it will construct a mixed-use building that offers both housing and commercial space, thereby contributing to the existing uses in the area and reinforcing compatibility with the C-NS neighborhood and adjacent residential neighborhoods.
2. Is compatible with the purposes and the existing character of the district.

Evidence: The project is compatible with the existing character and purposes of the district because it will construct a mixed-use building that provides housing and commercial space, contributing to the existing commercial and residential uses in the neighborhood and, therefore, compatible. It will provide commercial use on the ground level and provide off-street vehicle parking and bicycle parking, allowing the project to mitigate any potential intensification of available traffic capacity and potential parking supply that would result from the increased density.

3. Does not interfere with the continuity of retail or compatible service facilities at the ground level;

Evidence: The project does not interfere with the continuity of retail or compatible service facilities at the ground level because it will provide a commercial space on the ground floor, creating modern space and continuity to the existing ground-floor uses on Shattuck Avenue.

4. Does not exceed the amount and intensity of use that can be served by available traffic capacity and potential parking supply.

Evidence: The project does not exceed the amount and intensity of use that can be served by available traffic capacity and potential parking supply because it is accessible by public transportation, and will provide bicycle and vehicle parking spaces, thereby reducing the strain on the metered street parking supply in the area.

3. When taking action on a Use Permit, the ZAB shall consider in its findings:

(a) The proposed land use; and

Evidence: The proposed land use meets the findings for approval because the project's residential and commercial uses are allowed land uses and consistent with the General Plan Land Use Designation of Neighborhood Commercial and with the C-NS, R-2A and R-4 zoning of the property. The additional residential units provided will create new housing opportunities on a transit-served site, contributing to local and regional housing needs and consistent with the development standards, with the inclusion of applicable waivers and concessions allowed under the State Density Bonus law.

(b) The structure or addition that accommodates the use.

Evidence: The proposed construction of an 8-story multi-family building (89 feet and 4 inches in maximum height) is consistent with the zoning development standards, with the inclusion of waivers to modify height and setback limits, pursuant to Government Code Section 65915 "State Density Bonus Law."

4. Required findings shall be made based on the circumstances existing at the time a decision is made on the application.

   Evidence: The required findings are satisfied because the project has been determined to be fully compliant with all applicable local and state regulations based on the project plans submitted on July 9, 2025, included as analysis in this report, and evaluated based on the existing conditions of the subject site and surrounding neighborhood at the time of decision.

PLANNING AND DEVELOPMENT

USE PERMIT ZP2024-0066 CONDITIONS OF APPROVAL

September 11, 2025

2109 Virginia Street

Use Permit to demolish a 2-story commercial building (4,604 square feet) and surface parking lot, and construct an 8-story (89 feet and 4 inches) 112,969 square-foot mixed-use residential development with 110 dwelling units (including 9 Very Low-Income and 9 Moderate Income units), 690 square feet of ground floor commercial space, 109 off-street vehicle parking spaces and 64 bicycle parking spaces.

I. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

Pursuant to Berkeley Municipal Code (BMC) Title 23 Zoning Ordinance and Title 13 Public Peace, Morals, and Welfare, the following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. **Conditions and Mitigation Monitoring and Reporting Program Shall be Printed on Plans.** The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings.
2. **Compliance Required (BMC Section 23.102.050).** All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.
3. **Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060(B)(1) and (2)):**
   - **A.** This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
   - **B.** When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To re-establish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. **Conformance to Approved Plans (BMC Section 23.404.060(B)(4)).** All work performed under an approved permit shall comply with the approved plans and any conditions of approval.
5. **Exercise and Expiration of Permits (BMC Section 23.404.060(C)):**
   - **A.** A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
   - **B.** A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
   - **C.** The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with BMC Chapter 23.410, Appeals and Certification.
   - **D.** A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.
6. **Permit Remains Effective for Vacant Property (BMC Section 23.404.060(D)).** Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.
7. **Permit Modifications (BMC Section 23.404.070).** No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.
8. **Permit Revocation (BMC Section 23.404.080).** The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.
9. **Pay Transparency Acknowledgement (BMC Section 13.104.030).** Prior to the issuance of a building permit for any Project subject to this Chapter:
   - **A.** A Responsible Representative of the Permittee shall certify under penalty of perjury that the Permittee has reviewed Chapter 13.104 of the Berkeley Municipal Code, and will be responsible for demonstrating compliance with this Chapter.
   - **B.** The Permittee shall provide to the City a Contractor Pay Transparency Acknowledgment on a form approved by the City for this purpose. A Responsible Representative of the Permittee shall certify under penalty of perjury that the Contractor and all Qualifying Subcontractors performing work on the Project will comply with BMC Chapter 13.104 and with Labor Code sections 226(a) and 2810.5 for each employee who works on the Project.

10. **Pay Transparency Attestations following Project Completion (BMC Section 13.104.040).** Within 10 days of the approved final inspection of any Project subject to this Chapter, each Permittee shall provide to the City for each Contractor and Qualifying Subcontractor a Pay Transparency Attestation on a form approved by the City. On each Pay Transparency Attestation, a Responsible Representative of the Contractor or Qualifying Subcontractor shall attest under penalty of perjury that the Contractor or Qualifying Subcontractor complied with BMC Chapter 13.104 and Labor Code sections 226(a) and 2810.5 for each employee who performed work on the Project. The City will maintain Pay Transparency Attestation forms for period of at least three years after their date of receipt by the City
11. **Posting of Wage Theft Ordinance (BMC Section 13.104.050).** Each day work is performed on the Project, each Permittee shall post, and keep posted in a conspicuous location where it may be easily read by employees during the hours of the workday, a notice that: (A) contains the text of BMC Chapter 13.104; (B) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the Labor Commissioner of the State of California; and (C) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California.
12. **Wage Theft Prevention Conditions of Approval (BMC Section 13.104.060).** The requirements of BMC Sections 13.104.030 through 13.104.050 shall be included as conditions of approval of any Use Permit or Zoning Certificate for any Project that is subject to this Chapter. Failure to comply with the requirements of any provision of this Chapter shall be grounds for issuance of an administrative citation under BMC Chapter 1.28 and/or the revocation or modification of any Use Permit issued for the Project under BMC Chapter 23.404.
13. **Hold Harmless.** The permittee agrees as a condition of approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively, "Claims") arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the permittee, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The permittee's duty to defend the City shall not apply in those instances when the permittee has asserted the Claims, although the permittee shall still have a duty to indemnify, protect and hold harmless the City.

II. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC Section 23.404.050(H) Conditions of Approval, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

14. **Project Liaison.** The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. Please designate the name of this individual below:

    ☐ **Project Liaison** _____

    Name Phone #

15. **Address Assignment.** The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned in accordance with BMC Section 16.28.030 Assignment and Installation of Numbers, and, except for new buildings on vacant lots, entered into the City's database after the building permit is issued but prior to final inspection.

16. **Bird Safe Buildings.** Prior to submittal of the building permit, the applicant shall demonstrate compliance with the applicable bird safe building provisions in BMC Section 23.304.150, Bird Safe Buildings.

17. **Construction Noise Reduction Program.** The applicant shall develop a site-specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070, Prohibited Acts. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:

    A. Construction equipment should be well maintained and used judiciously to be as quiet as practical.

    B. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.

    C. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.

    D. Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.

E. Prohibit unnecessary idling of internal combustion engines.

F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.

G. Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.

H. Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.

I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.

18. **Damage Due to Construction Vibration.** The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). The assessment shall consider project specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake study of existing conditions (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage.

    This study shall establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls; and include written descriptions and photographs.

    The study shall be reviewed and approved by the Building and Safety Division and the Zoning Officer prior to issuance of a grading permit. Upon completion of the project, the structures (or, in case of large buildings, of the portions of the structures) previously inspected will be resurveyed, and any new cracks or other changes shall be compared to pre-construction conditions and a determination shall be made as to whether the proposed project caused the damage. The findings shall be submitted to the Building and Safety Division and the Zoning Officer for review. If it is determined that project construction has resulted in damage to the structure, the damage shall be repaired to the pre-existing condition by the project sponsor, provided that the property owner approves of the repair.

19. **Compliance with Conditions of Approval and Environmental Mitigations.** The building permit application is subject to verification of compliance of these Conditions of Approval. The applicant shall be responsible for demonstrating compliance with all conditions of approval and mitigation measures per the timeline set forth by this use permit. The applicant shall deposit $10,000 with the City, or less with the approval of the Zoning Officer, to pay for the cost of monitoring compliance with these Conditions of Approval and other applicable conditions and regulations. Should compliance-monitoring expenses exceed the initial deposit, the applicant shall deposit additional funds to cover such additional expenses upon the request of the Zoning Officer; any unused deposit will be refunded to the applicant.

Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)

20. **Demolition.** Demolition of the existing building cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these conditions.

21. **Construction Noise Management -** Public Notice Required. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within 500 feet of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.

22. **Construction Phases.** The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an on-site meeting with these individuals as necessary to ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.

23. **Construction and Demolition Diversion.** Applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 including 100 percent diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65 percent diversion of other nonhazardous construction and demolition waste.

24. **Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

A. **Phase I and Phase II Environmental Site Assessment (ESA) (per ASTM 1527).** A recent Phase I ESA (less than 2 years old) shall be submitted to the Toxics Management Division for developments for: all new commercial, industrial and mixed-use developments and all improvement projects that require work 5 or more feet below grade, and all new residential buildings with more than four dwelling units located in the Environmental Management Area (or EMA). The EMA can be viewed at: City of Berkeley Community GIS Portal (arcgis.com)

B. Depending on the findings in the Phase I, a Phase II or additional investigation may be necessary. Any available soils and groundwater analytical data available for projects listed in this section must also be submitted to TMD.

C. **Environmental Site Clearance.** The applicant shall provide environmental screening clearance from either the San Francisco Bay Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC), or the Alameda County Department of Environmental Health's Local Oversight Program (LOP). Clearance from one of these regulatory agencies will ensure that the property meets development investigation and cleanup standards for the specific use proposed on the property. Environmental screening clearance shall be submitted to the City of Berkeley's Toxics Management Division prior to issuance of any building permits.

D. **Soil and Groundwater Management Plan**. A site-specific Soil and Groundwater Management Plan (SGMP) shall be submitted to Toxics Management Division (TMD) for all non-residential projects, and residential or mixed-use projects with more than four dwelling units, that: (1) are in the Environmental Management Area (EMA), as shown on the most recent City of Berkeley EMA map, and (2) propose any excavations deeper than 5 feet below grade or if significant soils removal is anticipated. The SGMP shall be submitted to the TMD with the project's building permit application and shall be approved by TMD prior to issuance of the building permit.

The SGMP shall comply with the hazardous materials and waste management standards required by BMC Section 15.12.100, the stormwater pollution prevention requirements of San Francisco Bay Regional Water Quality Control Board's Order No. R2-2009-0074, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66260 et seq.), and the East Bay Municipal Utility District's Ordinance 311, and shall include the following:

i. procedures for soil and groundwater management including identification of pollutants and disposal methods;

ii. procedures to manage odors, dust and other potential nuisance conditions expected during development;

iii. notification to TMD within 24 hours of the discovery of any previously undiscovered contamination; and

iv. the name and phone number of the individual responsible for implementing the SGMP and who will respond to community questions or complaints.

TMD may require additional information or impose additional conditions as deemed necessary to protect human health and the environment. All requirements of the approved SGMP shall be deemed conditions of approval.

E. Demolitions & Renovations – Building Materials Survey. A hazardous materials survey for building materials and plans on hazardous materials and hazardous waste removal and disposal is required and must be prepared by qualified professionals, and submitted to the Toxics Management Division (TMD) prior to issuance of the building permit.

i. The survey shall include the identification of all materials to be disturbed for lead-based paints, PCB containing equipment and caulking, hydraulic fluids, refrigerants, treated wood, and mercury containing devices (including fluorescent light bulbs and mercury switches), asbestos and other hazardous materials and chemicals.

ii. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center. Contractors must follow state regulations where there is asbestos-related work involving 100 square feet or more of asbestos containing material (8 Cal. Code Regs. §1529, §341.6 et seq.)

iii. The report to the TMD shall include, in addition to the survey, plans on hazardous materials and hazardous waste removal and disposal that comply with State and Federal codes including California Code of Regulations (CCR) 66260 et seq.

iv. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition.

Please note, the PCB Screening Form required by Public Works, Engineering, is a separate requirement and does not address the PCB identification requirement of the Toxics Management Division.

F. Hazardous Materials Business Plan. A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 and California Health & Safety Code, Chapter 6.95 Div. 20, shall be submitted to the Toxics Management Division through the California Environmental Reporting System: http://cers.calepa.ca.gov/ for chemicals used or stored on site during construction that exceed reporting thresholds. The reporting is required if your facility stores or handles hazardous materials in aggregate quantities equal to or greater than 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet of compressed gases, or generates any quantity of hazardous waste. This includes welding gases, emergency generator fuel, paints, etc.

Additionally, the business occupant must submit an HMBP within 30 days of starting operations.

G. Petroleum Storage. An (SPCC) Plan is required to be prepared and implemented for facilities with any one of the following:

i. aggregate aboveground petroleum storage capacities of 1,320 gallons or more stored in aboveground storage containers, tanks, oil-filled equipment, or

ii. one or more tank(s) in an underground area (TIUGA) with petroleum storage capacities of 55 gallons or greater. More information on TIUGAs can be found here: https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/tank-in-an-underground-area-tiuga/

The SPCC plan must be prepared prior to beginning operations and you must submit facility information to Toxics Management Division (TMD) through the California Environmental Reporting System: http://cers.calepa.ca.gov/. The SPCC plan will be reviewed during the site inspection and shall not be submitted in CERS or to the TMD.

Prior to Issuance of Any Building (Construction) Permit

25. **Parcel Merger/Lot Line Adjustment.** The applicant shall secure approval of any parcel merger and/or lot line adjustment associated with this Use Permit.

26. **Final Design Review.** The Project requires approval of a Final Design Review application by the Design Review Committee.

27. **HVAC Noise Reduction.** Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.

28. **Interior Noise Levels.** Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.

29. **Solar Photovoltaic (Solar PV) and Battery Energy Storage Systems (ESS).** A solar PV system shall be installed, subject to specific limited exceptions, as specified by the Berkeley Energy Code (BMC Chapter 19.36). Energy storage system (ESS) readiness (new single-family, duplex, and townhouse homes) or ESS installation (new multifamily and most nonresidential buildings) shall be completed as specified by BMC Chapter 19.36. Location of the solar PV system and the ESS, if applicable, shall be noted on the construction plans. (Project required to meet applicable code at time of building permit application, if different from above.)

30. **Electric Vehicle (EV) Charging.** At least 10 percent of the project parking spaces for residential parking shall have installed Level 2 (40 amp) electric vehicle (EV) charging stations~~,~~ and at least 40 percent shall have installed low power Level 2 EV charging receptacles (20 amp), or any more stringent EV charging requirements as specified by the Berkeley Green Code (BMC Chapter 19.37). Required Level 2 charging stations and low power Level 2 EV charging receptacles shall be installed, maintained, and made available for building resident use. EV charging station installations, EV charging receptacles, and EV Capable spaces shall be noted on the construction plans. Public access parking spaces shall provide any applicable mandatory accessibility provisions. (Project required to meet applicable code at time of building permit application, if different from above.)
31. **Water Efficient Landscaping.** Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ETo) for Berkeley is 41.8.
32. **Recycling and Organics Collection.** Applicant shall provide recycling and organics collection areas for occupants, clearly marked on plans, which comply with the Alameda County Organics Reduction and Recycling Ordinance (2021-02). Contact the Zero Waste Division at RecyclingProgram@berkeleyca.gov.
33. **Public Works ADA.** Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

AFFORDABLE HOUSING REQUIREMENTS – RESIDENTIAL PROJECTS

34. **Affordable Housing Compliance Plan.** The final Affordable Housing Compliance Plan ("AHCP") must be certified by the Zoning Officer and the Department of Health, Housing, and Community Services prior to the issuance of Building Permit. Projects that receive approval from the Building Official for multiple phase construction permits must have the final AHCP certified prior to the issuance of the phase one building permit.

35. **Below Market Rate Units.** Nine Very-Low Income and nine Moderate Income Below Market Rate rental dwelling units (BMR Units) shall be provided in the project. All affordable units provided pursuant to Density Bonus Section of the permit findings shall be designated as BMR Units. All BMR units are required to comply with the stricter of the State Density Bonus Law (Government Code Section 65915) and BMC Section 23.328.030(A) Affordable Housing Requirements.

Summary table of project BMR units				
Code Section	**Extremely-Low Income (30% AMI)**	**Very-Low Income (50% AMI)**	**Low Income (80% AMI)**	**Moderate Income (30% x 110% AMI)**
BMC Chapter 23.328 (Inclusionary Housing)	0	9	0	0
State Density Bonus Law (Gov. Code Section 65915)	0	9	0	9
Total	0	9	0	9

36. **Regulatory Agreement.** If BMR units are provided, the owner shall enter into a Regulatory Agreement that implements Government Code Section 65915, BMC Section 23.328.030, and other provisions for BMR units included in this Use Permit. The Regulatory Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The Regulatory Agreement will secure the property's obligation to comply with the requirements for providing BMR units as defined by BMC Chapter 23.328 and State Density Bonus Law (Government Code Section 65915). The applicant shall submit the Regulatory Agreement to the Department of Health, Housing, and Community Services for review and approval. All BMR units are required to comply with the Regulatory Agreement and the BMR Administrative Guidelines. Regulatory Agreements must be executed prior to the issuance of Building Permit, or, in the case of projects that receive approval from the Building Official for multiple phase construction permits, prior to the issuance of the phase one building permit.

37. **Payment of Affordable Housing In-Lieu Fee.** The Affordable Housing In-Lieu Fee shall be paid as required by BMC Section 23.328.030(B) and Resolution 70,698 N.S. The fee for this project is $462,855, subject to proration to reflect affordable units provided. Any adjustments to the fee and the final fee amount will be determined prior to building permit issuance as part of the Affordable Housing Compliance Plan approval. The In-Lieu Fee shall be paid prior to the issuance of the first Certificate of Occupancy, or if no Certificate of Occupancy is required, prior to the final inspection of the Project. Nothing in these conditions shall be interpreted to prohibit, or to require modification of the Use Permit or Regulatory Agreement to allow, the provision of additional BMR units, or additional affordability, then are required in the foregoing provisions.

Prior to Demolition or Start of Construction:

38. **Construction Meeting.** The applicant shall request of the Zoning Officer an on-site meeting with City staff and key parties involved in the early phases of construction (e.g., applicant, general contractor, foundation subcontractors) to review these conditions and the construction schedule. The general contractor or applicant shall ensure that all subcontractors involved in subsequent phases of construction aware of the conditions of approval.

39. **Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) may be required, particularly for the following activities:

    A. Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);

    B. Storage of building materials, equipment, dumpsters, debris anywhere in the public ROW;

    C. Provision of exclusive contractor parking on-street; or

    D. Significant truck activity.

    Please contact the Office of Transportation at (510) 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be stamped and signed by a registered engineer prior to submittal. The TCP shall be consistent with any other requirements of the construction phase. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

40. **Construction/No Parking Permits.** Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood.

During Construction:

41. **Construction Hours.** Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
42. **Construction Hours- Exceptions.** It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The project shall not be allowed more than 15 extended working days.
43. **Project Construction Website.** The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant.
    - **A.** Contact information (i.e. “hotline” phone number, and email address) for the project construction manager
    - **B.** Calendar and schedule of daily/weekly/monthly construction activities
    - **C.** The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.
44. **Public Works - Implement Bay Area Air District (BAAD)-**Recommended Measures during Construction. For all proposed projects, BAAD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
    - **A.** All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
    - **B.** All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
    - **C.** All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
    - **D.** All vehicle speeds on unpaved roads shall be limited to 15 mph.
    - **E.** All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
    - **F.** Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
    - **G.** All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified visible emissions evaluator.

H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

45. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with one of the following measures:

A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

C. In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:

i. An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.

ii. A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

46. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using Green Halo and submit online for City review and approval prior to final inspection. Alternatively, complete the Construction Waste Management Plan and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.

47. **Low-Carbon Concrete.** The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25 percent. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff. (Project required to meet applicable code at time of building permit application, if different from above.)

48. **Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

49. **Archaeological Resources (*Ongoing throughout demolition, grading, and/or construction*).** Pursuant to CEQA Guidelines section 15064.5(f), “provisions for historical or unique archaeological resources accidentally discovered during construction” should be instituted. Therefore:

    A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.

    B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.

    C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.

    D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.

E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

50. Human Remains (*Ongoing throughout demolition, grading, and/or construction*). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

51. Paleontological Resources (*Ongoing throughout demolition, grading, and/or construction*). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

52. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.

53. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:

A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.

B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.

C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.

D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be shall be conducted prior to the issuance of a Building Permit.

E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.

F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.

G. All private or public projects that create and/or replace 5,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological). (Project required to meet applicable code at time of building permit application, if different from above.)

H. All on-site storm drain inlets must be labeled “No Dumping – Drains to Bay” or equivalent using methods approved by the City.

I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

J. All loading areas must be designated to minimize "run-on" or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.

K. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

L. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.

54. Public Works. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.

55. Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.

56. Public Works. The applicant shall ensure that all excavation accounts for surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

57. Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.

58. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

59. Public Works. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.

60. **Public Works / Building and Safety.** If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

61. **Compliance with Conditions.** The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.

62. All landscape, site and architectural improvements shall be completed per the attached approved drawings received July 9, 2025.

63. **Transportation Demand Management.** Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Land Use Division staff to confirm that the physical improvements required in BMC Sections 23.334.030(C) and 23.322.090 (bike parking) have been installed. A Parking and Transportation Demand Management (PTDM) compliance report documenting that the programmatic measures required in BMC Sections 23.334.030(C) and 23.322.090 are implemented shall be submitted to the Land Use Division prior to occupancy, and on an annual basis thereafter, which demonstrates that the project is compliant with the applicable requirements in these sections.

    A. Consistent with BMC Section 23.334.030(A), all parking spaces provided for residents be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units. The property owner shall notify all residents of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of Certificate of Occupancy or final inspection.

    B. Consistent with BMC Section 23.334.030(B), at least one of the following transit benefits shall be offered, at no cost to the resident, for a period of ten years after the issuance of a Certificate of Occupancy. A notice describing these transportation benefits shall be posted in a location or locations visible to all residents.

        i. One monthly pass for unlimited local bus transit service for every bedroom in each dwelling unit.

        ii. Subject to the review and approval of the Zoning Officer in consultation with the Transportation Division Manager, a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited adult monthly pass for unlimited local bus transit service monthly local bus pass.

    C. Consistent with BMC Section 23.334.030(C), publicly-available, real-time transportation information in a common area, such as a lobby or elevator bay, on televisions, computer monitors or other displays readily visible to residents and/or visitors, shall be provided. Transportation information shall include, but is not limited to, transit arrivals and departures for nearby transit routes.

    D. Property owners may be required to pay administrative fees associated with compliance with this Condition.

At All Times:

64. **Compliance with Approved Plan.** The project shall conform to the plans and statements in the Use Permit.
65. **Transportation Demand Management Compliance.** A Transportation Demand Management compliance report shall be submitted to the Zoning Officer, on a form acceptable to the City, prior to occupancy, and on an annual basis for ten years thereafter, which demonstrates that the project complies with the applicable requirements. After three years of timely compliant submittals, staff has the option to accept less frequent submittals (minimum one every three years). Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).
66. **Exterior Lighting.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
67. **Rooftop Projections.** No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
68. **Design Review.** Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.
69. **Drainage Patterns.** The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
70. **Electrical Meter.** Only one electrical meter fixture may be installed per dwelling unit.
71. **Loading.** All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.
72. **Residential Permit Parking.** No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The Finance Department, Customer Service Center shall add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts.
73. **Required Bike Parking.** Secure and on-site bike parking for at least 64 bicycles (59 residential long-term, 4 residential short-term, and 1 commercial) shall be provided for the life of the building.
74. **Residential Electric Vehicle (EV) Charging.** Required Level 2 charging stations and low power Level 2 EV charging receptacles, as specified by the Berkeley Green Code (BMC Chapter 19.37) shall be maintained in good working condition and made available for building resident use. (Project required to meet applicable code at time of building permit application, if different from above.)

75. **Nonresidential Electric Vehicle (EV) Charging.** Required Level 2 charging stations and DC Fast Charge stations, as specified by the Berkeley Green Code (BMC Chapter 19.37) shall be maintained in *good working condition and made available for building occupant and/or visitor* use. (Project required to **meet applicable code at time of building permit application, if different from above.)**

76. **Tenant Notification.** The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service, and entertainment uses, and that each occupant shall not seek to impede their lawful operation.

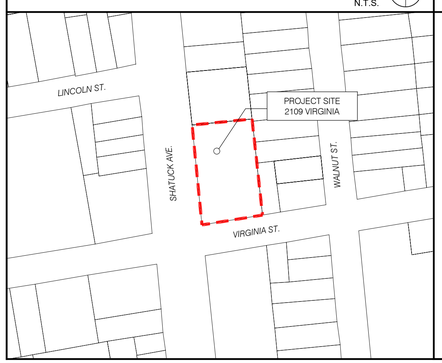
VIEW ALONG SHATTUCK LOOKING NORTHEAST



VICINITY MAP

N

N.T.S.



PROJECT DIRECTORY

OWNER/APPLICANT:
AMERICAN COMMONWEALTH ASSOCIATES, LP
1683 SHATTUCK AVE
BERKELEY, CA 94709

CO OWNER/APPLICANT:
PANORAMIC INTERESTS
100 BUSH STREET
SAN FRANCISCO, CA 94104
panoramic.com

ARCHITECT:
ISAIAH STACKHOUSE, PRINCIPAL
SDT ARCHITECTS
2421 FOURTH STREET
BERKELEY, CA 94710
510.845.7414
www.trachtenbergarch.com

LANDSCAPE ARCHITECT:
INSIDEOUT DESIGN
6000 HARWOOD AVENUE
OAKLAND, CA 94618
510.655.7674
https://www.aboutinsideout.com/

PROJECT DESCRIPTION

PROJECT ADDRESS: 2109 Virginia Street
Berkeley, CA 94709 (APN: 058 217801800)

SCOPE OF WORK:

THE PROJECT IS THE CONSTRUCTION OF A NEW 8-STORY(89'-4" TALL), 110-UNIT MIXED-USE HOUSING DEVELOPMENT WITH 112,969SF OF NEW RESIDENTIAL USE, PARKING GARAGE FOR UP TO 109 SPOTS, AND 690SF NEW COMMERCIAL SPACE. PROJECT INCLUDES REMOVAL OF EXISTING NON-LANDMARKED 2-STORY COMMERCIAL STRUCTURE AND SURFACE PARKING. 15% (9 UNITS) OF THE BASE PROJECT'S UNITS WILL BE AFFORDABLE TO VERY-LOW-INCOME HOUSEHOLDS, AND 15% (9 UNITS) WILL BE MODERATE INCOME HOUSEHOLDS, ENTITLING IT TO A 100% DENSITY BONUS, WAIVERS, AND UP TO 3 CONCESSIONS UNDER THE STATE DENSITY BONUS LAW.

ZONING CODE SUMMARY

(BASED ON THE BERKELEY MUNICIPAL ZONING CODE)

ZONING: C-NS, R2A, R4

SEE SHEET A0.1 FOR COMPLETE ZONING DATA

DRAWING LIST

SHEET NO. & TITLE

ARCHITECTURAL

A0.0	GENERAL INFORMATION	A2.6	UNIT PLANS	
A0.1	ZONING INFORMATION & DIAGRAMS	A3.1	BUILDING ELEVATIONS	
A0.3A	DENSITY BONUS DIAGRAMS	A3.2	BUILDING ELEVATIONS	
A0.3B	DENSITY BONUS CALCULATIONS	A3.3	BUILDING ELEVATIONS	
A0.3C	PRELIMINARY AFFORDABLE HOUSING CALCULATIONS	A3.4	BUILDING ELEVATIONS	
A0.4A	SHADOW STUDIES	A3.5	STREET STRIP ELEVATIONS	
A0.4B	SHADOW STUDIES	A3.6	PHOTO MATCH PERSPECTIVES	
A0.4C	SHADOW STUDIES	A3.7	CONCEPTUAL RENDERING	
A0.5	SITE CONTEXT PHOTOS	A3.8	CONCEPTUAL RENDERING	
A0.6	VICINITY MAP	A3.9	CONCEPTUAL RENDERING	
A2.0A	SURVEY	A3.10	CONCEPTUAL RENDERING	
A2.0B	SURVEY	A3.11	CONCEPTUAL RENDERING	
A2.0C	SITE PLAN	A4.1	SECTIONS	
A2.1	FLOOR PLANS	A5.1	PRELIMINARY GRADING PLAN	
A2.2	FLOOR PLANS	MAT	MATERIAL BOARD	
A2.3	FLOOR PLANS			
A2.4	FLOOR PLANS			
A2.5	FLOOR PLANS			

LANDSCAPE

L1-SS	GROUND LEVEL STREETSCAPE
L2-CY	SECOND LEVEL COURTYARD
L3-RD	EIGHTH LEVEL ROOF DECK
L4-ST	STREET TREE NOTES AND DETAILS
I1.0	GROUND LEVEL HYDROZONE PLAN
I2.0	SECOND LEVEL HYDROZONE PLAN
I3.0	EIGHTH LEVEL HYDROZONE PLAN

STACKHOUSE
DE LA PEÑA
TRACHTENBERG
ARCHITECTS

2421 Fourth Street
Berkeley, California 94710
510.649.1414
www.sdtarch.com

PANORAMIC
1685 SHATTUCK/ 2109 VIRGINIA

Berkeley, CA

12.11.2023 SB330 SUBMISSION
05.31.2024 ZONING APPLICATION
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JOB: 2341

SHEET:

GENERAL INFORMATION

A0.0

Xref: \PANORAMIC - Titleblock 24 x36.dwg

ZONING TABLES

CITY OF BERKELEY ZONING TABULATIONS

	BASE ZONING	ALLOWABLE W/ UP'S & AUP'S	PROPOSED W/ DENSITY BONUS	COMPLIANCE
ZONING	C-NS			
LOT AREA	19,788	19,788	19,788	
LOT AREA (ACRES)	0.45	0.45	0.45	
NUMBER OF DWELLING UNITS	N/A	N/A	110	
SETBACK - FRONT (VIRGINIA)	N/A	N/A	2'-10" TO 5'-2"	
SETBACK - REAR	N/A	N/A	0' TO 12'-6"	
SETBACK - INTERIOR SIDE	N/A	N/A	0" TO 35'-7"	
SETBACK - STREET SIDE (SHATTUCK)	N/A	N/A	0	
BUILDING SEPARATION, MINIMUM 1ST STORY	8'	8'	N/A	
BUILDING SEPARATION, MIN. 2ND& 3RD STORY	12', 16'	12', 16'	N/A	
BUILDING HEIGHT	35'	35'	89'-4"	COMPLIES W/WAIVER
BUILDING STORIES	3	3	8	COMPLIES W/WAIVER
LOT COVERAGE (CORNER LOT, 6 STORIES)	N/A	N/A	97%	
BUILDING FOOTPRINT	7,915	7,915	19,155	
FAR	NA	NA	6.21	
TOTAL GSF	NA	NA	122,924	
USABLE OPEN SPACE (SEE TABLE)	40/unit	40/unit	7,060	COMPLIES
PARKING	SEE TABLE	SEE TABLE	SEE TABLE	COMPLIES W/WAIVER
BIKE PARKING	SEE TABLE	SEE TABLE	SEE TABLE	COMPLIES

	BASE ZONING	ALLOWABLE W/ UP'S & AUP'S	PROPOSED W/ DENSITY BONUS	COMPLIANCE
ZONING	R-4 Multi-Family Residential District			
LOT AREA	1,970	1,970	1,970	
LOT AREA (ACRES)	0.05	0.05	0.05	
NUMBER OF DWELLING UNITS	N/A	N/A	0	
SETBACK - FRONT	15'	15'	4'-4" to 5'-8"	COMPLIES W/WAIVER
SETBACK - REAR 1ST - 3RD STORY	15'	15'	0'	COMPLIES W/WAIVER
SETBACK - REAR 3RD - 6TH STORY	17', 19', 21'	17', 19', 21'	24'-10"	COMPLIES W/WAIVER
SETBACK - INTERIOR SIDE 1ST - 2ND STOR	4'	4'	0"	COMPLIES W/WAIVER
SETBACK - INTERIOR SIDE 3RD - 6TH STOR	6', 8', 10', 12'	6', 8', 10', 12'	9'-8"	COMPLIES W/WAIVER
SETBACK - STREET SIDE 1ST-6TH STORY	6', 8', 10', 12', 14', 15'	6', 8', 10', 12', 14', 15'	NA	
BUILDING HEIGHT	35'	65'	89'-4"	COMPLIES W/WAIVER
BUILDING STORIES	3	6	8	COMPLIES W/WAIVER
LOT COVERAGE (INTERIOR LOT)	35%	35%	96%	COMPLIES W/WAIVER
BUILDING FOOTPRINT	887	690	1,886	
FAR	no max.	no max.	3.16	
TOTAL GSF	NA	NA	6,228	
USABLE OPEN SPACE (SEE TABLE)	200/unit	200/unit	0	COMPLIES
PARKING	0	0	0	COMPLIES
BIKE PARKING	0	0	0	COMPLIES

	BASE ZONING	ALLOWABLE W/ UP'S & AUP'S	PROPOSED W/ DENSITY BONUS	COMPLIANCE
ZONING	R-2A Restricted Multi-Family Residential District			
LOT AREA	584	584	584	
LOT AREA (ACRES)	0.01	0.01	0.01	
NUMBER OF DWELLING UNITS	N/A	N/A	0	
SETBACK - FRONT	15'	15'	NA	COMPLIES
SETBACK - REAR	15'	15'	0	COMPLIES W/WAIVER
SETBACK - INTERIOR SIDE 1ST - 2ND STOR	4'	4'	0"	COMPLIES W/WAIVER
SETBACK - INTERIOR SIDE 3RD	6'	6'	9'-8"	COMPLIES W/WAIVER
SETBACK - STREET SIDE 1ST - 3RD STORY	6', 8', 10'	6', 8', 10'	NA	
BUILDING HEIGHT	28'	35'	89'-4"	COMPLIES
BUILDING STORIES	3	3	8	COMPLIES
LOT COVERAGE (INTERIOR LOT)	35%	35%	100%	COMPLIES W/WAIVER
BUILDING FOOTPRINT	234	234	584	
FAR	NA	NA	2.92	
TOTAL GSF	NA	NA	1,704	
USABLE OPEN SPACE (SEE TABLE)	300/unit	300/unit	NA	COMPLIES
PARKING	0	0	0	COMPLIES
BIKE PARKING	0	0	0	COMPLIES

UNIT COUNTS

UNIT TYPE	STUDIO	1-BED	2-BED	2-BED + OFFICE	TOTAL
LEVEL 8	2	4	5	3	14
LEVEL 7	2	4	6	4	16
LEVEL 6	2	4	6	4	16
LEVEL 5	2	4	6	4	16
LEVEL 4	2	4	6	4	16
LEVEL 3	2	4	6	4	16
LEVEL 2	2	4	6	4	16
GROUND LEVEL					0
TOTAL	14	28	41	27	110
PERCENT OF TOTAL	13%	25%	37%	25%	
TOTAL BEDROOMS	14	28	82	54	178

OPEN SPACE TABLE

	UNITS	RATIO	TOTAL	LANDSCAPE AREA (40%)
REQUIRED OPEN SPACE (PER UNIT)	110	40	4,400	
TOTAL CONCESSION REQUESTED			NONE	
AREA PROVIDED - PODIUM DECK			2,670	2,528
AREA PROVIDED - PODIUM PRIVATE PATIOS			320	
AREA PROVIDED - ROOF DECK			1,030	308
AREA PROVIDED - UNIT BALCONIES			3,040	
TOTAL AREA PROVIDED			7,060	2,836

BICYCLE PARKING CALCULATIONS

		REQ'D SPACES		PROPOSED SPACES
RESIDENTIAL LONG TERM (PER BEDROOM)	178	1 per 3 bedrms	59	59
RESIDENTIAL SHORT TERM (PER BEDROOM)	178	per 40 bedrms	4	4
COMMERCIAL (PER SF)	690	1 per 2000sf	1	1
TOTAL BICYCLE PARKING				**64**

PARKING TABLE

	PROVIDED	REQ'D SPACES	PER	PROPOSED
RESIDENTIAL (0 required per Table 23.322-2	110 UNITS	0	0	109
COMMERCIAL (0 required per AB 2097)	690SF	0	1000	0
TOTAL				**109**

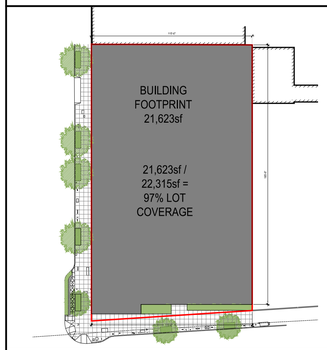
ROOFTOP ARCHITECTURAL ELEMENTS CALCS

AVERAGE AREA	14121
TOTAL AREA OF ROOFTOP ELEMENTS	521
% AREA OF ROOFTOP ARCH. FEATURES	3.7%
ALLOWABLE % (PER 23E.04.020C)	15.0%

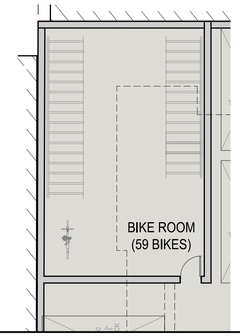
PROPOSED FLOOR AREA WITH DENSITY BONUS

	C-NS RESIDENTIAL	C-NS MEP	C-NS COMMERICAL	R-4 RESIDENTIAL	R4 MEP	R-2A RESIDENTIAL	R-2A MEP	TOTAL RESIDENTIAL
LEVEL 8	13,665			588		160		14,413
LEVEL 7	14,784			588		160		15,532
LEVEL 6	14,784			588		160		15,532
LEVEL 5	14,784			588		160		15,532
LEVEL 4	14,784			588		160		15,532
LEVEL 3	14,784			588		160		15,532
LEVEL 2	14,784			588		160		15,532
GROUND LEVEL	5,376	1,072	690	588	584	-		5,964
TOTAL FLOOR AREA W/ DENSITY BONUS	**107,745**	**1,072**	**690**	**4,704**	**584**	**1,120**	**-**	**113,569**

LOT COVERAGE DIAGRAM

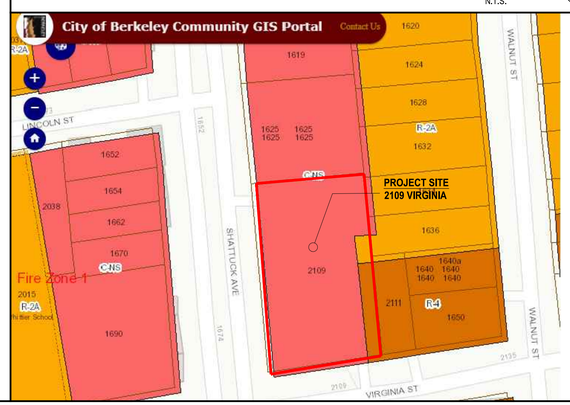


BIKE PARKING

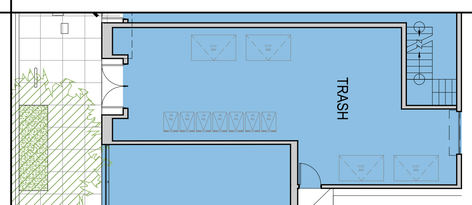


ZONING MAP

N.T.S.



REFUSE AND RECYCLING



Waste and Recycling Calculation

# of Bedrooms	Factor	Occupants	Total cuft required (.25cy or 50 gallons / 3		Waste (40%)		Recycling (40%)	Organics (20%)
178	1.00	178	14.83 cy	2,967 gal	5.93 cuft	1,187 gal	1,187 gal	593 gal
Space Calculation	Container Quanities			Space Required			150% Additional	
	Waste	Recycling	Organics	Factor/container		Space/ Container	Required	Provided
3 cy bin (606 gal)	2	2		28 sf		112 sf		
96 gallon cart			7	7 sf		49 sf		
64 gallon cart				6 sf		sf		
Total capacity	1212 gal	1212 gal	672 gal			161 sf	242 sf	500

OPEN SPACE DIAGRAMS



LEVEL 2
USABLE OPEN SPACE 4,912SF

LEVEL 8
USABLE OPEN SPACE 1,030SF

STACKHOUSE DE LA PEÑA TRACHTENBERG ARCHITECTS

2421 Fourth Street
Berkeley, California 94710
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JOB: 2341

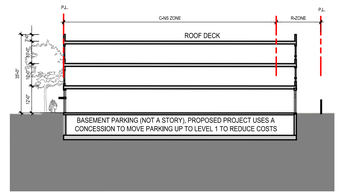
SHEET:

ZONING DATA

A0.1

BASE PROJECT AREAS

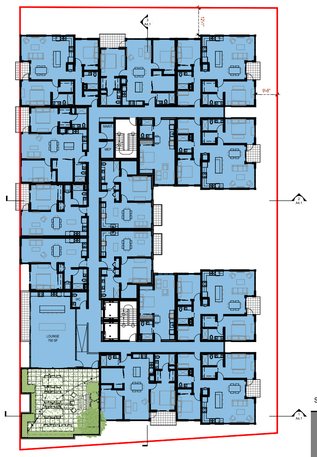
	RETAIL	MEP	RESIDENTIAL FLOOR AEA				TOTAL PROJECT
			C-NS	R-4	R-2A	TOTAL RES.	
SITE AREA			19,788	1,970	584		22,342
ALLOWABLE DENSITY (UNITS/SF)			NA	NA	1650		
ALLOWABLE UNITS (ROUNDS UP)			NA	NA	1		
ALLOWABLE FAR (1.0 FOR COMM. AREA)			NA	**NA**	**NA**		
ALLOWABLE HEIGHT (BASE)			35'	35'	28'		
ALLOWABLE HEIGHT (W/ UP)			35'	65'	35'		
ALLOWABLE STORIES			3	3	3		
ALLOWABLE LOT COVERAGE (%)			NA	45%	40%		
ALLOWABLE LOT COVERAGE (SF)			NA	887	234		
BASE PROJECT AREAS							
LEVEL 3			18,709	887	234	19,830	
LEVEL 2			18,709	887	234	19,830	
LEVEL 1	669	2187	16,006	887	234	17,127	
BASEMENT		4007					
TOTAL ALLOWABLE BASE AREA	**669**	**6,194**	**53,424**	**2,661**	**702**	**56,787**	**63,650**
100% DENSITY BONUS	NA					56,787	
MAX PROJECT W/100% DENSITY BONUS	**690**	**1,656**				**113,574**	**115,920**



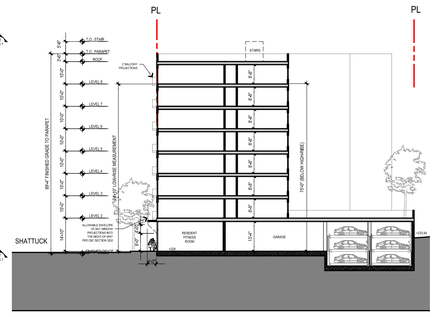
SECTION



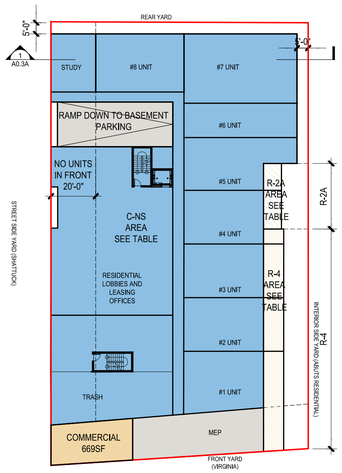
PLAN AT 2ND LEVEL



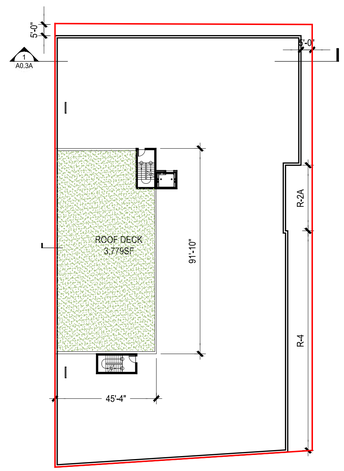
PLAN AT LEVEL 8



SECTION



PLAN AT GROUND LEVEL



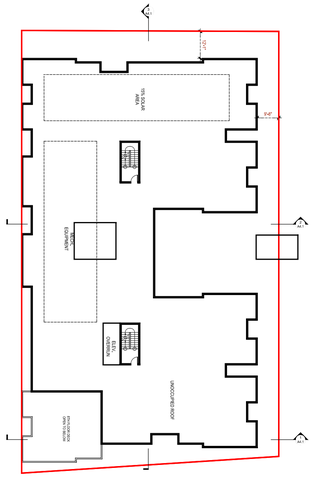
PLAN AT ROOF



PLAN AT GROUND LEVEL

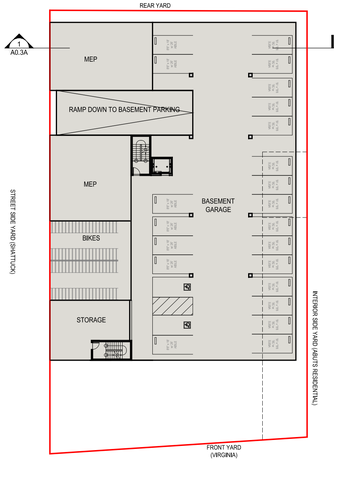


PLAN AT LEVELS 3-7

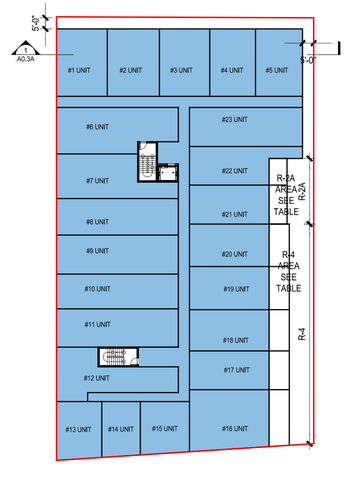


PLAN AT ROOF LEVEL

PROPOSED DENSITY BONUS PROJECT



PLAN AT BASEMENT



PLAN AT 2ND-3RD LEVEL

BASE PROJECT

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DENSITY BONUS DIAGRAMS

A0.3A

DENSITY BONUS TABLE

	Base Project	base avg. unit size	Base # Units	% VLI units	# VLI Units	#VLI Units	% MI units	# MI Units	#MI Units	Bonus %	# DB Units	# DB Units	Maximum DB Project
	sq. ft. - see calculation below	base avg. unit size	Base Project Area / Base Avg Unit Size	VLI = Very Low Income <50 AMI	% VLI x Base # Units		MI = Moderate Income <120 AMI	% MI x Base # Units			%Bonus x Base # Units	%Bonus x Base # Units (rounded up)	%Bonus x Base # Units (rounded up)
	56,787	1,032	55	15%	8.25	9.00	15%	8.25	9.00	100.0%	55.0000	55	**110**

	Base Project Res. Area	Floor	Proposed Project Res. Area
		Eighth	14,413
		Seventh	15,532
		Sixth	15,532
		Fifth	15,532
		Fourth	15,532
	19,830	Third	15,532
	19,830	Second	15,532
	17,127	Ground	5,964
Total Floor Area:	**56,787**		**113,569**

	Base Project # of Units	Floor	Proposed Project # of Units
		Eighth	14
		Seventh	16
		Sixth	16
		Fifth	16
		Fourth	16
	23	Third	16
	23	Second	16
	9	Ground	
Total Units:	**55**		**110**

	#VLI	%VLI	%DB	#DB	#Concessions
	3	5%	20.00%	66	1
	4	6%	22.50%	68	1
	4	7%	25.00%	69	1
	5	8%	27.50%	71	1
	5	9%	30.00%	72	1
	6	10%	32.50%	73	2
	7	11%	35.00%	75	2
	7	12%	38.75%	77	2
	8	13%	42.50%	79	2
	8	14%	46.25%	81	2
	9	**15%**	**50.00%**	**83**	**3**
Additional DB	**#MI**	**%MI**	**%DB**	**#DB**	**#Concessions**
	3	5%	20.00%	94	3
	4	6%	22.50%	95	3
	4	7%	25.00%	97	3
	5	8%	27.50%	98	3
	5	9%	30.00%	99	3
	6	10%	32.50%	101	3
	7	11%	35.00%	102	3
	7	12%	38.75%	104	3
	8	13%	42.50%	106	3
	8	14%	46.25%	108	3
	9	**15%**	**50.00%**	**110**	3

Avg. Unit Size: 1032 sf

Concession #1: The project is proposing to relocate the underground parking in the base project to above grade in the proposed project
Concession #2: The project requests a concession to eliminate the Public Art on Private Property requirement
Concession #3

BASE PROJECT ZONING COMPLIANCE CHECKS

Base Project - Open Space

	Units	Ratio	Total Area
Total Required for Base Units	55	40	2200
Total Area Provided			3779
Provided Open Space (Roof Top Open Space)			3779

Base Project - FAR

	Res. Area	Commercial	Total GFA
GFA	56,787	1133	57,920
Site Area			22,342
FAR			2.6

Base Project - Parking

	Req.d Spaces	per SF	SF Provided	Total Req.	Provided
Residential (0 per Table 23.322-2)				0	23
Commercial	2.0	1,000	450.0	1	1

Base Project -Bicycle Parking

	SF	Bedrooms	Ratio	Total Req.	Provided
New Commercial	1,133		1/2000	2	2
Res. (Long)		68	0.33	22	30
Res (Short)		68	0.025	2	2

Base Project - Stormwater

	Roof Area	%	Required	Provided
Base Units	19,830	4%	793	793

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DENSITY BONUS CALCULATIONS

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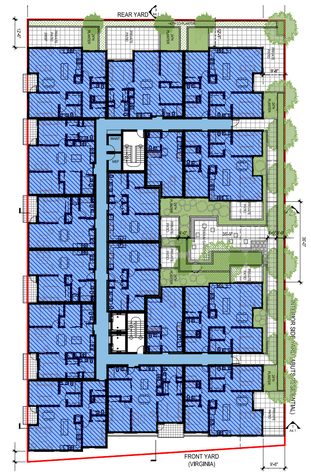
PROPOSED PROJECT RESIDENTIAL UNIT FLOOR AREA DIAGRAM

LEGEND

- DWELLING UNIT RUFA
- RESIDENTIAL AMENITY AREA
- COMMERCIAL AREA



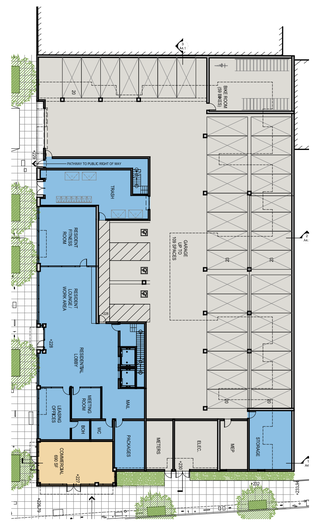
PLAN AT LEVEL 8



PLAN AT LEVEL 2



PLAN AT LEVELS 3-7



PLAN AT GROUND

PROPOSED PROJECT AREA AND UNIT CALCULATIONS

Calculation of the Final Proposed Residential Unit Floor Area:

Floor	Proposed Project Res. Unit Area	Proposed Project Residential Units
8th	11,265	14
7th	13,208	16
6th	13,208	16
5th	13,208	16
4th	13,208	16
3rd	13,208	16
2nd	13,208	16
1st		
Final Proposed Residential Unit Floor Area	**90,513**	**110**

Calculation of Base Project Residential Floor Area:

Final Proposed DB Residential Unit Floor Area	90,513
	/
1 + 100% Density Bonus percentage taken	2.000
	=
Base Project Residential Unit Floor Area	45,257

Calculation of the Affordable Housing Fee:

A	Total Base Project Residential Unit Floor Area	45,257
B	Total Base Project Units	55
C	Total VLI and LI Requirements (20% of Base)	11
D	Total VLI and LI Units Proposed	9
	Fee per Square Foot	$56.25
		X
	Total Base Project Residential Unit Floor Area	45,257
		X
	In Lieu Fee Percentage Calculation (C-D)/C)	18.2%
		=
	Total Fee Due	**$462,855**

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PRELIMINARY AFFORDABLE HOUSING CALCULATIONS

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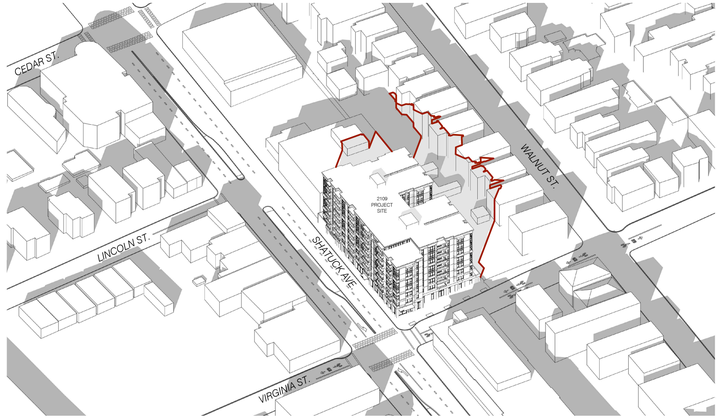
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LIGHTER TONE GREY INDICATES SHADOWS FROM PROPOSED BUILDING

NEW SHADOW AT RESIDENTIAL BUILDING

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5 SHADOW STUDY - PM
1:240 @ 11X17 1:120 @ 24X36

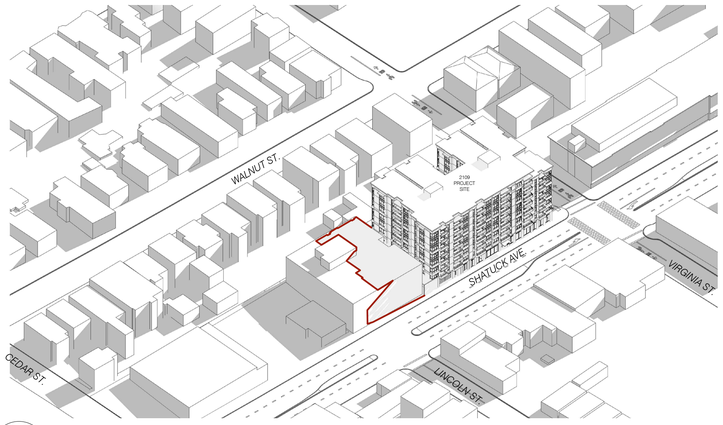
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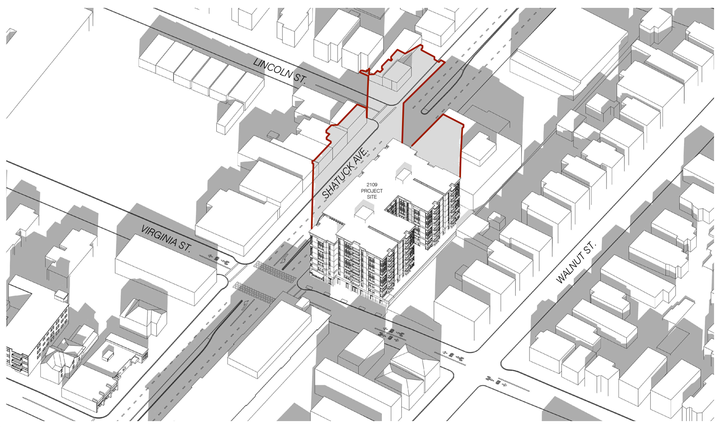
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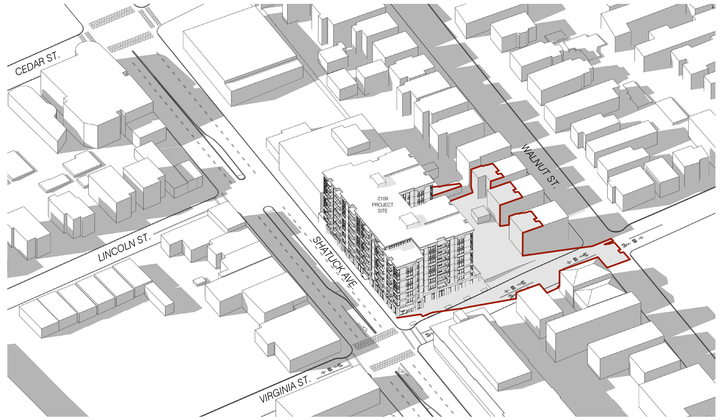
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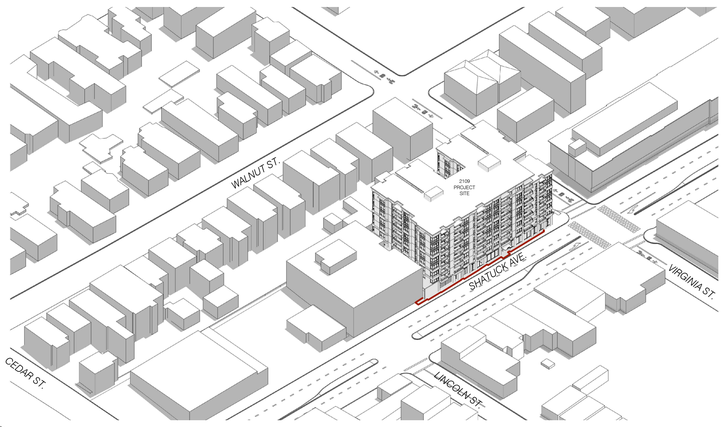
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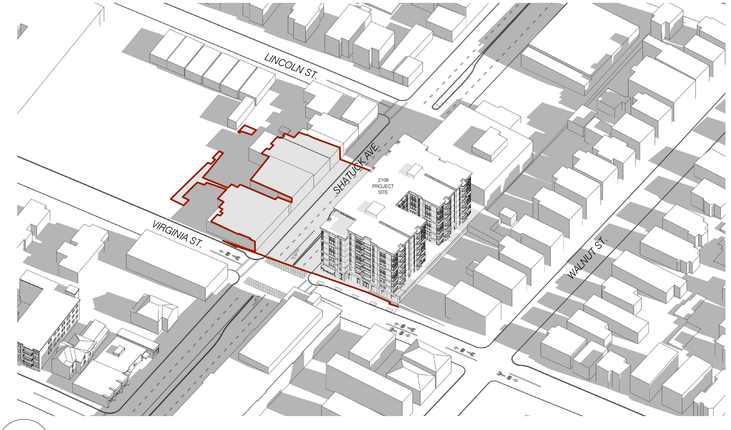
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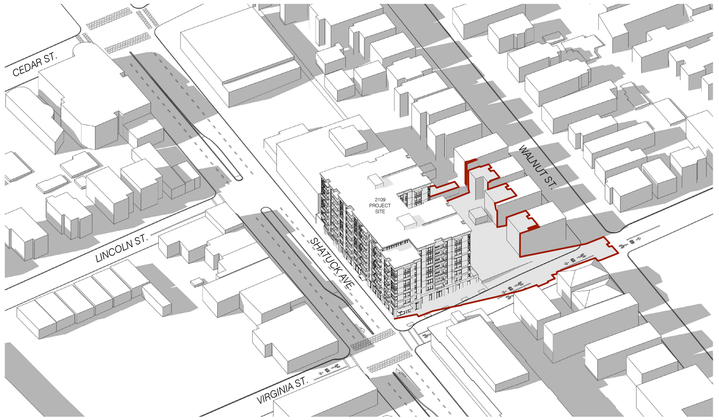
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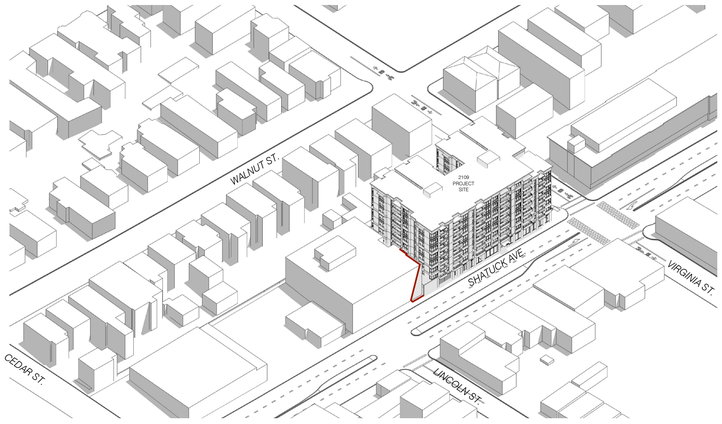
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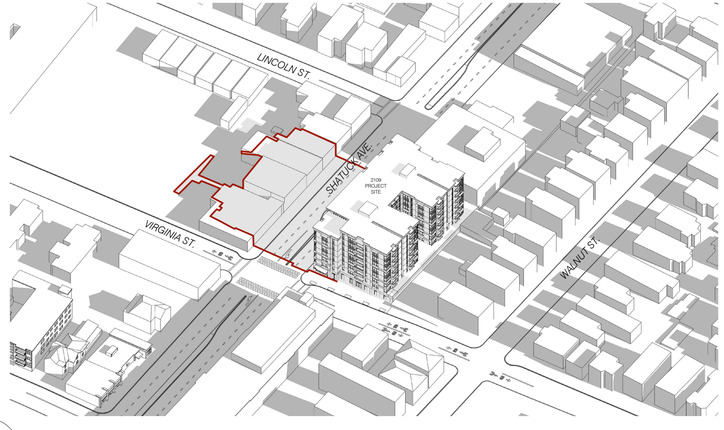
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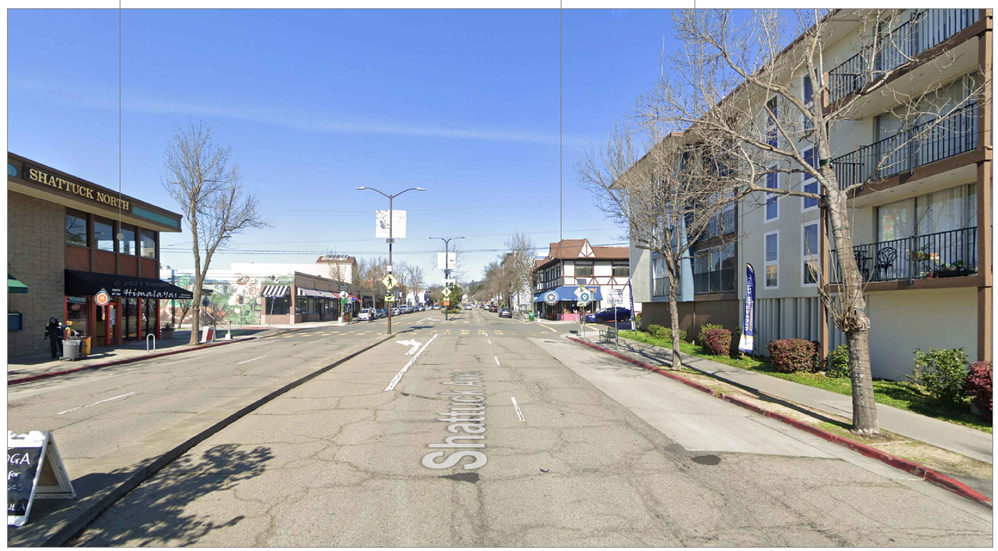
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MAY 31ST

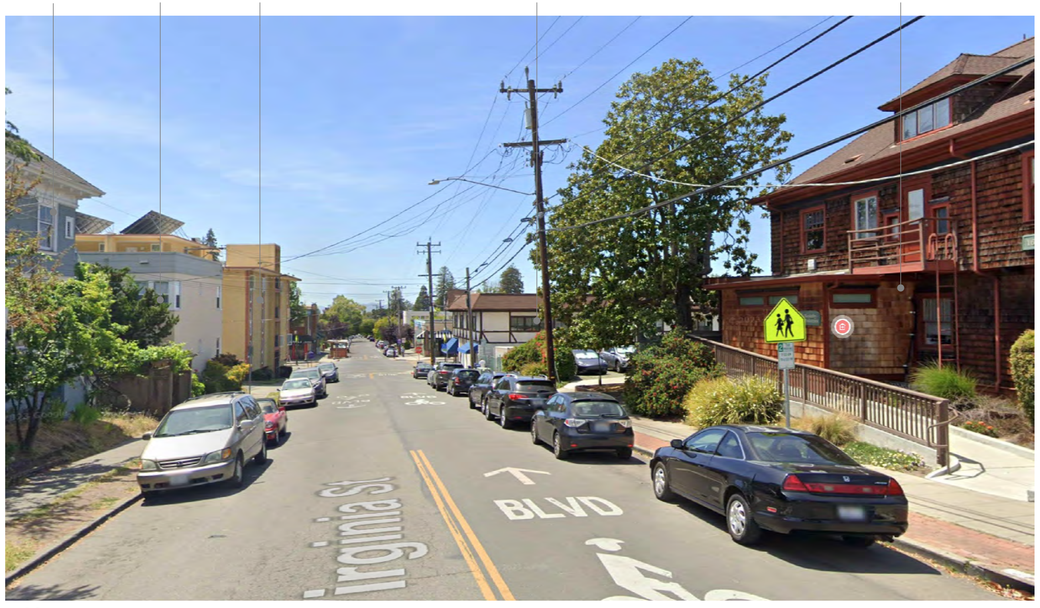
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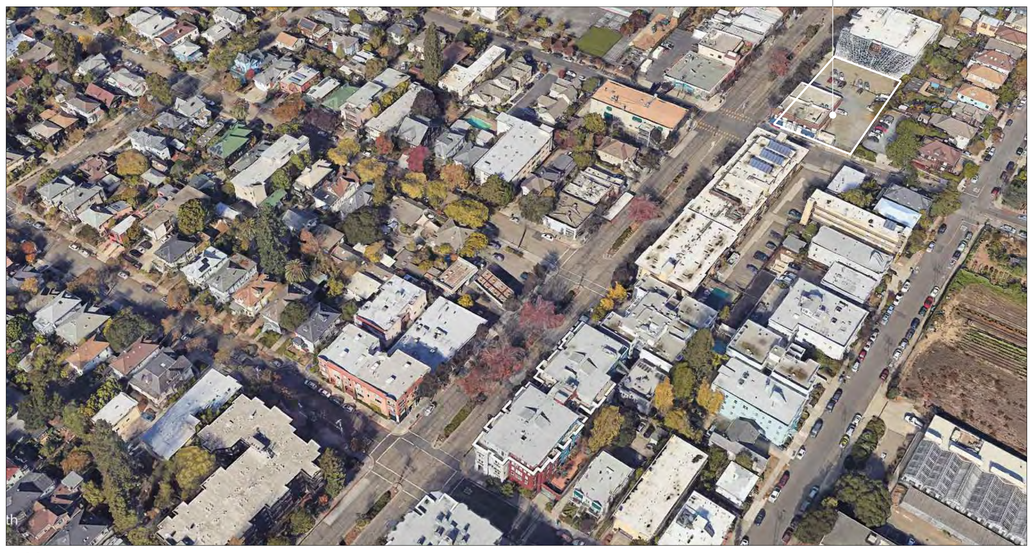
4 - VIEW FROM SHATTUCK LOOKING SOUTH



2 - VIEW FROM SHATTUCK LOOKING NORTH



3 - VIEW FROM VIRGINIA LOOKING WEST



1 - GOOGLE EARTH BIRD'S EYE CONTEXT VIEW

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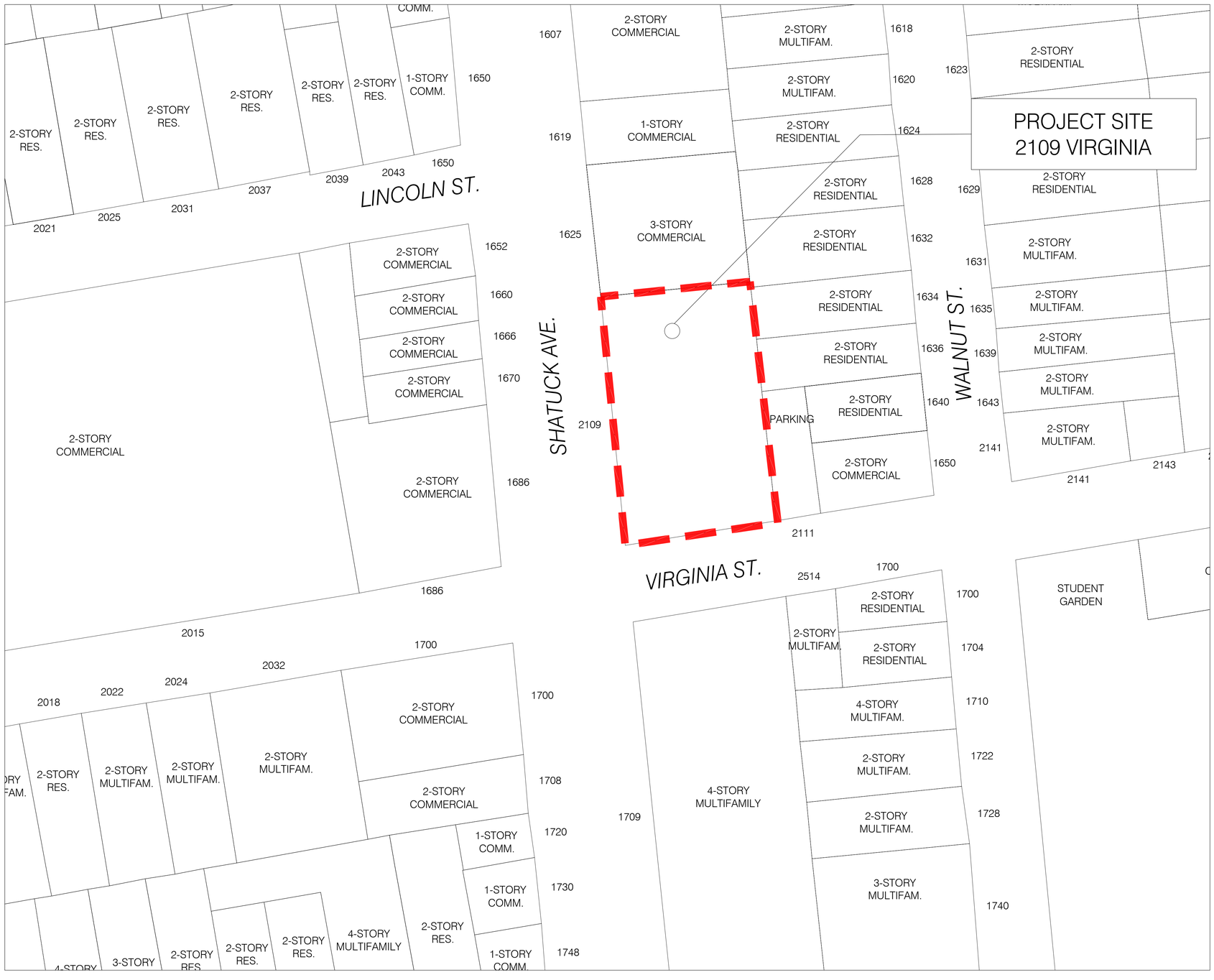
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SITE CONTEXT PHOTOS

A0.5



1 - VICINITY MAP
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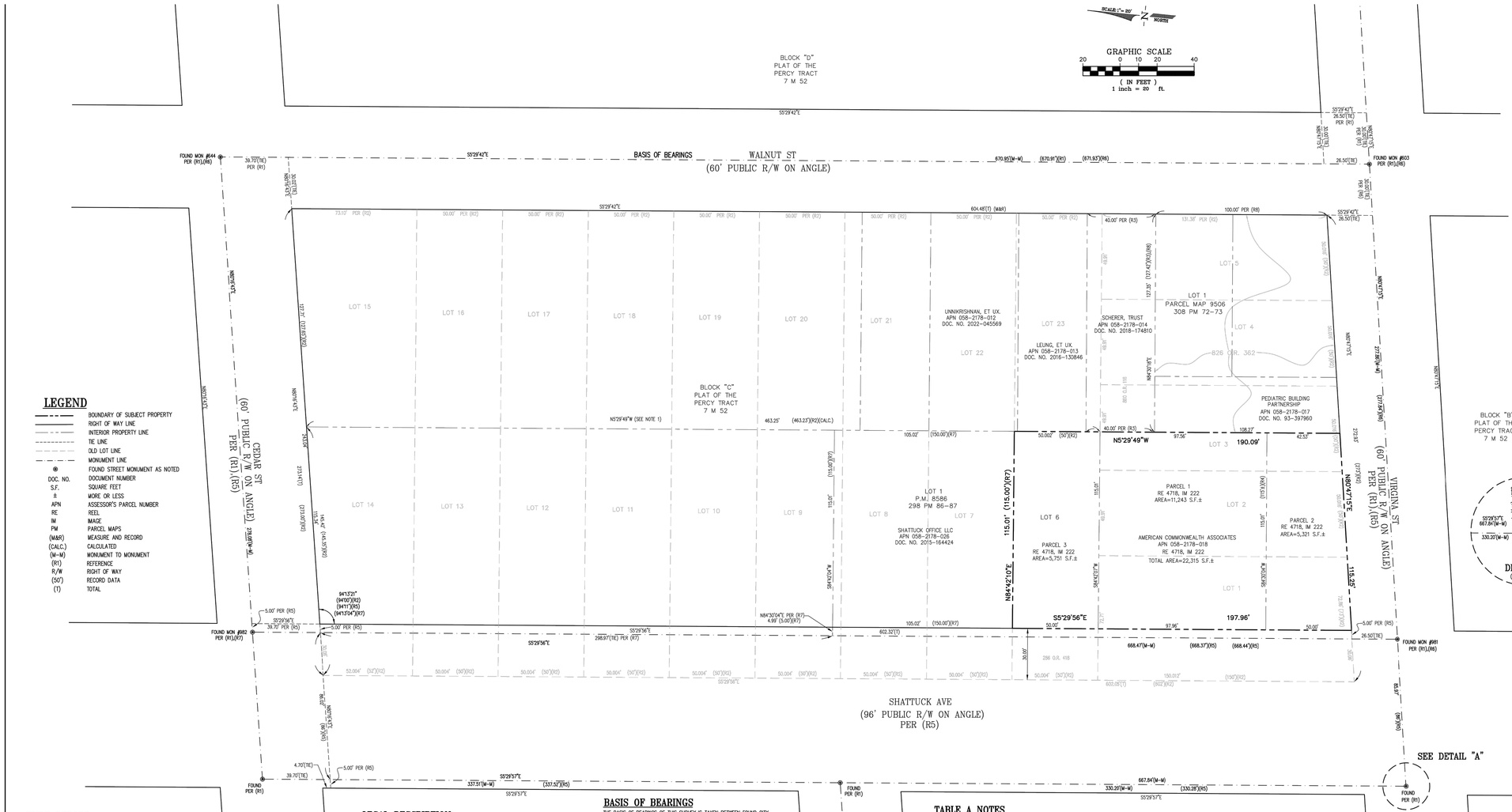
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VICINITY MAP

A0.6



LEGEND

	BOUNDARY OF SUBJECT PROPERTY
	RIGHT OF WAY LINE
	INTERIOR PROPERTY LINE
	TIE LINE
	OLD LOT LINE
	MONUMENT LINE
⊕	FOUND STREET MONUMENT AS NOTED
DOC. NO.	DOCUMENT NUMBER
S.F.	SQUARE FEET
±	MORE OR LESS
APN	ASSESSOR'S PARCEL NUMBER
RE	REEL
IM	IMAGE
PM	PARCEL MAPS
(M&R)	MEASURE AND RECORD
(CALC.)	CALCULATED
(M-M)	MONUMENT TO MONUMENT
(R1)	REFERENCE
R/W	RIGHT OF WAY
(50')	RECORD DATA
(T)	TOTAL

TITLE REPORT

THE TITLE REPORT USED IN THIS SURVEY WAS ISSUED BY FIDELITY NATIONAL TITLE COMPANY, PRELIMINARY REPORT ORDER NO. 013-30110437-A-KDO, EFFECTIVE DATE JANUARY 17, 2024 AT 7:30 A.M., AMENDED: FEBRUARY 26, 2024, AMENDMENT NO. A, REFERRED TO HEREON AS THE "PTR"

TITLE TO SAID ESTATE IS VESTED IN:

AMERICAN COMMONWEALTH ASSOCIATES, A LIMITED PARTNERSHIP

THE ESTATE OR INTEREST IN THE LAND IS:

A FEE

EXCEPTIONS TO TITLE

1. WATER RIGHTS, CLAIMS OR TITLE TO WATER, WHETHER OR NOT DISCLOSED BY THE PUBLIC RECORDS (PTR EXC. 3 – NOT PLOTTABLE).

NOTES

1. DATE OF FIELD SURVEY: APRIL 15 AND 23, 2024 AS TO THE BOUNDARY AND TOPOGRAPHIC SURVEY OF THE SUBJECT PROPERTY.
2. THE UTILITIES SHOWN HEREON ARE BY SURFACE OBSERVATION AND RECORD INFORMATION ONLY AND NO WARRANTY IS GIVEN HEREIN AS TO THEIR EXACT LOCATION. IT IS THE RESPONSIBILITY OF THE DEVELOPER AND/OR CONTRACTOR TO VERIFY THE EXACT LOCATION OF THE UTILITIES WITH THE APPROPRIATE UTILITY COMPANY OR AGENCY.
3. UTILITY JURISDICTIONS / PROVIDERS ARE AS FOLLOWS:
   STORM DRAINS: CITY OF BERKELEY
   SANITARY SEWER: CITY OF BERKELEY
   WATER: EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD)
   ELECTRICITY: PACIFIC GAS & ELECTRIC CO.
   NATURAL GAS: PACIFIC GAS & ELECTRIC CO.
   TELEPHONE: AT&T
4. THERE ARE NO CEMETERIES ON OR WITHIN 100 FEET OF THE SUBJECT PROPERTY.
5. THE LEGAL DESCRIPTION OF THE SUBJECT PROPERTY IS THE SAME AS THE PROPERTY DESCRIBED IN THE PRELIMINARY TITLE REPORT.
6. THE LEGAL DESCRIPTION AS SHOWN IN THE TITLE REPORT MATHEMATICALLY CLOSES.
7. THERE IS NO OBSERVED EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL
8. THERE ARE NO WETLAND AREAS IN THE SUBJECT PROPERTY
9. THE SUBJECT PROPERTY HAS DIRECT ACCESS TO AND FROM SHATTUCK AVENUE, A PUBLIC RIGHT OF WAY AND VIRGINIA STREET, A PUBLIC RIGHT OF WAY.

LEGAL DESCRIPTION

LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF BERKELEY IN THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

BEGINNING AT A POINT ON THE EASTERN LINE OF SHATTUCK AVENUE, AS THE LINE OF SAID AVENUE NOW EXISTS, 50 FEET NORTHERLY FROM THE NORTHERN LINE OF VIRGINIA STREET; RUNNING THENCE NORTHERLY ALONG SAID EASTERN LINE OF SHATTUCK AVENUE TO THE SOUTHERN LINE OF LOT NO. 6 IN BLOCK "C", AS SAID LOT AND BLOCK ARE SHOWN ON THE MAP HEREINAFTER REFERRED TO; THENCE AT RIGHT ANGLES EASTERLY TO THE WESTERN LINE OF LAND CONVEYED TO M. S. CARNALL BY DEED OF RECORD IN BOOK 860 OF DEEDS, PAGE 116; THENCE SOUTHERLY ALONG SAID LAST NAMED LINE AND ALONG THE WESTERN BOUNDARY LINE OF LAND CONVEYED TO E. N. PROUTY BY DEED OF RECORD IN BOOK 826 OF DEEDS, PAGE 362, TO A LINE DRAWN EASTERLY AT RIGHT ANGLES TO SHATTUCK AVENUE THROUGH THE POINT OF BEGINNING; THENCE WESTERLY ALONG SAID LAST NAMED LINE TO THE POINT OF BEGINNING.

BEING A PORTION OF LOTS NOS. 1, 2, AND 3, IN BLOCK "C", AS SAID LOTS AND BLOCK ARE DELINEATED AND SO DESIGNATED UPON THAT CERTAIN MAP ENTITLED, PLAT OF THE PERCY TRACT, FILED APRIL 27, 1882, IN BOOK 7 OF MAPS, PAGE 52, ALAMEDA COUNTY RECORDS.

PARCEL 2:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERN LINE OF VIRGINIA STREET WITH THE EASTERN LINE OF SHATTUCK AVENUE, AS THE LINE OF SAID AVENUE NOW EXISTS; AND RUNNING THENCE NORTHERLY ALONG SAID LINE OF SHATTUCK AVENUE 50 FEET; THENCE AT RIGHT ANGLES EASTERLY 115 FEET, MORE OR LESS, TO THE WESTERN LINE OF LAND CONVEYED BY YORK AND WHITWORTH TO E. N. PROUTY BY DEED DATED APRIL 15, 1902 AND RECORDED IN BOOK 826 OF DEEDS, PAGE 362; THENCE SOUTHERLY ALONG SAID LAST NAMED LINE TO THE NORTHERN LINE OF VIRGINIA STREET; THENCE WESTERLY ALONG SAID LAST NAMED LINE TO THE POINT OF BEGINNING.

BEING A PORTION OF LOTS NOS. 1, 2, AND 3 IN BLOCK "C", AS SAID LOTS AND BLOCK ARE DELINEATED AND SO DESIGNATED UPON THAT CERTAIN MAP ENTITLED, PLAT OF THE PERCY TRACT, FILED APRIL 27, 1882, IN BOOK 7 OF MAPS, PAGE 52, ALAMEDA COUNTY RECORDS.

PARCEL 3:

LOT 6 IN BLOCK "C", AS SAID LOT AND BLOCK ARE SHOWN ON THE PLAT OF THE PERCY TRACT, FILED APRIL 27, 1882 IN BOOK 7 OF MAPS, PAGE 52, ALAMEDA COUNTY RECORDS. EXCEPTING THEREFROM, THE WESTERN 30 FEET THEREOF WHICH LIES WITHIN THE LINES OF SHATTUCK AVENUE, AS THE SAME NOW EXISTS, AS DESCRIBED IN THE DEED FROM WALDO M. YORK TO THE TOWN OF BERKELEY, DATED OCTOBER 27, 1884, RECORDED JULY 13, 1885 IN BOOK 286 OF DEEDS, AT PAGE 418, ALAMEDA COUNTY RECORDS.

APN: 058-2178-018-00

BASIS OF BEARINGS

THE BASIS OF BEARINGS OF THIS SURVEY IS TAKEN BETWEEN FOUND CITY MONUMENT #644 AND FOUND CITY MONUMENT # 603 ALONG WALNUT STREET BETWEEN CEDAR STREET AND VIRGINIA STREET AS SHOWN ON TRACT 7257, FILED NOVEMBER 29, 2001 IN BOOK 291 OF PARCEL MAPS; AT PAGES 95 TO 96, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA. TAKEN AS SOUTH 5°29'42" EAST.

REFERENCES

(R1) TRACT 7257, FILED NOVEMBER 29, 2001 IN BOOK 261 OF PARCEL MAPS, AT PAGES 85 TO 96, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R2) MAP ENTITLED "PLAT OF THE PERCY TRACT", FILED APRIL 27, 1882 IN BOOK 7 OF MAPS, AT PAGE 52, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R3) DEED RECORDED IN BOOK 860, AT PAGE 116, OFFICIAL RECORDS OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R4) GRANT DEED RECORDED FEBRUARY 10, 1977 IN REEL 4718, IMAGE 222, OFFICIAL RECORDS OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R5) UNRECORDED MAP, CITY OF BERKELEY MONUMENT MAP, PLAN 1305, 306C-057.

(R6) PARCEL MAP 9506, FILED AUGUST 13, 2008 IN BOOK 308 OF PARCEL MAPS, AT PAGES 72 TO 73. IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R7) P.M. 8586, FILED JUNE 22, 2007 IN BOOK 298 OF PARCEL MAPS, AT PAGES 86 TO 87, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

(R8) DEED RECORDED IN BOOK 826 AT PAGE 362, OFFICIAL RECORDS OF ALAMEDA COUNTY, STATE OF CALIFORNIA.

SURVEYOR'S CERTIFICATE

TO AMERICAN COMMONWEALTH ASSOCIATES, A LIMITED PARTNERSHIP; AND FIDELITY NATIONAL TITLE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(A), 6(B), 7(A), 7(B), 7(C), 8, 9, 10, 11(A), 12, 13, 14, 16, 17, 18, AND 19 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON APRIL 15 AND 23, 2024.

JACQUELINE LUK P.L.S. 8934
FOR LUK & ASSOCIATES, INC.

DATE APRIL 30, 2029

PROFESSIONAL LAND SURVEYOR
JACQUELINE LUK
LS 8934
STATE OF CALIFORNIA

TABLE A NOTES

1. FOUND MONUMENTS ARE SHOWN ON THIS SHEET OF THE SURVEY.
2. THE STREET ADDRESS OF THE PROPERTY IS 1669–1685 SHATTUCK AVENUE AND 2109 VIRGINIA STREET, BERKELEY, CA
3. FLOOD ZONE DESIGNATION: THE PREMISES ARE LOCATED IN ZONE "X" (NON-SHADED) DEFINED AS "AREAS OF MINIMAL FLOOD," PER FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 06001C0019G, EFFECTIVE DATE: AUGUST 3, 2009.
4. THE TOTAL GROSS LAND AREA IS: 22,315 SQUARE FEET +/- OR 0.512 ACRES MORE OR LESS.
6. (A/B) ZONING REQUIREMENTS: PER THE CITY OF BERKELEY PLANNING AND ZONING DEPARTMENT, THE PROPERTY IS ZONED "C-NS" DEFINED AS "NORTH SHATTUCK COMMERCIAL DISTRICT."

   REFERENCE FOR "C-NS" ZONING IS MADE HERE TO THE CITY OF BERKELEY CODE, TITLE 23, DIVISION 2, CHAPTER 23.204, REGARDING PROPERTY DEVELOPMENT STANDARDS, MINIMUM SETBACKS, BUILDING HEIGHT LIMITATION, AND PARKING REQUIREMENTS ARE AS FOLLOWS:

   SETBACKS
   MINIMUM FRONT: 15 FEET
   MINIMUM INTERIOR SIDE: 5 FEET
   MINIMUM STREET SIDE: 6 FEET
   MINIMUM REAR: 10 FEET OR 10% OF LOT DEPTH, WHICHEVER IS LESS

   MAXIMUM HEIGHT: 35 FEET AND 3 STORIES

   MINIMUM PARKING REQUIREMENTS: NONE REQUIRED
7. (A/B1/C) EXTERIOR DIMENSIONS AND SQUARE FOOTAGE OF BUILDING AT GROUND LEVEL, AND NUMBER OF STORIES ARE SHOWN ON SHEET 2 OF THE SURVEY.
8. SUBSTANTIAL IMPROVEMENTS OBSERVED IN THE PROCESS OF CONDUCTING THE SURVEY ARE SHOWN.
9. THERE ARE 19 PARKING SPACES LOCATED ON THE SUBJECT PROPERTY.
10. THERE ARE NO DIVISIONS OR PARTY WALLS LOCATED ON THE SUBJECT PROPERTY WITH RESPECT TO ADJOINING PROPERTIES.
11. (A) LOCATION OF UTILITIES EXISTING ON OR SERVING THE SURVEYED PROPERTY AS DETERMINED BY OBSERVED EVIDENCE TOGETHER WITH EVIDENCE FROM PLAN OBTAINED FROM UTILITY COMPANIES OR PROVIDED BY CLIENT ARE SHOWN ON SHEET 2.
12. GOVERNMENTAL AGENCY SURVEY-RELATED REQUIREMENTS ARE SHOWN.
13. NAMES OF ADJOINING OWNERS OF PLATTED LANDS ARE SHOWN ON THIS SHEET OF THE SURVEY.
14. DISTANCE TO THE NEAREST INTERSECTING STREET IS SHOWN ON THIS SHEET OF THE SURVEY.
16. THERE IS NO OBSERVABLE EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS.
17. THERE IS NO OBSERVED EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS.
18. THERE ARE NO OFFSITE EASEMENTS TO THE SUBJECT PROPERTY.
19. PROFESSIONAL LIABILITY INSURANCE IN THE AMOUNT OF $2,000,000 IS HELD BY THE SURVEYOR.

BENCHMARK

ELEVATIONS SHOWN ARE BASED ON BENCHMARK 633N452, BEING CUT SQUARE ON THE TOP MIDDLE OF THE CURB AT THE SOUTH END OF THE MEDIAN ISLAND ON SHATTUCK AVENUE AT THE NORTH SIDE OF LINCOLN STREET. ELEVATION = 231.93 FEET, CITY OF BERKELEY DATUM.



VICINITY MAP
NO SCALE

NOTE

1) BEARING IS BASED ON THE MEAN BEARING OF SHATTUCK AVENUE AND WALNUT STREET.

SHEET INDEX

1) NOTES AND BOUNDARY SURVEY
2) TOPOGRAPHIC SURVEY

ALTA/NSPS LAND TITLE SURVEY

OF

1669–1685 SHATTUCK AVENUE AND 2109 VIRGINIA STREET
CITY OF BERKELEY, ALAMEDA COUNTY, CALIFORNIA

APRIL 2024

PREPARED BY
LUK AND ASSOCIATES
CIVIL ENGINEER – LAND PLANNERS – LAND SURVEYORS
738 ALFRED NOBEL DRIVE
HERCULES, CALIFORNIA 94547
(510) 724-3388

F:\Jobs\FILE2024\24071A10\ALTA-24071A10.dwg

JOB NO.: 24071A10 PLOT DATE: APRIL 30, 2024

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07.24.2025 ZAB HEARING SET

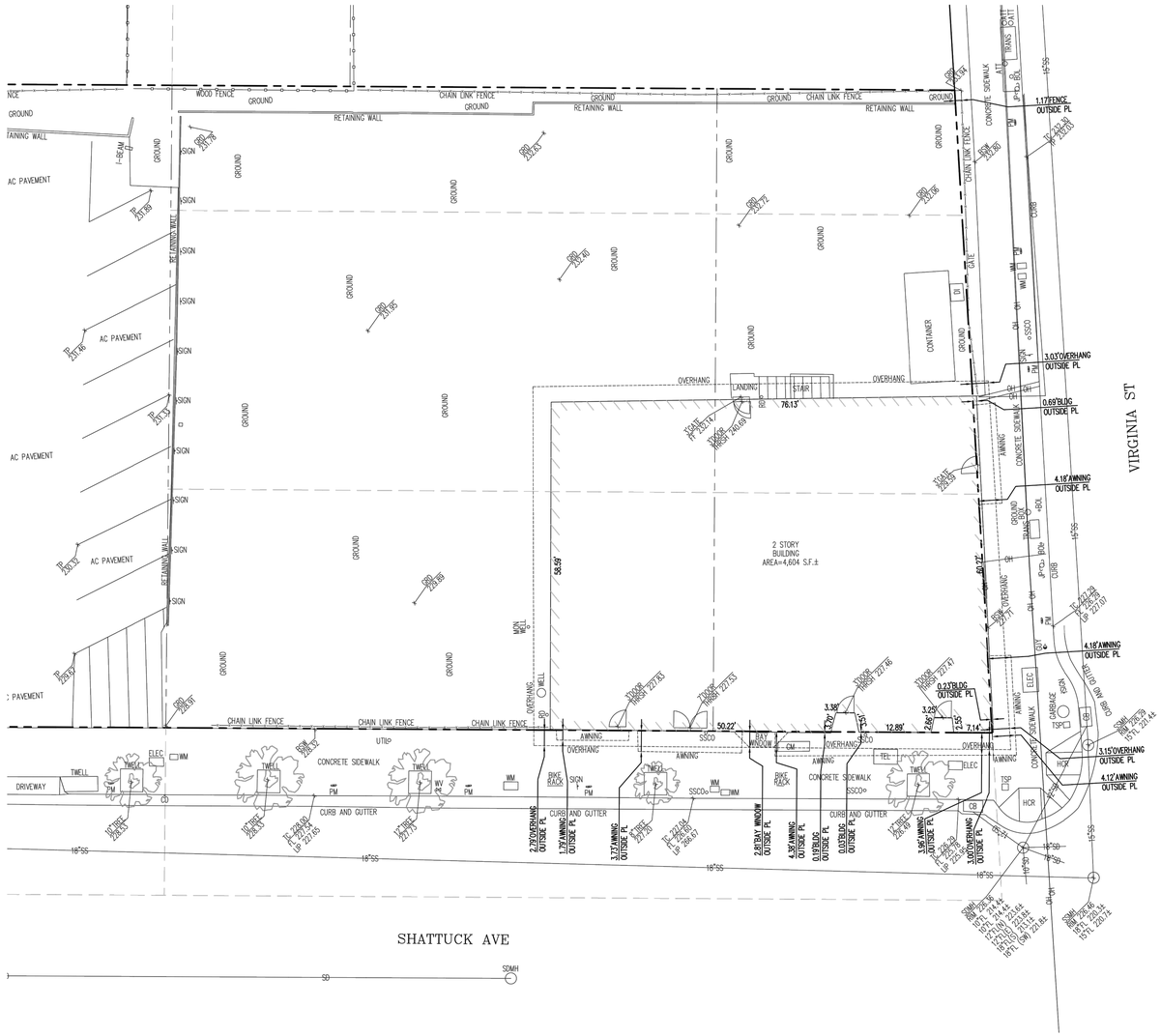
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JOB: 2341

SHEET:

SURVEY

A2.0a



LEGEND

SYMBOLS	DESCRIPTION
	BOUNDARY OF SUBJECT PROPERTU
	RIGHT OF WAY LINE
	INTERIOR PROPERTY LINE
	OLD LOT LINE
	BUILDING LINE
OH	OVERHEAD WIRE LINE
SD	STORM DRAIN LINE
SS	SANITARY SEWER LINE
TSP	TRAFFIC SIGNAL POLE
JP	JOINT POLE
AC PAVEMENT	ASPHALT CONCRETE
UTIL PANEL	UTILITY PANEL
HCR	HANDICAP RAMP
ELEC	ELECTRIC BOX
GM	GAS METER
BOL	BOLLARD
CB	CATCH BASIN
TEL	TELECOMMUNICATION BOX
DI	DRAIN INLET
WM	WATER METER
CD	CURB DRAIN
CO	CLEAN OUT
SSCO	SANITARY SEWER CLEAN OUT
TRANS	TRANSFORMER
GUY	GUY WIRE
WV	WATER VALVE
TWELL	TREE WELL
ATT	TLECOMMUNICATION BOX
PM	PARKING METER
SSMH	SANITARY SEWER MANHOLE
RD	ROOF DRAIN
MON WELL	MONITORING WELL
BSW 65.60	BACK OF SIDEWALK ELEVATION
TC 65.64	TOP OF CURB ELEVATION
TP 65.64	TOP OF PAVEMENT ELEVATION
FL 65.64	FLOW LINE ELEVATION
TOP STAIR 65.64	TOP OF STAIR ELEVATION
BOT STAIR 65.64	BOTTOM OF STAIR ELEVATION
TOP BLDG 65.64	TOP OF BUILDING ELEVATION
THRSH 65.60	THRESHOLD ELEVATION
CONC 65.60	TOP OF CONCRETE ELEVATION
	TREE

SCALE: 1"= 10'

NORTH

GRAPHIC SCALE

10 0 5 10 20

(IN FEET)

1 inch = 10 ft.

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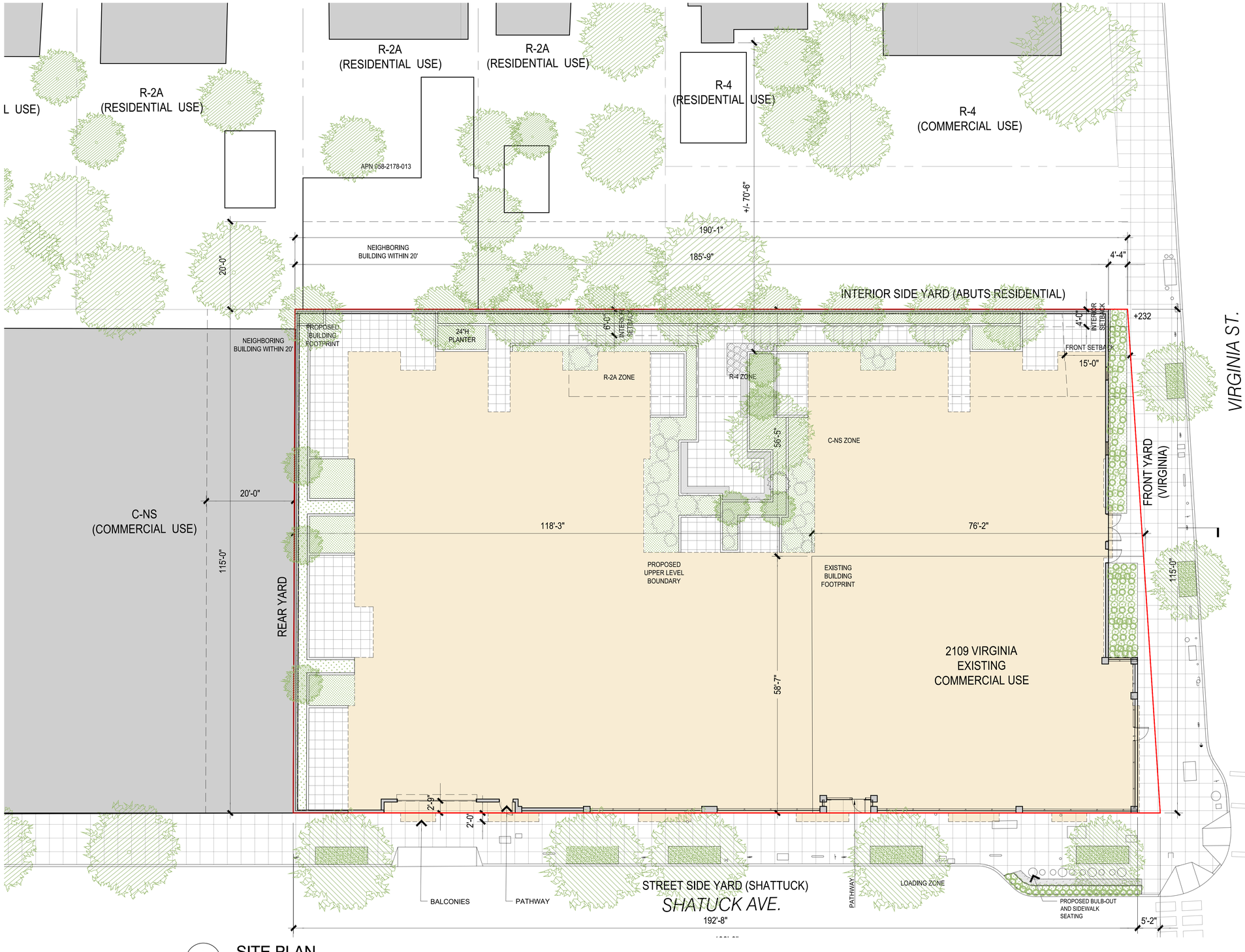
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JOB: 2341

SHEET:

SURVEY

A2.0b



SITE PLAN
3/32" = 1'-0"

0 4 8

N

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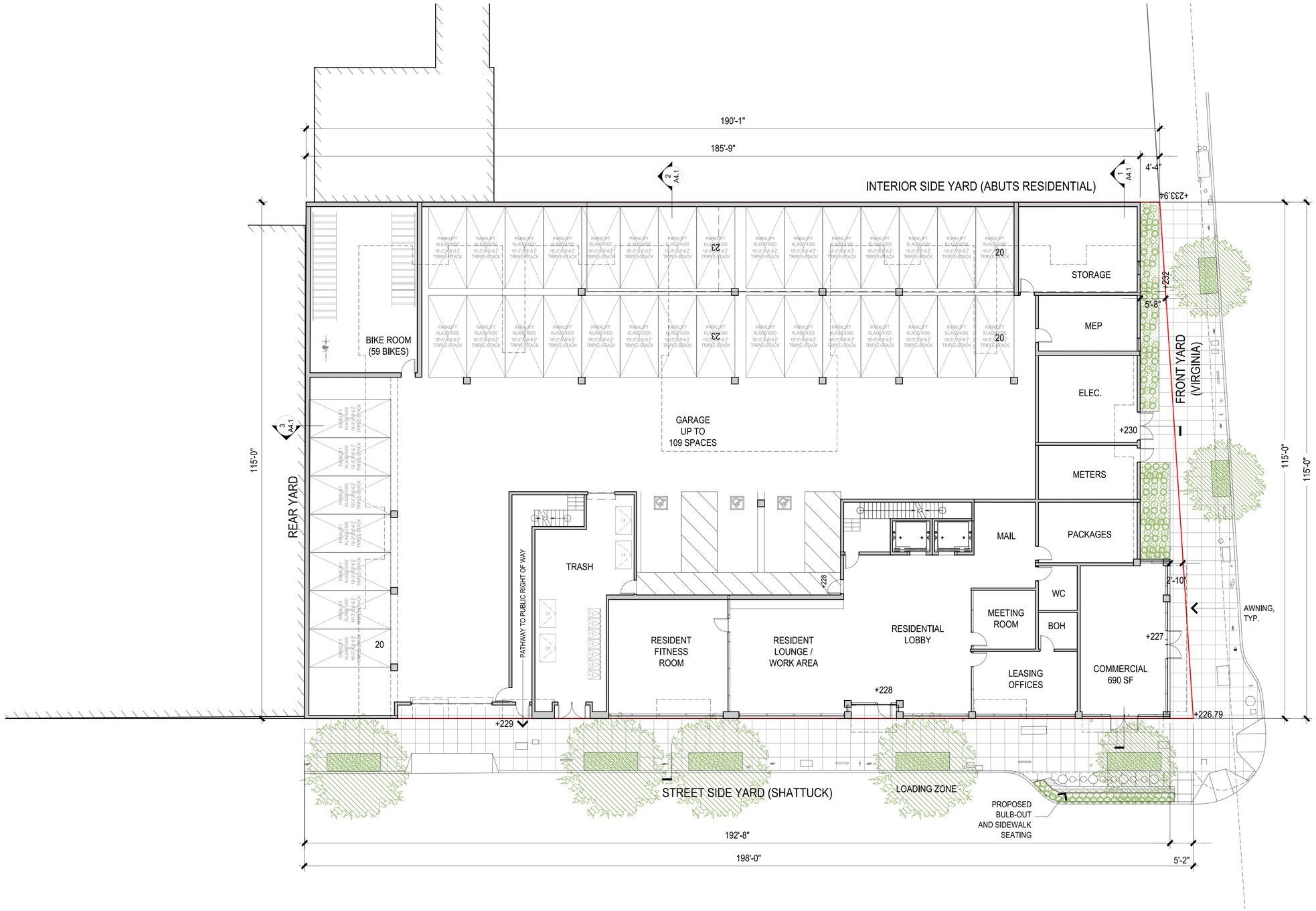
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JOB: 2341

SHEET:

PROPOSED SITE PLAN

A2.0c



PLAN AT GROUND LEVEL

3/32" = 1'-0"

0 4 8

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JOB: 2341

SHEET:

PROPOSED FLOOR PLAN

A2.1



STREET SIDE YARD (SHATTUCK)

PLAN AT LEVEL 2 PODIUM

3/32" = 1'-0"

0 4 8

N

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JOB: 2341

SHEET:

PROPOSED FLOOR PLAN

A2.2



PLAN AT LEVELS 3-7

3/32" = 1'-0"

0 4 8

N

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JOB: 2341

SHEET:

PROPOSED FLOOR PLAN

A2.3



PLAN AT LEVEL 8

3/32" = 1'-0"

0 4 8

N

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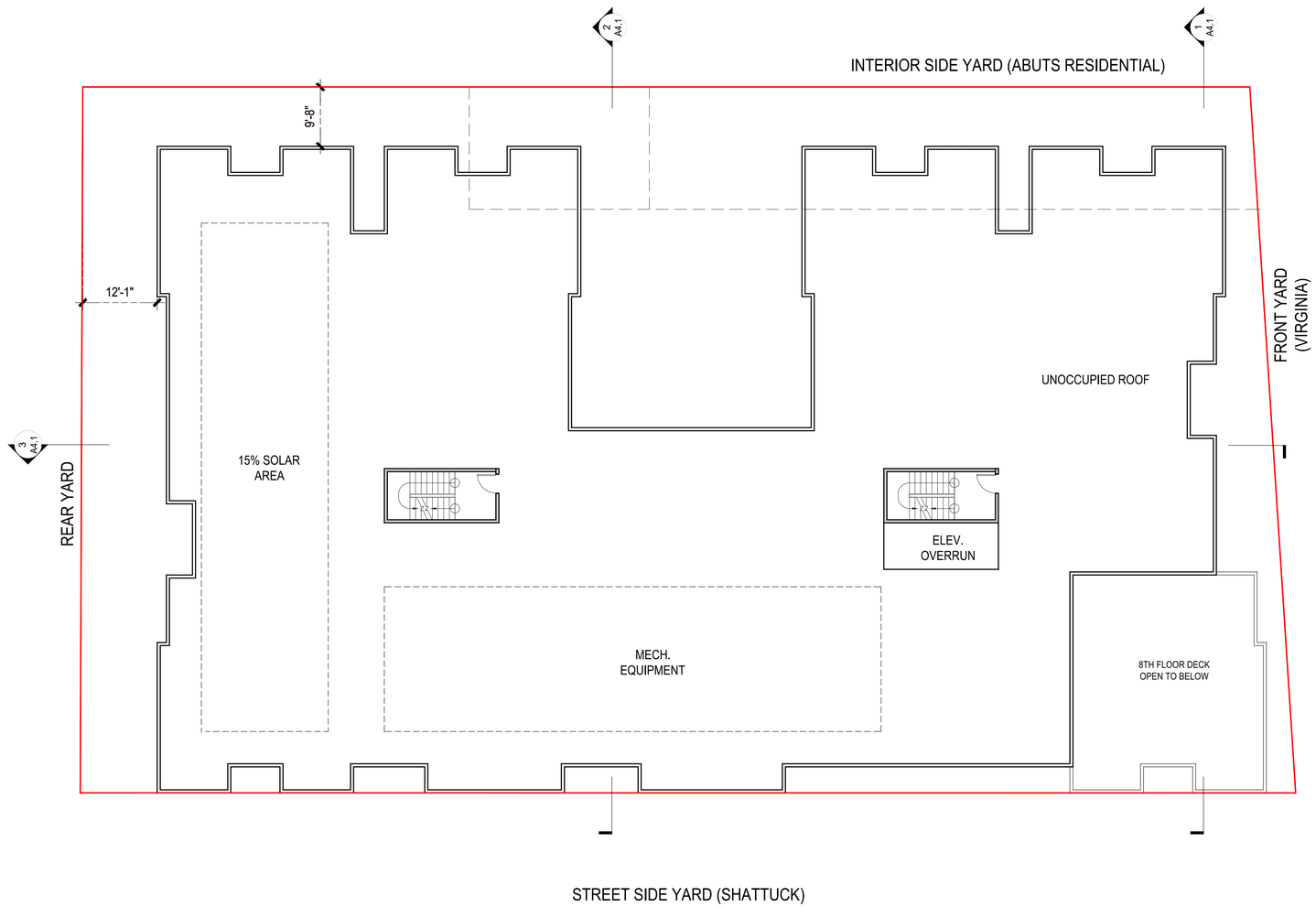
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JOB: 2341

SHEET:

PROPOSED FLOOR PLAN

A2.4



PLAN AT ROOF
3/32" = 1'-0"

0 4 8

N

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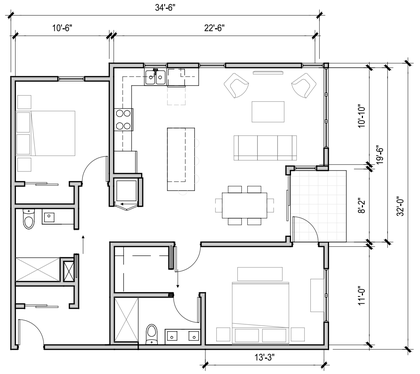
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JOB: 2341

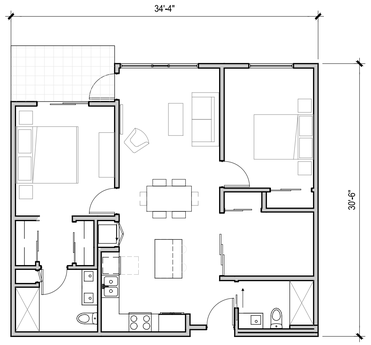
SHEET:

PROPOSED
ROOF
PLAN

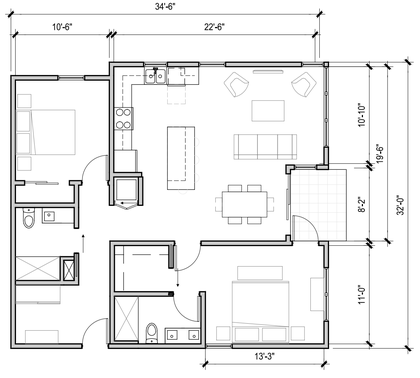
A2.5



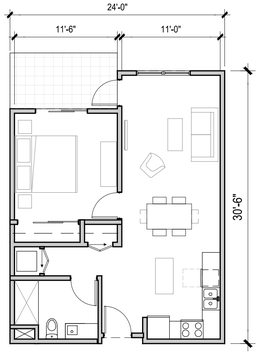
2BR CORNER UNIT AT WEST
1,075 SF



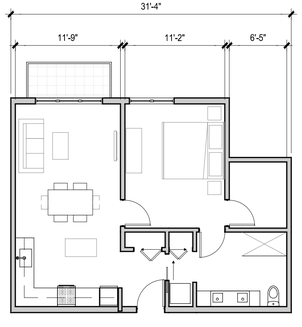
2BR PLUS OFFICE
1,000 SF



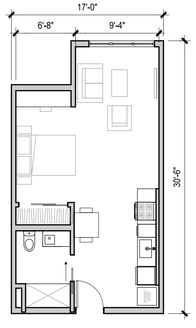
2BR CORNER UNIT AT EAST
1,075 SF



1BR
677 SF



1BR AT COURTYARD
706 SF



STUDIO
485 SF

TYPICAL UNIT PLANS

3/32" = 1'-0"

0 4 8

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SHEET:

PROPOSED
UNIT
PLANS

A2.6



1 A3.1 WEST ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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SHEET:

BUILDING ELEVATIONS

A3.1

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1 A3.2 SOUTH ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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SHEET:

BUILDING ELEVATIONS

A3.2

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1 A3.3 EAST ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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BUILDING ELEVATIONS

A3.3



1 A3.4 NORTH ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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BUILDING ELEVATIONS

A3.4



2 - VIRGINIA ST.

1/32"=1'-0" @ 11X17 1/16" = 1'-0" @ 24X36

0 4 8 16 32



1 - SHATTUCK AVE.

1/32"=1'-0" @ 11X17 1/16" = 1'-0" @ 24X36

0 4 8 16 32

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SHEET:

STREET STRIP ELEVATIONS

A3.5



4 A3.6 SHATTUCK LOOKING SOUTH - AFTER



2 - VIRGINIA LOOKING WEST - AFTER



3 A3.6 SHATTUCK LOOKING SOUTH - BEFORE



1 - VIRGINIA LOOKING WEST - BEFORE

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SHEET:

PHOTO MATCH VIEWS

A3.6

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1 - PERSPECTIVE VIEW - SHATTUCK LOOKING NORTHEAST

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SHEET:

CONCEPTUAL RENDERING

A3.7

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1 PERSPECTIVE VIEW - SHATTUCK LOOKING NORTHEAST
-

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SHEET:

CONCEPTUAL RENDERING

A3.8



1 - SIDEWALK VIEW - SHATTUCK LOOKING NORTH
-

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SHEET:

CONCEPTUAL RENDERING

A3.9

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1 - PERSPECTIVE VIEW - SHATTUCK LOOKING SOUTHEAST
-

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SHEET:

CONCEPTUAL RENDERING

A3.10

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1 - PERSPECTIVE VIEW - VIRGINIA LOOKING WEST
-

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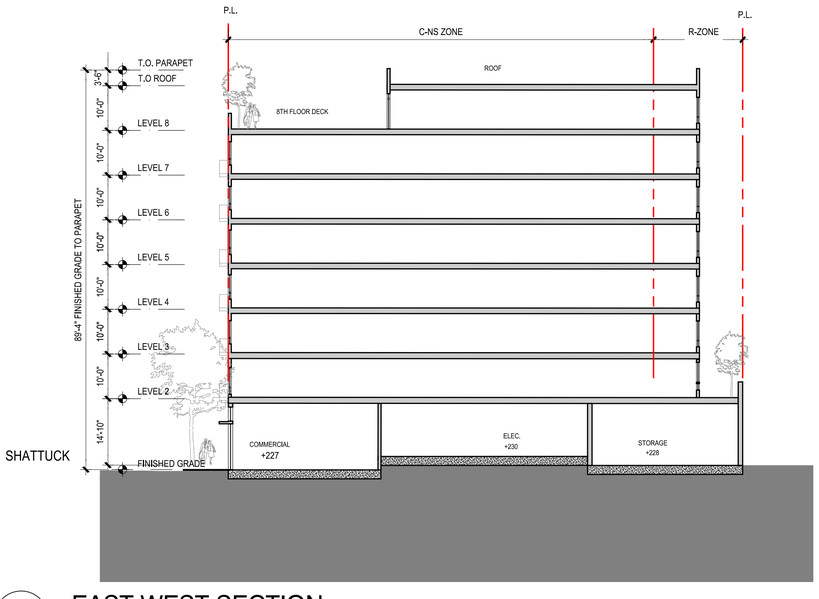
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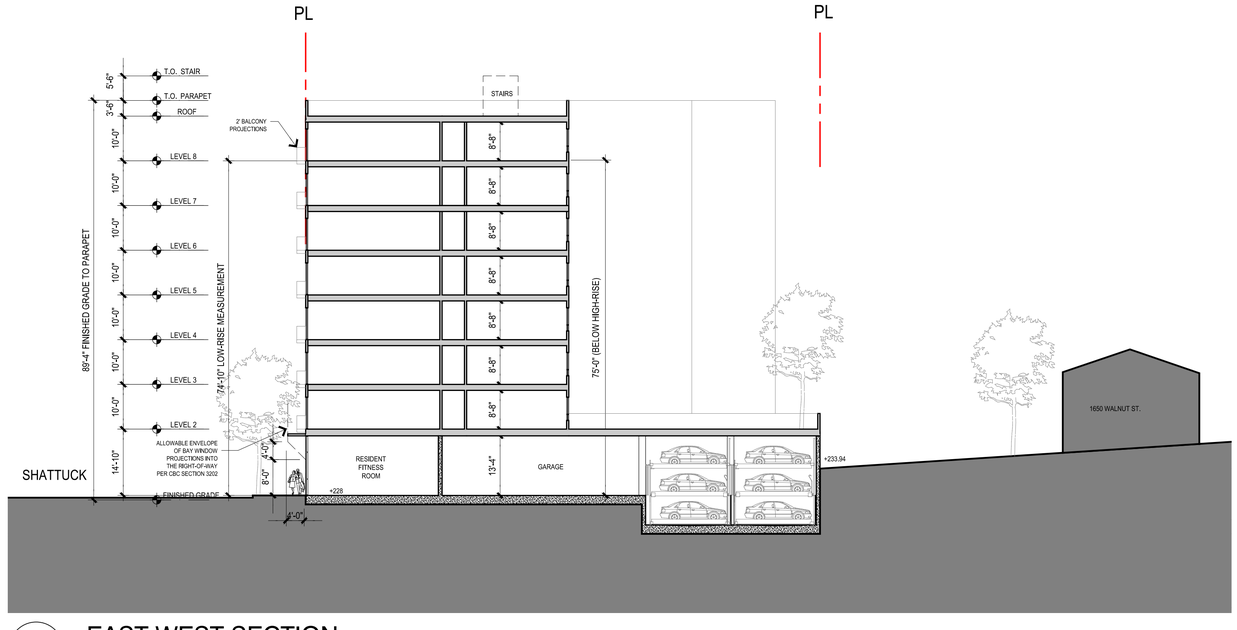
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CONCEPTUAL RENDERING

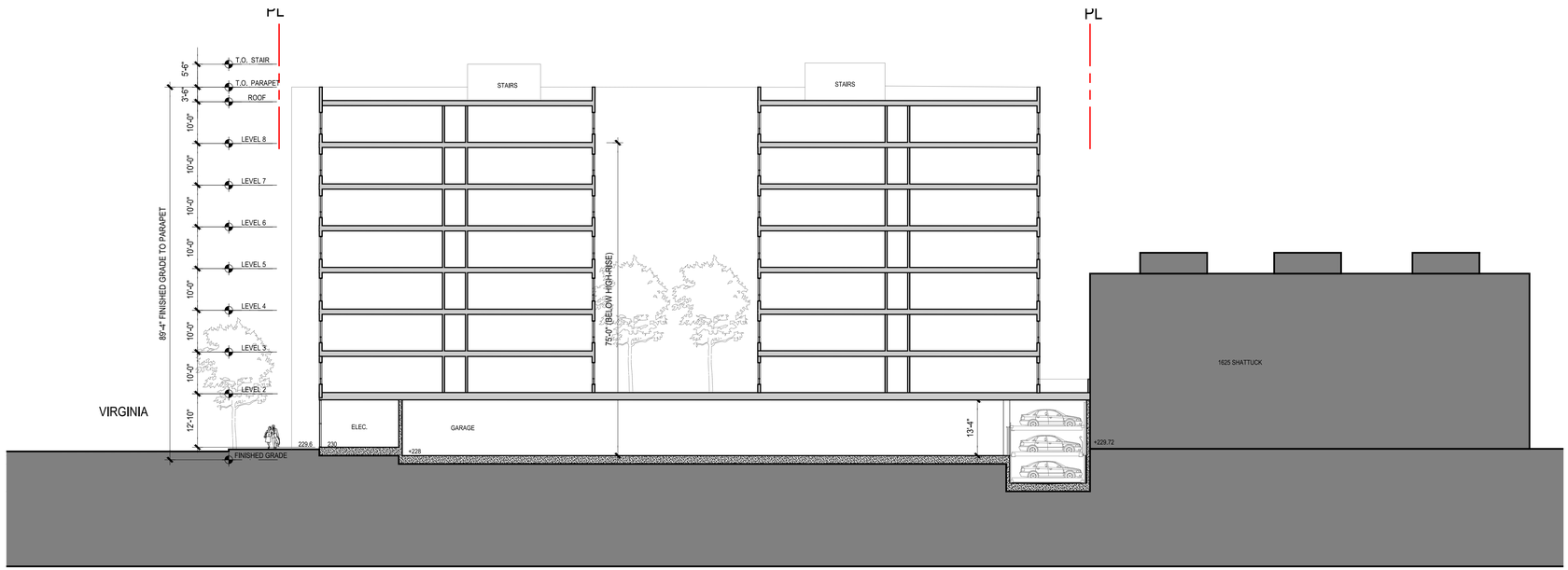
A3.11



1 - EAST WEST SECTION
1/16" = 1'-0" -



2 - EAST WEST SECTION
1/16" = 1'-0" -



3 - NORTH SOUTH SECTION
1/16" = 1'-0" -

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SHEET:

PROPOSED SECTIONS

A4.1



CUT AND FILL CALCULATIONS

	CUT/FILL AREA	AVERAGE CUT/FILL DEPTH (FT)	TOTAL VOLUME (CY)
PROPOSED BUILDING and SITE	22,335	5.25	4,343

EARTHWORK NOTES:

1. EARTHWORK QUATNITY IS A ROUGH ESTIMATE BASED ON APPROXIMATE DEPTH OF BOTTOM OF BASEMENT PARKING LEVEL.

2. EARTHWORK QUANTITIES DO NOT TAKE INTO ACCOUNT SOIL SHRINKAGE, SOIL SWELLING, TRENCH SPOILS, SITE OVER-EXCAVATION REQUIREMENTS.

1 / - PRELIMINARY GRADING PLAN

1/16" = 1'-0" -

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SHEET:

PRELIMINARY
GRADING PLAN

A5.1



METAL INFILL PANEL



WOOD LOOK SIDING



THIN BRICK



DECORATIVE METAL BALCONY



1 - WEST ELEVATION

1/16"=1'-0" @ 11X17 1/8" = 1'-0" @ 24X36

0 4 8 16

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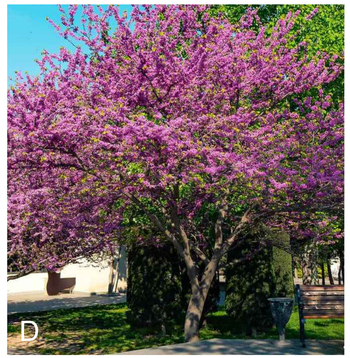
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BUILDING MATERIALS

MAT





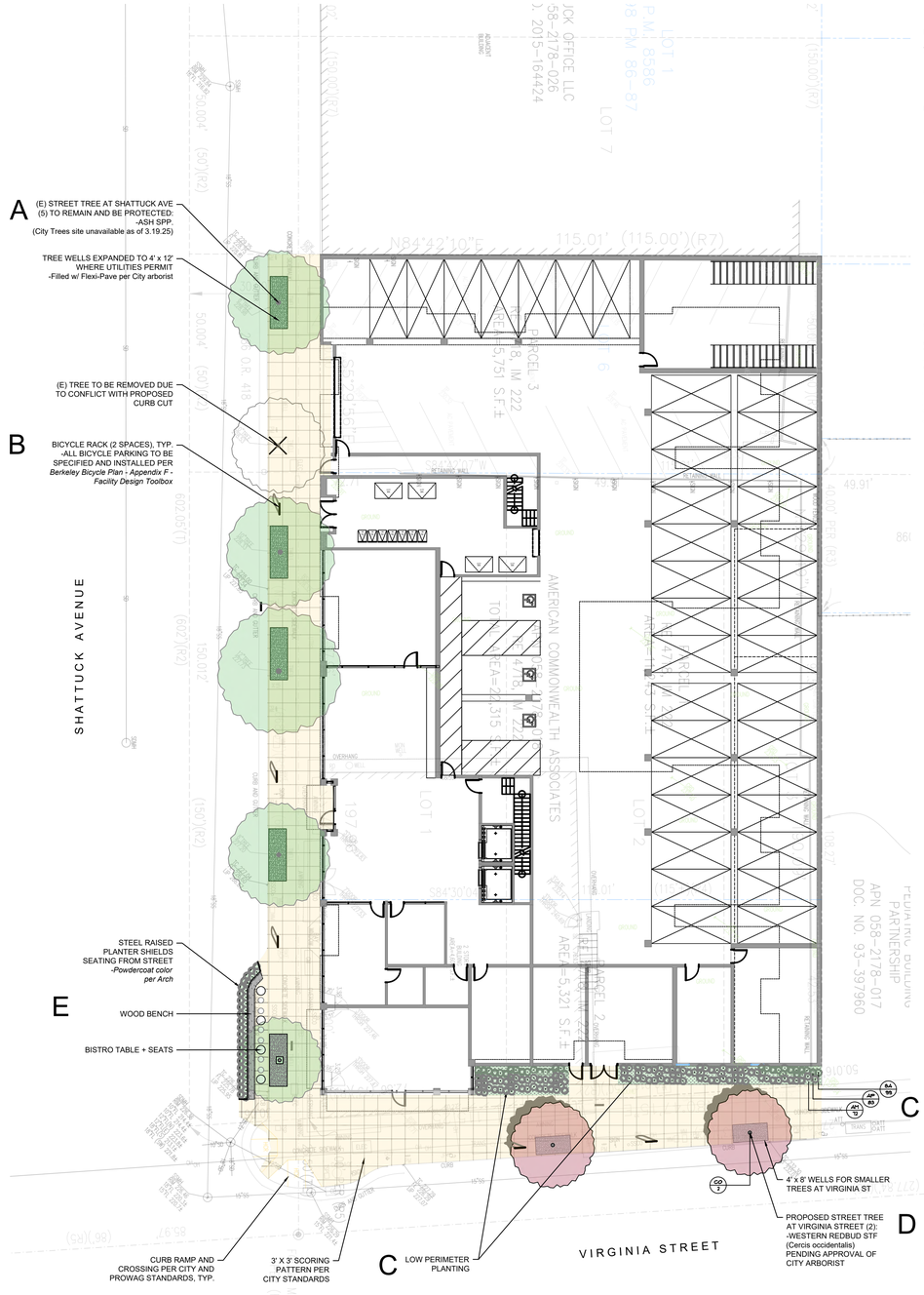












Plant List

Sche.	Latin Name	Common Name	Size	Qty	Spacing	WUCOLS	Exposure	FTP*	Notes + Pollination Supported	CA Native
Trees										
AF	Acer negundo 'Flamingo'	Flamingo Box Elder	24" box STF	1	As Shown	M	SU, P	X	**Courtyard tree** - Specimen. *Alopmilo orbis, Atopylla pomeliera, Anacompsis rhodochlamys, Hesperonola parryi*	C
CO	Cercis occidentalis	Western Redbud	24" box STF	2	As Shown	VL	SU, P	X	**Street tree on Virginia**, *Anctolpra pyramidalidea, Antipa argyropalp, Blaton flavifrons, Cercupis directiva*	X
CT	Citrus x mayeri		24" box	1	As Shown	M	SU		**Roof deck tree** - Edible.	
MD	Malus domestica	Multi Grafted Apple	15 gal espalier	1	As Shown	M	SU		**Roof deck tree** - Edible.	
PT	Pittosporum tenuifolium 'Silver Sheen'	Silver Sheen Kohuhu	15 gallon	28	4'-0" o.c.	M	SU, P		**Courtyard tree** - Screening.	
Shrubs										
AA	Agave attenuata 'Boutin Blue' 'Nova'	Blue Fox Tail Agave	15 gallon	2	36"	L	any			
AH	Arctostaphylos densiflora 'Dr. Hurd'	Dr. Hurd Manzanita	15 gallon	4	As Shown	L	SU, P	X	**Courtyard shrub** - Accent. *Callophrys augustinus, Eglo pembiens, Hesperonola kuphiusae*	C
BA	Bouteloua gracilis 'Blonde Ambition'	Blonde Ambition Blue Grama Grass	1 gallon	106	36"	L	SU, P	X	Larval host plant in the species. *Hesperia juthalina,, Hesperia uncas, Nicelmiosa nilliqua, Ochlodes sylvanoides*	C
CM	Ceanothus 'Marie Simon'	Marie Simon Ceanothus (yale pink)	15 gallon	50	60"	L	SU, P			H
CS	Cornus sericea (L. Sisterana 'Hedgerow Gold'	Hedgerows Gold Redwig Dogwood	15 gallon	3		M	any		**Courtyard shrub** - Accent.	X
DM	Dahlia 'Mystic Dreamer'	Mystic Dreamer Dahlia	1 gallon	2		M	SU, PA			
RW	Rosa sanguineum 'White Icicle'	White Icicle Flowering Currant	15 gallon	2		L	any		**Courtyard shrub** - Accent. Paler flower than the species.	C
MP	Mahonia pinnata	California Holly Grape			48"	L	any		**Courtyard shrub** - Accent.	
YF	Yucca flaccedosa x yaletta 'Silver Anniversary'	Silver Anniversary Yucca (spineless)	10 gallon	3	48"	L	SU			
Groundcovers and Vines										
AM	Achillea millefolium 'Sonoma Coast'	Sonoma Coast Yarrow	1 gallon	72	18"	L	SU		*Aethes simorthonionna, Gillneria imbrifera, Hesperia comoides Sofursida, Lacticipola olivacea* Butterflies, bumblebees and sweat bees.	X
AP	Aristida purpurea	Purple Three-Awn	1 gallon	83	18"	L	SU, P			X
CP	Calyptega macrostegia 'Anacapa Pink'	Anacapa Pink Island Morning Glory	1 gallon	57		L, M	SU			C
DP	Dudleya pulverulenta	Chalk Dudleya	1 gallon	19	as shown	L	SU, PA		Agyrotaenia franciscana, Callophrys mossii, Hesperia comoides Sofursida,	X
EG	Erigeron glaucus 'Sea Breeze'	Sea Breeze Seaside Daisy	4" pots	33	12"	L	any	X	*Agyrotaenia Franciscana, Platyptilia williamsi,* Chlorgne gallid, Chlorgne jadis	X
EN	Echeveria 'Nodulosa'	Painted Echeveria	1 gallon	6	as shown	L	any			https://devilmountainnursery.com/echeveria-nodulosa/
EX	Erigeron karvinskianus	Fleabane	4" pots	31	24"	L	any	X	Smaller flower, finer foliage than Erigeron glaucus.	
ID	Iris douglasiana	Douglas Iris	1 gallon	92	18"	L	any			X
JP	Jasminum polyanthum	Pink Jasmine	1 gallon	46		M	any			
LA	Lavandula angustifolia 'Munstead'	Munstead English Lavender	1 gallon	16	15"	L	SU		**Roof deck border** - Edible, evergreen accent.	
LC	Leymus condensatus 'Canyon Prince'	Canyon Prince Blue Wild Rye	1 gallon	21	36"	L	any	X	Blue foliage than the species.	C
PE	Passiflora edulis 'Nancy Garrison'	Nancy Garrison Passion Fruit	5 gallon	1	as shown	M	SU		**Roof deck vine** - Edible.	
SA	Salvia apiana 'Compacta'	Dwarf California White Sage	1 gallon	69	24"	L	any	X	*Hymenoptera, Xiaguida orbis, Anotecophila californica, Hesperia comoides Sofursida, Pterne subcostata* Caterpillars, butterflies.	X
SS	Sedum spathulifolium 'Cape Blanco' or 'Purpureum'	Pacific Stonecrop	1 gallon	42	12"	L	any			X

Note: All plantings will be watered by an automated irrigation system compliant with City of Berkeley code. Water calculations will be documented and submitted to City for review.
The proposed planting shall be WELO compliant.

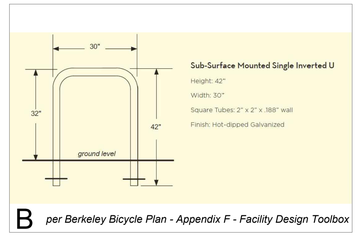
Note: approximately 85% of specified plants will be California native and wildlife-supporting.
X = California native; C = Cultivar of CA native; H = Hybrid of CA native

**Species appropriate for FTP if needed. Species selected for flow-through planters (FTP) per Stormwater C.3 Guidebook (Dabiel et. al. 2022) and San Francisco Stormwater Management Requirements and Design Guidelines (SMR).*

Berkeley to USDA Site and Sunset 17

Non-native columnar screening tree search: https://selectree.calpoly.edu/search-results?filterData=maxHeight=100;tree_shape=Columnar;foliage_type=Evergreen;humid_climate_zone=17;changed=true#sortPage=&resultsPerPage=50&start=1
CA native screening tree search: https://selectree.calpoly.edu/search-results?filterData=maxHeight=100;ca_native=1;foliage_type=Evergreen;humid_climate_zone=17;changed=true#sortPage=&resultsPerPage=50&start=1

CA native screening tree search max 20' width: https://calscape.org/search/?plant=&orderBy=&location_name=&lat=&lng=&page=1&perPage=50&plant_type%5B%5D=tree&common_size%5B%5D=Container&common_size%5B%5D=Medium&height_from=&height_to=&width_from=&width_to=20&deciduous%5B%5D=Evergreen



North 0 8 16 32 1/16" = 1'-0"

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SHEET:

Ground Level Streetscape and UOS

L1-SS







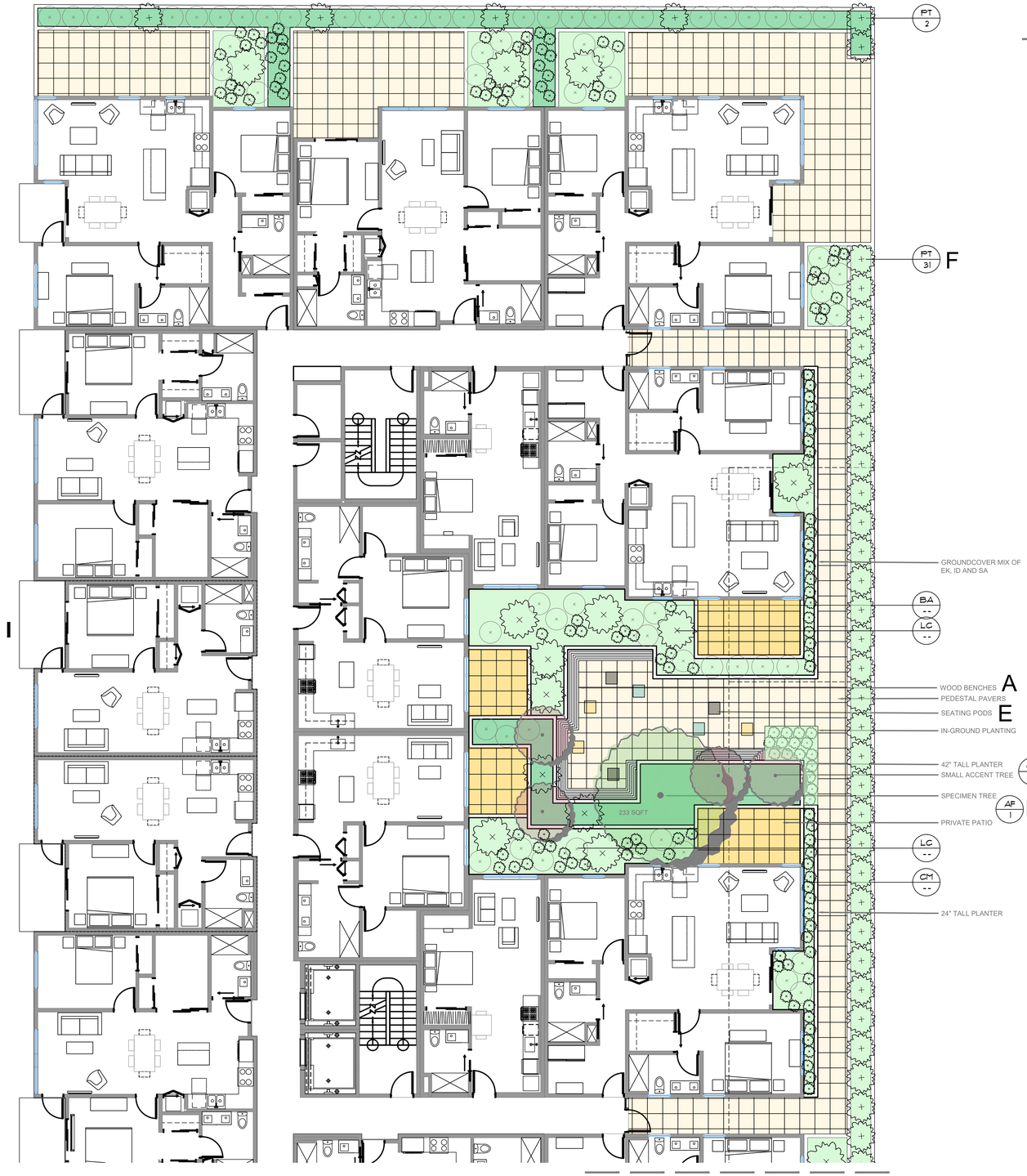


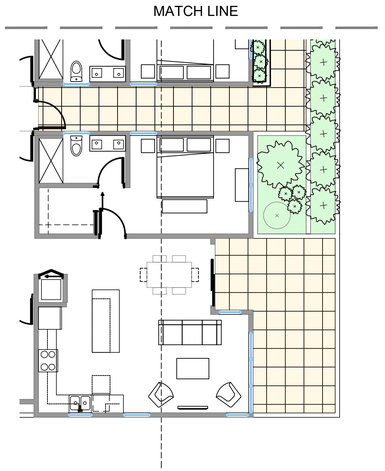














North 0 4 8 16 1/8"=1'-0"

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PANORAMIC 1685 SHATTUCK

Berkeley, CA

12.11.2023 SB330 SUBMISSION
04.30.2024 STRUCTURAL CONCEPT
05.31.2024 ZONING APPLICATION
09.13.2024 ZONING SUBMITTAL
04.01.2025 ZONING RESUBMITTAL
07.24.2025 ZAB HEARING SET

ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREIN CONSTITUTE ORIGINAL AND UNPUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED, USED OR DISCLOSED WITHOUT WRITTEN CONSENT OF TRACHTENBERG ARCHITECTS.

JOB: 2109

SHEET:

Second Level Courtyard

L2-CY



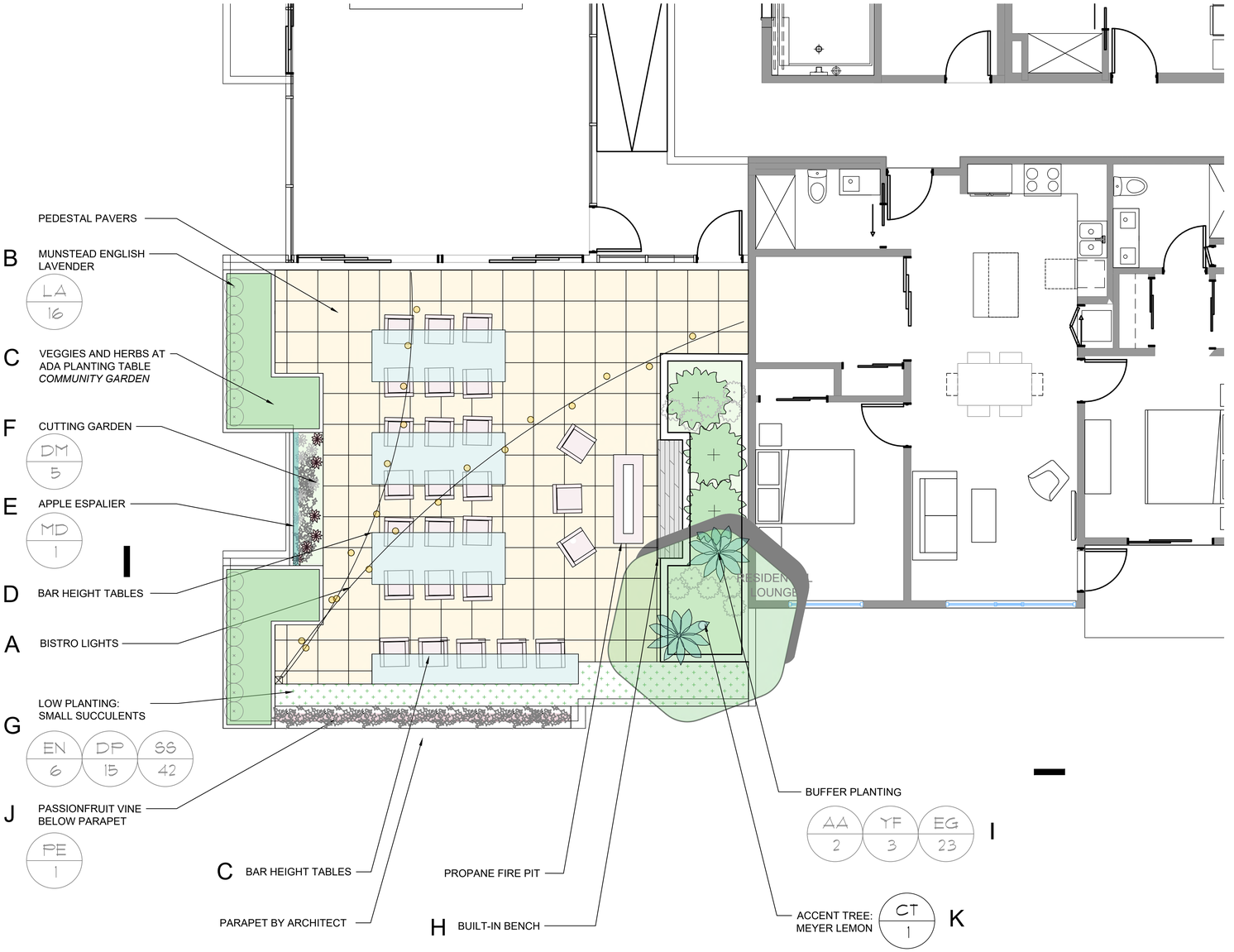
























North

1/4" = 1'-0"

0 2 4 8

TRACHTENBERG ARCHITECTS

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JOB: 2109

SHEET:

Eighth Level
Roof Deck

L3-RD

STREET TREE COORDINATION NOTES:

a) PROPOSED STREET TREE SPECIES, LOCATION, AND CONDITIONS SUBJECT TO ONGOING REVIEW AND APPROVAL BY THE CITY OF BERKELEY'S MANAGING CONSULTING URBAN FORESTER AND ARBORIST. ~~PROPOSED STREET TREES ARE CURRENT WITH EXISTING UTILITIES AS OF xx.xx.2024 AND~~ WILL BE SUBJECT TO ADDITIONAL REVIEW AFTER PROPOSED UTILITIES ARE FINALIZED.

b) TREE PROTECTION FENCING LOCATIONS AND DETAILS TO BE ADDED TO THE DEMOLITION PLAN IN BUILDING PERMIT SET.

c) CLEARANCE PRUNING REQUIRES PRIOR APPROVAL OF THE CITY. APPROVED CLEARANCE PRUNING SHALL BE COMPLETED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BEST MANAGEMENT PRACTICES FOR PRUNING (INTERNATIONAL SOCIETY OF ARBORICULTURE) AND THE AMERICAN NATIONAL STANDARD FOR TREE CARE OPERATIONS (Z133.1) AND PRUNING (A300, PART 1). TREES SHALL NOT BE TOPPED OR HEADED BACK. TREE PRUNING SHALL BE COMPLETED TO REDUCE LIMBS FOR CLEARANCE WHILE MAKING THE SMALLEST CUTS POSSIBLE. TREE PRUNING SHOULD BE LIMITED TO MINOR BRANCHES. BRANCH REMOVAL OR REDUCTION CUTS (THINNING CUTS) ARE TO BE EMPLOYED RATHER THAN HEADING CUTS.

d) ALL EXISTING STREET TREES (INCLUDING ANY OF THEIR BRANCHES) ADJACENT TO PLANNED CONSTRUCTION SCAFFOLDING MUST BE PROTECTED FROM MECHANICAL INJURY.

e) ROOT PRUNING REQUIRES PRIOR APPROVAL OF THE CITY AND SHALL BE SUPERVISED BY THE PROJECT ARBORIST. SEE NOTES BELOW FOR MORE INFORMATION.

STREET TREE PROTECTION DURING CONSTRUCTION NOTES:

a) ALL TREE PROTECTION REQUIREMENTS AND RESTRICTIONS SHALL BE INCLUDED IN THE CONSTRUCTION NOTES AND PRINTED ON ALL COPIES OF THE PLANS. INCLUDE THE NAME AND PHONE NUMBER OF THE PARTY THAT WILL MONITOR THE SITE AND ENSURE THE TREE PROTECTION MEASURES ARE BEING FOLLOWED; AND WHAT THE MONITORING SCHEDULE WILL BE: **NAME / PHONE / SCHEDULE**

b) TREE PROTECTION ZONES: THE CALCULATED TREE PROTECTION ZONE IS THE ENTIRE DRIPLINE OF THE TREES.**THE SPECIFIED TREE PROTECTION ZONE IS THE ENTIRE PARKWAY (TREE WELL).** NO GRADING, EXCAVATION, CONSTRUCTION OR STORAGE OF MATERIALS SHALL OCCUR WITHIN THE SPECIFIED TREE PROTECTION ZONE. NO UNDERGROUND SERVICES INCLUDING UTILITIES, SUB-DRAINS, WATER OR SEWER SHALL BE PLACED IN THE TREE PROTECTION ZONE.

c) TREE PROTECTIONS: ADD TREE PROTECTION FENCING TO PROTECT THE EXPOSED DRIPLINE WITHIN THE PARKWAY (FIGURE 2). INSTALL 6 FOOT CHAIN-LINK OR WOOD FENCING TO PROTECT THE AREA WITHIN THE TREE WELL OF ANY PROTECTED TREE IN THE DEVELOPMENT AREA. FENCING SHALL BE MOUNTED TO POSTS THAT ARE DRIVEN INTO THE GROUND (SEE FIGURES 2 AND 3). ALL STREET TREE PROTECTION FENCING MUST PROTECT ENTIRE EXPOSED SOIL AREA WITHIN EACH TREE WELL. ~~WHERE THIS IS NOT POSSIBLE BECAUSE OF EXISTING STRUCTURES, TREE ROOTS, OR OTHER OBSTACLES, CHAIN-LINK PANELS MOUNTED TO STANCHIONS AND CONNECTED TO EACH OTHER MAY BE APPROVED. IN AREAS WHERE DIFFICULT TERRAIN MAKES THIS IMPRACTICAL, ORANGE CONSTRUCTION FENCING MAY BE APPROVED.~~

d) ALL FENCING SHALL HAVE SIGNAGE STATING THE REQUIREMENTS AND RESTRICTIONS, AND THE CONTACT INFORMATION FOR THE PROJECT ARBORIST.

e) ~~WHEN ANY APPROVED CONSTRUCTION ACTIVITY WILL OCCUR WITHIN THE DRIP LINE OF A PROTECTED TREE THAT IS NOT SURROUNDED BY PROTECTIVE FENCING, THE TRUNK SHALL BE PROTECTED BY WRAPPING IT WITH STRAW TUBES (WATTLE) OR VERTICAL WOOD SLATS (EX. 2X4), UP TO A MINIMUM OF 8 FEET FROM GRADE (SEE FIGURE 1, PAGE 6). SLATS SHALL BE ANGLED TO PROTECT THE ROOT FLARE AT THE BASE OF THE TREE, AND CLOSED CELL FOAM OR EQUIVALENT MATERIAL SHALL BE USED TO PROTECT THE TRUNK OF THE TREE WHERE IT CONTACTS THE SLATS. LATERAL BRANCHES BELOW 8 FEET SHALL ALSO BE PROTECTED. IN ADDITION, THE AREA SHALL BE COVERED WITH A 6 INCH LAYER OF MULCH TOPPED WITH 3/4 INCH PLYWOOD THAT IS FASTENED TOGETHER. IF ANY LARGE OR MOTORIZED EQUIPMENT (MINI EXCAVATOR, BOBCAT®, POWERED WHEELBARROW) WILL TRAVEL OVER THIS AREA, THE PLYWOOD MUST BE A MINIMUM OF 1 INCH AND ADEQUATE FOR THE WEIGHT OF THE EQUIPMENT THAT WILL TRAVEL OVER IT. IF LARGER EQUIPMENT (BACKHOE, TRACTOR) WILL BE USED, CONSULT THE CITY ARBORIST.~~ ***CONSTRUCTION ACTIVITY REFERS TO ANY MOVEMENT OF PEOPLE, TOOLS, OR EQUIPMENT; OR STORAGE OF ANY TOOLS, EQUIPMENT, OR SUPPLIES.***

f) IRRIGATION: ADD IRRIGATION TO WET THE SOIL IN THE PARKWAY TO A DEPTH OF 12 INCHES. ONCE SOIL IS AT FIELD CAPACITY, IRRIGATION CAN BE SCALED BACK TO REPLACE THE WATER LOST THROUGH EVAPOTRANSPIRATION (ET).

g) MULCH: ADD 4 - 6 INCHES OF COURSE ORGANIC MULCH. THE MULCH SHOULD NOT COME IN CONTACT WITH THE TRUNK BUT SHOULD BE 24 INCHES AWAY FROM THE TRUNK.

h) LOCATE AND EXPOSE ANY ROOTS 2 INCHES IN DIAMETER OR GREATER THAT MAY NEED TO BE PRUNED TO FACILITATE THE PROJECT. THIS INCLUDES ANY TRENCHING THAT WILL BE DONE AS PART OF FOUNDATION OR UTILITY INSTALLATION. CONTACT THE CITY ARBORIST IN ADVANCE TO LESSEN THE AMOUNT OF TIME THAT THE ROOTS WILL BE EXPOSED. IF ROOTS MUST BE LEFT EXPOSED FOR MORE THAN THREE DAYS, CONSULT THE CITY ARBORIST. **NOTE:** THE 2 INCH DIAMETER THRESHOLD FOR ROOTS IS A GUIDELINE THAT MAY BE ADJUSTED BY THE CITY ARBORIST DEPENDING ON THE SIZE AND CONDITION OF THE TREE, AND THE LOCATION OF THE ROOTS. THE CITY ARBORIST MAY INCREASE THE TPZ, OR IMPOSE OTHER RESTRICTIONS, WHEN THE DRIPLINE OF A TREE HAS BEEN ALTERED BY PRUNING OR UNUSUAL GROWTH PATTERNS. ANY ROOT PRUNING THAT WILL OCCUR WITHIN THE PARKWAY: ALL WORK IN THE AREA WILL REQUIRE PRIOR APPROVAL AND SHALL BE SUPERVISED BY THE PROJECT ARBORIST. ROOTS SHOULD BE CUT WITH A SAW TO PROVIDE A FLAT AND SMOOTH CUT. REMOVAL OF ROOTS LARGER THAN 2 INCHES IN DIAMETER SHOULD BE AVOIDED.

i) NO STORAGE OF BUILDING MATERIALS, REFUSE, EXCAVATED SPOILS, OR DUMPING OF POISONOUS MATERIALS, IS PERMITTED WITHIN THE DRIP LINE OF ANY PROTECTED TREE. POISONOUS MATERIALS INCLUDE, BUT ARE NOT LIMITED TO, PAINT, PETROLEUM PRODUCTS, CONCRETE OR STUCCO MIX, DIRTY WATER, OR ANY OTHER MATERIAL WHICH MAY BE DELETERIOUS TO TREE HEALTH.

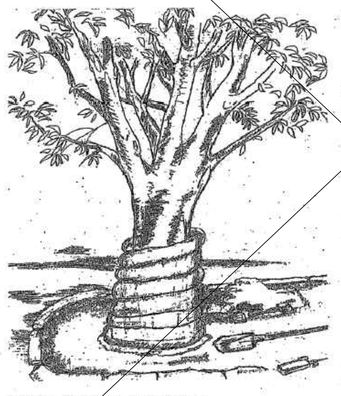
STREET TREE PLANTING NOTES:

1. FOR NEW PLANTING:
   a. THE CITY ARBORIST SHALL BE NOTIFIED, BY CALLING (510) 981-6660, PRIOR TO THE DELIVERY OF THE TREES FOR INSPECTION OF THEIR SIZE AND STRUCTURE.
   b. EACH TREE SHALL BE PROPERLY PLANTED AT OR JUST BELOW GRADE (<1"). SOIL AMENDMENT IS NOT RECOMMENDED. NO CONSTRUCTION RUBBLE OR NON-ORGANIC MATERIAL SHALL BE WITHIN THE TREE WELL. NATIVE SOIL IS PREFERRED.
   c. THE SURROUNDING SOIL OUTSIDE THE CONTAINER (ROOT BALL) SHOULD BE LIGHTLY COMPACTED TO ABOUT 4 INCHES BELOW GRADE WITH THE ROOT BALL HIGHER THAN THAT.
   d. 2 TO 2.5 INCHES OF BASE ROCK SHOULD BE APPLIED AROUND THE ROOT BALL LEAVING 1.5 TO 2 INCHES LEFT FOR THE MATERIAL.
   e. 15G CONTAINERS ARE APPROXIMATELY 15-16 INCHES IN DIAMETER AND THE MATERIAL SHOULD BE APPLIED TO THE APPROXIMATE EDGE OF THE ROOT BALL WITH THE TOP GRADE OF THE ROOT BALL UP TO 1 INCH BELOW THE TOP OF THE MATERIAL THAT WILL BE APPLIED.
   f. EACH NEW TREE SHALL HAVE AUTOMATIC DRIP IRRIGATION (NETAFIM PREFERRED) AND PROVIDE A MINIMUM OF 20 GALLONS PER WEEK BETWEEN MARCH 15 AND OCTOBER 15 FOR THE FIRST THREE YEARS. LARGER TREES MAY REQUIRE ADDITIONAL ~~BUBBLER~~S DRIP LINES AND/OR EMITTERS. ~~BUBBLER~~S DRIP EMITTERS SHOULD BE LOCATED ON TOP OF THE ROOT BALL WITHIN THIS 15-16 INCH CIRCLE AND NOT BE COVERED WITH MATERIAL. WHERE POSSIBLE, DRIP LINES AND EMITTERS ARE TO BE INSTALLED IN CONCENTRIC CIRCLES, STARTING 24" AWAY FROM THE TRUNK, SPACED AT 18" APART, COVERING THE ENTIRE TREE WELL.
   g. EACH EXISTING TREE TO REMAIN SHALL HAVE AUTOMATIC DRIP IRRIGATION (NETAFIM PREFERRED) AND PROVIDE A MINIMUM OF 20 GALLONS PER WEEK BETWEEN MARCH 15 AND OCTOBER 15 FOR THE FIRST THREE YEARS AFTER IT WAS PLANTED (PLANTING DATES AVAILABLE AT "CITY TREES" FROM CITY OF BERKELEY OPEN DATA, https://data.cityofberkeley.info/Natural-Resources/ City-Trees/9t35-jmin.) LARGER TREES MAY REQUIRE ADDITIONAL DRIP LINES AND/OR EMITTERS. DRIP EMITTERS SHOULD BE LOCATED AS FAR FROM THE TRUNKS OF MATURE TREES AS POSSIBLE. WHERE POSSIBLE, DRIP LINES AND EMITTERS ARE TO BE INSTALLED IN CONCENTRIC CIRCLES, STARTING 24" AWAY FROM THE TRUNK, SPACED AT 18" APART, COVERING THE ENTIRE TREE WELL.
   h. TREES THAT DIE WITHIN THE FIRST THREE YEARS MUST BE REPLACED AT THE PROPERTY OWNER'S EXPENSE.

Figure 1: Examples of Tree Trunk Protection

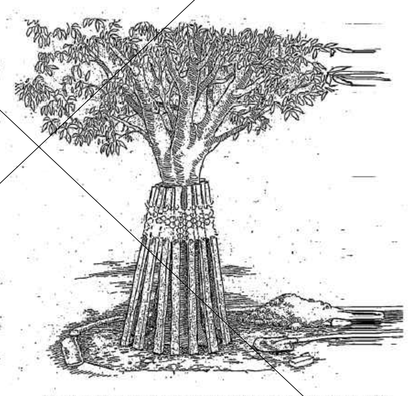
The following illustrations are examples of tree trunk protection measures. One of these examples shall be used when any approved construction activity takes place within the dripline of a protected tree that is not surrounded by protective fencing.

Example A – Straw tubing (wattle)



Example A. Illustration by Dwayne Walters

Example B – Wooden slats



Example B. Illustration from ISA Managing Trees During Construction, BMP

FIGURE 1 — TREE TRUNK PROTECTION EXAMPLES
(via City of Berkeley)

NOTE: As of 9.11.24, no construction activities are approved within the tree wells of any existing trees to remain. See Figures 2 and 3 for examples of acceptable tree protection. All TPF to protect entire exposed soil area within each tree well.

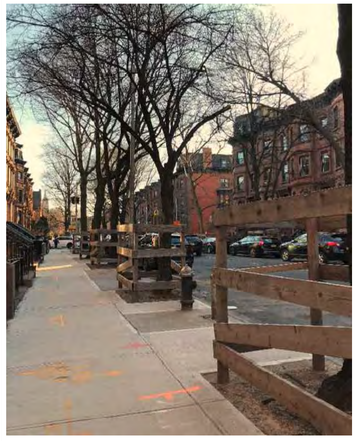


FIGURE 3 — TREE PROTECTION FENCE EXAMPLE



FIGURE 2 — TREE PROTECTION FENCE EXAMPLE
(via City of Berkeley - SEE DETAIL TP2 FOR NOTES)

SCALE FACTOR = 1



NOTES:
1. DRIVE 4X4 POSTS 24" INTO GRADE AT CORNERS OF TREE WELL; SPACE POSTS NO FURTHER THAN 5' ON CENTER.
2. SET HEIGHT OF FENCING AT 4'-6"
3. SECURE 2X6 OR 2X8 CROSS BOARDS TO FORM BARRIER TO ENTRY.
4. AFFIX LAMINATED SIGN TO CROSS BOARDS THAT READS "DO NOT ENTER, ADJUST, OR REMOVE FENCING. CONTACT CITY ARBORIST TO ADJUST OR MODIFY FENCING: (510) 981-6660 OR TREES@BERKELEYCA.GOV"

TP2 TREE PROTECTION, TYPE 2
NTS

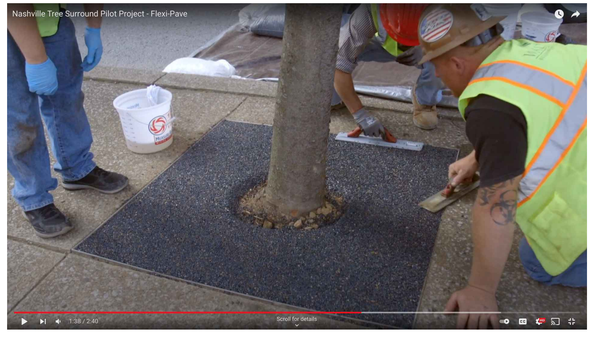


FIGURE 4 — FLEXI-PAVE EXAMPLE
(via City of Berkeley)

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JOB: 2109

SHEET:

Street Tree Notes and Details

L4-ST

HYDROZONE KEY				
	DESCRIPTION	PLANT TYPE	WATER USE TYPE	SQ. FT
	HYDROZONE #1	SHRUB/GC	LOW	371
	HYDROZONE #2	TREES	LOW	560

IRRIGATION WATER USE CALCULATIONS

WATER USE ESTIMATION

WATER TYPE	POTABLE
SITE ETo=	41.6

REGULAR LANDSCAPE AREAS

HYDROZONE #	HYDROZONE NAME	PLANT WATER USE TYPE	PLANT FACTOR (PF)	IRRIGATION METHOD	IRRIGATION EFFICIENCY	ETAF (PF/IE)	AREA (SQ. FT) (HA)	ETAF X AREA (HA)	ETWU (GAL/YR)	ACRE FEET/ YEAR	HCF/ YEAR	PERCENTAGE OF LANDSCAPE
1	SHRUBS/GC	LOW	0.2	DRIP	0.81	0.247	1,683	416	10,718	0.03	14.33	49%
2	SHRUBS/GC	MOD	0.5	DRIP	0.81	0.617	778	480	12,387	0.04	16.56	23%
3	TREES	LOW	0.2	BUBBLER	0.81	0.247	560	138	3,566	0.01	4.77	16%
4	TREES	MOD	0.5	BUBBLER	0.81	0.617	320	198	5,095	0.02	6.81	9%
5	VEGETABLES	HIGH	0.8	DRIP	0.81	0.988	86	85	2,191	0.01	2.93	3%
						TOTALS	3,427	1,317	33,956	0.10	45.40	100%

SPECIAL LANDSCAPE AREAS

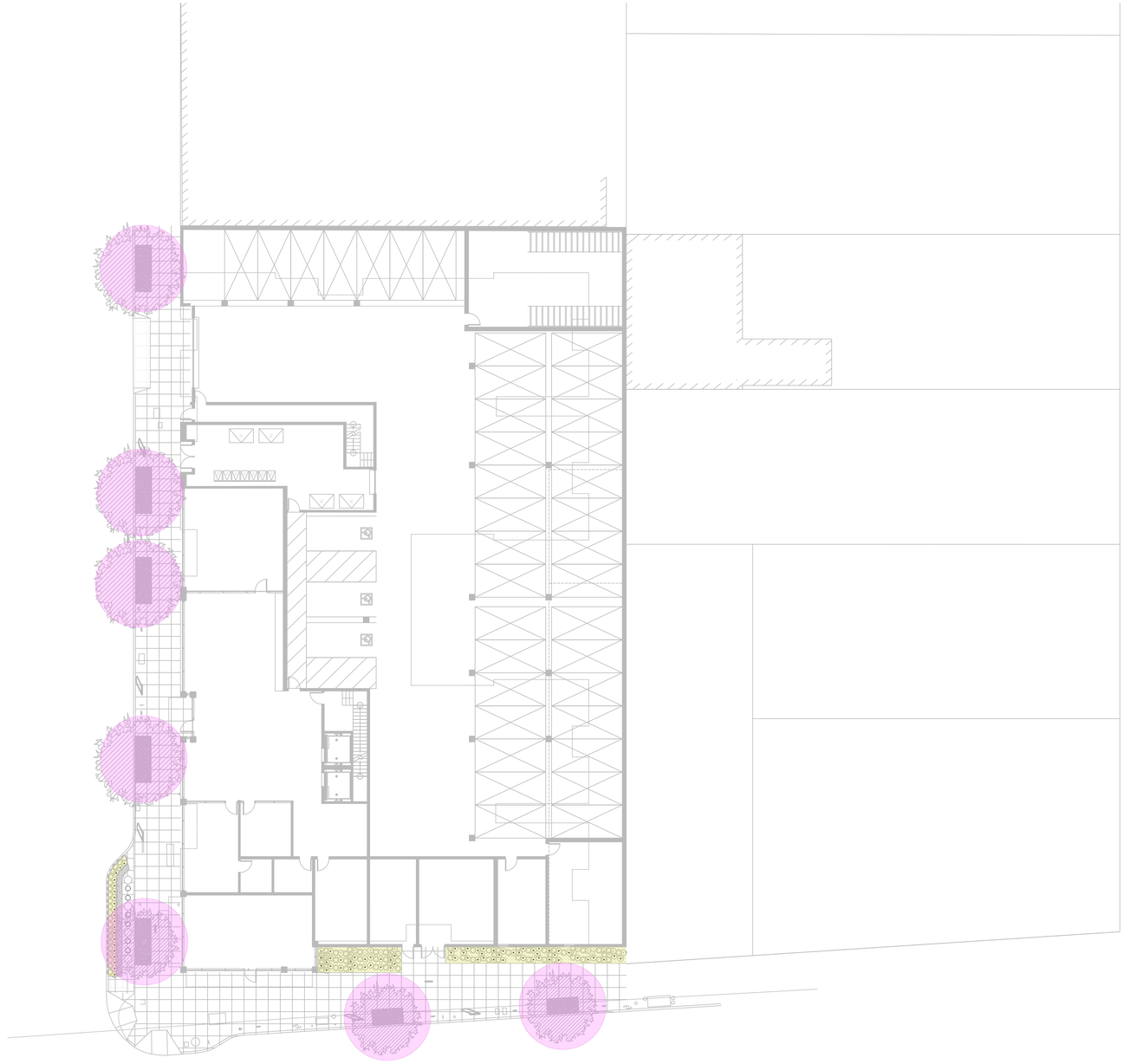
HYDROZONE #	HYDROZONE NAME								
5	VEGETABLES				1	86			3%
					TOTALS	86			3%

MAWA	GALLONS/YR	40,995
	ACRE FEET/YR	0.13
	HCF/YR	54.81
ETWU	GALLONS/YR	33,956
	ACRE FEET/YR	0.10
	HCF/YR	45.40

SITE IRRIGATION EFFICIENCY	SITE PLANT FACTOR	MAWA COMPLIANT
79.0%	0.29	YES

ETAF Calculations	
REGULAR LANDSCAPE AREAS	
TOTAL ETAF x AREA	1,317
TOTAL AREA	3,427
AVG. ETAF	38.42%

MAWA FORMULA	ETWU FORMULA
MAXIMUM APPLIED WATER ALLOWANCE (MAWA) GALLONS PER YEAR	ESTIMATED TOTAL WATER USE (ETWU) GALLONS PER YEAR
MAWA = (ETo)(0.62)((LA x 0.45) + (0.55 x SLA))	ETWU= ((ETO)(.62)(ETAF x LA))
ETo = REFERENCE EVAPOTRANSPIRATION	ETo = REFERENCE EVAPOTRANSPIRATION
0.55= ET ADJUSTMENT FACTOR	PF = PLANT FACTOR FOR HYDROZONES
LA=LANDSCAPED AREA (SQUARE FEET)	HA = HYDROZONE AREA (SQ.FT)
0.62 = CONVERSION FACTOR (GALLONS/SQ.FT/YR)	0.62 = CONVERSION FACTOR (GALLONS/SQ.FT/YR)
	IE = IRRIGATION EFFICIENCY (0.81)-BUBBLER/DRIP
	IE = IRRIGATION EFFICIENCY (0.75)-ROTORS/SPRAY



Irrigation Consultant:
Russell D. Mitchell Associates, Inc.
2760 Camino Diablo
Walnut Creek, CA 94597
tel 925.939.3985 ♦ fax 925.932.5671
www.rmairrigation.com

North

1/16" = 1'-0"

0 8 16 32

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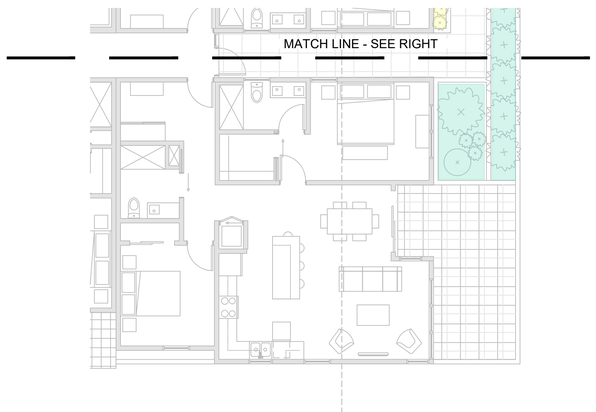
SHEET:

Ground Level
Hydrozone Plan

I1.0

HYDROZONE KEY				
	DESCRIPTION	PLANT TYPE	WATER USE TYPE	SQ. FT
	HYDROZONE #1	SHRUB/GC	LOW	1,163
	HYDROZONE #2	SHRUB/GC	MODERATE	778
	HYDROZONE #3	TREES	MODERATE	240





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North

3/16"=1'-0"
0 2 4 8

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JOB: 2109

SHEET:

Second Level Courtyard - Hydrozone Plan

L2.0

HYDROZONE KEY				
	DESCRIPTION	PLANT TYPE	WATER USE TYPE	SQ. FT
	HYDROZONE #1	SHRUB/GC	LOW	149
	HYDROZONE #2	SHRUB/GC	MODERATE	48
	HYDROZONE #3	TREES	MODERATE	80
	HYDROZONE #4	VEGETABLE/HERBS	HIGH	86



North

0 2 4 8

1/4" = 1'-0"

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JOB: 2109

SHEET:

Eigth Level Roof Deck - Hydrozone Plan

I3.0

ZONING ADJUSTMENTS BOARD

NOTICE OF PUBLIC HEARING

2109 Virginia Street

Use Permit #ZP2024-0066 to demolish a 2-story commercial building (4,604 square feet) and surface parking lot, and construct an 8-story (89 feet and 4 inches) 112,969 square-foot mixed-use residential development with 110 dwelling units (including 9 Very Low-Income and 9 Moderate Income units), 690 square feet of ground floor commercial space, 109 off-street vehicle parking spaces and 64 bicycle parking spaces.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance, Section 23.404.050 (Public Hearings and Decisions)

When: Thursday, September 11, 2025, 7:00 pm
Where: Berkeley Unified School District meeting room, 1231 Addison Street, (wheelchair accessible) with remote/hybrid option (via Zoom).

Please visit: https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board and click on the hearing date to access the most up-to-date meeting information, or call the Land Use Planning division (510) 981-7410.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION AVAILABLE FOR MEMBERS OF THE PUBLIC.

For in-person attendees, face coverings or masks that cover both the nose and mouth are encouraged. If you're feeling sick, please do not attend the meeting in-person as a public health precaution.

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Commission meeting. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as "distanced seating" to accommodate persons that need to distance for personal health reasons.

Land Use Planning Division
1947 Center Street, Second Floor, Berkeley, CA 94704 Tel: 510.981.7410 TDD: 510.981.7474 Fax: 510.981.7420
E-mail: zab@berkeleyca.gov

A. Land Use Designations:

- General Plan: Neighborhood Commercial (NC), Medium Density Residential (MDR), High Density Residential (HDR)
- Zoning: North Shattuck Commercial District (C-NS), Restricted Multiple-Family Residential District (R-2A), Multi-Family Residential District (R-4)

B. Zoning Permits Required:

- **Demolition.** Use Permit under BMC Section 23.326.070(A) **"Main Non-Residential Building"** to demolish a non-residential building
- **New Construction.** Use Permit under BMC Section 23.202.020 (A) **"Allowed Land Uses"** to construct a new mixed-use development.
- **New Construction.** Use Permit under BMC Section 23.204.020 (A) **"Allowed Land Uses"** to construct a new mixed-use development.
- **New Floor Area.** Use Permit under BMC Section 23.204.030(A)(1) **"Floor Area Permit Requirements"** to create new floor area of 2,000 square feet or more.
- **Parking.** Administrative Use Permit under BMC Section 23.322.070(D)(1) **"Excess Off-Street Parking"** to exceed the maximum number of off-street residential parking.
- **Building Height.** Administrative Use Permit under BMC Section 23.304.050(A) **"Projections Above Height Limits"** to exceed the allowed height limit with a rooftop projection.

C. Concessions and Waivers Requested Pursuant to State Density Bonus Law (California Government Code Section 65915):

- **Public Art In-lieu Fee.** Concession from BMC Chapter 23.316 to allow an exemption from the Percentage for Public Art on Private Projects in-lieu fee; and
- **Parking.** Concession to relocate the proposed underground parking in the base project to above grade in the proposed project.

North Shattuck Commercial District (C-NS):

- **Main Building Height**. Waiver from BMC Section 23.204.090(D)(1) "Basic Development Standards" for a mixed-use project to exceed the 35-foot maximum height limit by adding 54 feet, 4 inches, for a total of 89 feet, 4 inches, and exceed the 3-story limit by adding 5 stories, for a total of 8 stories**.**
- **Residential Window Setback**. Waiver from BMC Section 23.204.090(D)(4) "Residential Window Setback" to reduce the setback for a Mixed-Use building, opposite a required window in any habitable room of a residential use, to 0 feet, 0 inches where 10 feet is required.
- **Interior Side Setback.** Waiver from BMC Section 23.304.030(C)(2) "Lots Adjacent to Residential Districts" to reduce the interior side setback to 0 feet, 0 inches for the interior side where 5 feet is required.

Restricted Multiple Family Residential District (R-2A):

- **Main Building Height.** Waiver from BMC Section 23.202.090(D)(1) "Basic Development Standards" to exceed the 35-foot maximum by adding 54 feet, 4 inches for a total of 89 feet, 4 inches, and exceed the 3-story limit by adding 5 stories, for a total of 8 stories.
- **Lot Coverage.** Waiver from BMC Section 23.202.090(D)(2) "Supplemental Development Standards" to exceed the 40% lot coverage limit for a 3-story building on a corner lot by adding 60% for a total of 100% lot coverage.
- **Interior Side Setback**. Waiver from BMC Section 23.202.090(D)(1) "Basic Development Standards" to reduce the interior side setback to 0 feet, 0 inches on the first and second story where 4 feet is required.

Multi-Family Residential District (R-4):

- **Main Building Height.** Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to exceed the 65-foot maximum height by adding 24 feet, 4 inches for a total of 89 feet, 4 inches and exceed the 6-story limit by adding 2 stories, for a total of 8 stories.
- **Lot Coverage.** Waiver from BMC Section 23.202.110(E)(2) "Supplemental Development Standards" to exceed the 40% lot coverage limit for a 6-story building on a corner lot in by adding 60% for a total of 100% lot coverage.
- **Front Setback.** Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to reduce the front setback to 2 feet, 10 inches on the western side of the lot and 5 feet, 8 inches on the eastern side of the lot where 15 feet is required.
- **Interior Side Setback.** Waiver from BMC Section 23.202.110(E)(1) "Basic Development Standards" to reduce the interior side setback to 0 feet, 0 inches for stories 1-2 where 4 feet is required, and provide a 9 foot, 8-inch setback for 3-8 stories, where:
  - 6 feet is required for the third story,
  - 8 feet is required for the fourth story,
  - 10 feet is required for the fifth story, and
  - 12 feet is required for the sixth story

D. CEQA Exemption Recommendation: It is staff's recommendation to the Zoning Adjustments Board that the project is exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15183.3 of the CEQA Guidelines ("Streamlining for Infill Projects").

E. **Project Recommendation:** Approve Use Permit #ZP2024-0066, pursuant to BMC Section 23.406.040(D)

F. Parties Involved:

- Applicant — Isaiah Stackhouse, 2421 Fourth St., Berkeley, CA 94710
- Property Owner — American Commonwealth Associates, 1683 Shattuck Avenue, Berkeley, CA 94709

Further Information:
All application materials are available online at:
https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx.

The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board.

Questions about the project should be directed to the project planner, Cecelia Mariscal, at (510) 981-7439 or cmariscal@berkeleyca.gov.

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at zab@berkeleyca.gov.

Communication Disclaimer:
Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

Written Comments, Communications, and Reports:
Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: zab@berkeleyca.gov. All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board

All persons are welcome to attend the hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.

Correspondence received by 5:00 PM, eight days before this public hearing, will be provided with the agenda materials provided to the Board. Note that if you submit a hard copy document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by 5:00 PM, two days before** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports #1, which is released around noon one day before the public hearing.
- **Correspondence received by 12:00 PM, the day of** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports #2, which is released around noon the day of the public hearing.
- **Correspondence received after 12:00 PM, the day of** this public hearing will be saved in the project administrative record.

Accessibility Information / ADA Disclaimer:
To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date.

SB 343 Disclaimer:
Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public. Please contact the Land Use Planning Division (zab@berkeleyca.gov) to request hard-copies or electronic copies.

Notice Concerning Your Legal Rights:
If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice.
2. You must appeal to the City Council within 14 days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than 90 days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that 90-day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a “taking” of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:
    a. That this belief is a basis of your appeal.
    b. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
    c. All evidence and argument in support of your belief that the decision or condition constitutes a “taking” as set forth above. If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

TRACHTENBERG ARCHITECTS
2421 Fourth Street Berkeley, CA 94710
phone: 510.649.1414
www.TrachtenbergArch.com

Neighborhood Meeting Attendance and Notes Sheet (Online)

1685 Shattuck Ave
Berkeley, CA 94709
May 23, 2024

NAME	ADDRESS	EMAIL	NOTES
Karen Streets			Project much higher and we have been here since 1972. It will be a large impact for the immediate neighborhood. How tall are the new projects down on Shattuck and University? IS – 12 stories and 8 stories built prior to state laws to combat housing crisis. Even though it's out of place and create impact resources, such as water supply? Does it have to be 8 stories? IS – We will be working with the city and the state/city zoning is what is intended here. And this is where this type of density go, to be able to house everyone in Berkeley and targeted commercial strips like this one. How about the toxics from Virginia Cleaners? IS – Lots of ways to take care of the toxics with all the regulations and Berkeley has a very robust toxics department and can help deal with issue.
Sally Sommer		s_sommer@sbcglobal.net	Community members? Students? IS – Housing for all. Units can serve families and students due to mix of unit types from studios to 3 bedrooms. Providing more parking than required? IS – This project wants to provide for families who may have cars
Suzanne Perkins			For 120 units, how many people are estimated to be living there? Is there a formula, for example 1 and 1/2 times the number of uits = 180 people. IS – There is no straight formular for this but this sounds good Are there laundry facilities planned to be sufficient? Increase use of services, concerned for making the current residents harder to use the neighborhood services. IS – Laundry room on each floor to be sufficient.
Bert Gordon			Regarding toxic issue, nothing on the record about the toxic. IS – Gets reviewed by the city during planning and construction permitting. Lots of ways for the site to be resolved with experts. We don't know the details but sites can be remediated with expert guidelines and confident this can be done. What can happen to make the project smaller? IS – The project's 131 units will provide what the state

			wants to create housing and helps the project to get build due to construction cost and financing and lending cost are also high. The 131 units help will help pay for the parking, land, and city costs. The density makes the project feasible and also of these future 131 families who are we going to tell that their units will not be built.
James Hendry			How does the building get 8 stories in the zone? IS – 7 stories of housing over ground floor lobby and commercial space, parking. It's a density bonus project which provides up to 100% bonus to projects that provide affordable housing. The city staff will review the bonus calculations. Are you planning setbacks and are any open spaces available for the public? IS- setbacks on the sidewalk and also 10' setback from the east. The sidewalk seating will be public use, but the other open spaces are only for residents Where would delivery be made? IS – Determine by Public Works Dept. They will paint out a loading zone during construction permit process Submitting in 3 weeks, so this is just a dog and pony show? IS – Still working on the design, this is an opportunity to hear the neighbors' voices. Yellow signs with city's notices and the public can attend hearings Are you intending to keep the parking spaces IS – Yes, we are. We do have to ask the city for permission this amount of parking spots. City council requires 0 but can approve ½ of the amount. 7' deep parking for the triple stack Address the toxic under the cleaners? IS – The city will issue conditions of approval of how the site gets treated. The city has a regulated agency to see if it gets exemption or regulated.
Lindsey Quock			Are these market rate units? What are the rent range? IS - Apartments for our community. We don't know the rent range. Minimum 11 LVI based on preliminary calculations to qualify for density bonus units. The project will also provide in lieu fee and may provide more units. This is something to be determined later with the city review process. When is the ground break? - It takes another year after 1.5 year of review time. The likely path would be 2- 2.5 years that this project will break ground and roughly take 18months to construct. What benefits are to the neighbors when light and views will be blocked on Virginia neighbors IS - The real benefit is providing housing and residents to help local business thrive and affordable housing fees. We did pull the project towards the boulevard with setback towards the east Has there been a shadow and light study? IS – There will be shadow study in the submittal and we are still working on those drawings and will be

			available to everyone How do we get those drawing submittals? IS – Once the project is submitted, the city planner will be sending out info and the city website will have the project application info
Melinda Lopez			Earth sinking concern? IS – Project will have a soil report. The city will have a peer review of the soil as well. They can calculate how much the land will settle over time. The soil should be quite good here. Standard mat slab foundation here. San Francisco has a lot of fill and those locations don't have stable soil

(IS = Isaiah Stackhouse)

Notes:

A yellow poster will be installed on site after project submission.

3-6 months of staff review before zoning and design review board meeting. The list of addresses from tonight was given from the city and this same list will be used from the city to send out notifications regarding the project.

From: Melinda Lopez
To: Mariscal, Cecelia
Cc: Vijesh Unnikrishnan; Burns, Anne M; karen.streets@gmail.com; lizstevick@gmail.com; gstevick@gmail.com; bgordon9962@hotmail.com; ronasidvj@gmail.com; mgapte@gmail.com; 415jazz@gmail.com; catlady_1619@hotmail.com; rhojati1@yahoo.com
Subject: Re: 2109 Virginia 5/15 DRC Agenda is on-line
Date: Monday, May 12, 2025 12:36:17 PM
Attachments: image001.png

Hello Cecelia:

Thx for the in person only meeting below.

Best,
Melinda
On Mon, May 12, 2025 at 12:27 PM Mariscal, Cecelia <CMariscal@berkeleyca.gov> wrote:

> Hi Vijesh,
>
> Unfortunately, the DRC meeting is not offered in a hybrid format, so the only option for participation is to show up in person at the North Berkeley Community Center, located at 1901 Hearst Avenue. The meeting will be held in the Gooseberry room and start promptly at 6:30 p.m. Let me know if you have additional questions.
>
> Best,
>
> Cecelia

Cecelia Mariscal (she/her/s)

Associate Planner

Planning and Development, Land Use Division

1947 Center St., 2nd Floor, Berkeley, CA 94704

Phone: (510) 981-7439

Email: cmariscal@berkeleyca.gov

In Office Days: M,T,W

Remote Days: Th,F

Planning & Development Customer Satisfaction Survey: We value your feedback! If you are a Planning & Development Department client—such as a permit applicant, permit holder, business owner, contractor or developer—please take a few minutes to complete our short survey and share your experience: Planning and Development Customer Satisfaction Survey

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All permit-related and Zoning services are available online. Please visit us online for more information.

From: Vijesh Unnikrishnan <unnikvij@gmail.com>
Sent: Monday, May 12, 2025 9:24 AM
To: Burns, Anne M <ABurns@berkeleyca.gov>
Cc: melindaelopez@gmail.com; karen.streets@gmail.com; lizstevick@gmail.com; gstevick@gmail.com; bgordon9962@hotmail.com; ronasidvj@gmail.com; mgapte@gmail.com; 415jazz@gmail.com; catlady_1619@hotmail.com; rhojati1@yahoo.com; Mariscal, Cecelia <CMariscal@berkeleyca.gov>
Subject: Re: 2109 Virginia 5/15 DRC Agenda is on-line

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Also, is this a remote meeting or will be held in person. Can you please share details on meeting location and timing - both physical and digital.

Thanks

Vijesh

On Mon, May 12, 2025 at 9:21 AM Vijesh Unnikrishnan <unnikvij@gmail.com> wrote:

> Thanks for including us in the notice, Anne. Few of us will plan to attend the session. What is the format of the session? What is expectation from us during the session on Thu? Where do we find current design materials so we can review and have comments ahead of time?

From: Mariscal, Cecelia
To: Burns, Anne M; Elizabeth Stevick
Subject: RE: 2109 Virginia 5/15 DRC Agenda is on-line
Date: Monday, May 12, 2025 3:24:00 PM
Attachments: [redacted]

Hi Elizabeth,

Constructing a multi-family building in the Commercial North Shattuck building requires a Use Permit and public hearing pursuant to Berkeley Municipal Code (BMC) 23.204.020(A). the project must meet the findings in BMC 23.406.040(E)(1)and BMC Section 23.204.090(E), as well as any other findings related to deviations from other development standards and Design Review as required by the Municipal Code. However, the project sponsor has applied for a density bonus request, which allows projects to waive development standards and build beyond the density permissible in what a Zoning District allows if providing very low-income (VLI), Low-income (LI), or Middle-income (MI) units allowed under §65915.

I hope this helps. Please let me know if you have additional questions.

Best,
Cecelia

Cecelia Mariscal (she/her/s)
Associate Planner
Planning and Development, Land Use Division
1947 Center St., 2nd Floor, Berkeley, CA 94704
Phone: (510) 981-7439
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From: Burns, Anne M <ABurns@berkeleyca.gov>
Sent: Monday, May 12, 2025 10:02 AM
To: Elizabeth Stevick <lizstevick@gmail.com>
Cc: Mariscal, Cecelia <CMariscal@berkeleyca.gov>

Subject: RE: 2109 Virginia 5/15 DRC Agenda is on-line

Hello, Elizabeth: Thank you for your email. I'll include this as late correspondence to the DRC so that they are also aware of your questions and concerns. I'm also copying our Use Permit Planner, Cecelia Mariscal, as she will be taking this project to ZAB after it has come to the DRC. ZAB will include building height in their review, instead of the DRC, as a waiver to the height standards is being requested under the State's Density Bonus laws. I am happy to include this in DRC correspondence as there are design recommendations that can lessen the visual impact of a design – such as color, material, window details and patterns, landscape. Again, thank you for your email - Anne

---

From: Elizabeth Stevick <lizstevick@gmail.com>
Sent: Thursday, May 08, 2025 11:16 PM
To: Burns, Anne M <ABurns@berkeleyca.gov>
Subject: Re: 2109 Virginia 5/15 DRC Agenda is on-line

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Thank you, Anne, for reaching out. I am fine with new construction and building downtown but I wish that the City would maintain a more consistent height for the buildings
in the Gourmet area on Shattuck from Hearst to Rose Street to maintain the charm of the Gourmet Ghetto. Three stories would be more in line with what is there now.
And the fact that the building is taking away the views, the air, the sunlight from residential properties and residents who have lived in this neighborhood on Walnut Street
for over 40 years and more is unfortunate and distressing. Can something be done to limit building heights?
Elizabeth Scherer
1722 Walnut Street

On Wed, May 7, 2025 at 4:22 PM Burns, Anne M <ABurns@berkeleyca.gov> wrote:

> The design of the proposed mixed use project at the northeast corner of Virginia and Shattuck will be reviewed at next Thursday's – May 15, 2025 – Design Review Committee meeting. We did find the September 24, 2024 letter to ZAB from the North Shattuck Alliance in the corresponding Use Permit file (ZP2024-0066) and have included it in our meeting materials for next Thursday's meeting. I'm including a link to the agenda below and would welcome the opportunity to answer any questions that you have about the design review component of this proposed project. I'm also including Cecelia Mariscal on this email as she is the Use Permit Planner who will be continuing to review this project as it move towards ZAB.
>
> I will be posting two public meeting notices on the site later today. In a subsequent meeting, the Zoning Adjustments Board (ZAB) will be reviewing the Use Permit with a full Public Hearing notice. The DRC is advisory to the ZAB and will be reviewing the design of the new construction. Any recommendations that the DRC makes to

On Wed, May 7, 2025 at 4:22 PM Burns, Anne M <ABurns@berkeleyca.gov> wrote:

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> I will be posting two public meeting notices on the site later today. In a subsequent meeting, the Zoning Adjustments Board (ZAB) will be reviewing the Use Permit with a full Public Hearing notice. The DRC is advisory to the ZAB and will be reviewing the design of the new construction. Any recommendations that the DRC makes to the ZAB will be reviewed, and added to or modified at ZAB during that Public Hearing if ZAB feels it is needed.
>
> All design-related public comments are welcome and can help inform DRC's discussion before any recommendation, but the ZAB will be reviewing all use and Density Bonus issues. DRC will be making a recommendation after their deliberation, not a final decision on the Use Permit application as ZAB does.
>
> Thank you. – Anne Burns, Design Review Committee Secretary, (510) 981-7415
>
> 2025-05-15_DRC_Agenda_Linked.pdf

> the ZAB will be reviewed, and added to or modified at ZAB during that Public Hearing if ZAB feels it is needed.
>
> All design-related public comments are welcome and can help inform DRC's discussion before any recommendation, but the ZAB will be reviewing all use and Density Bonus issues. DRC will be making a recommendation after their deliberation, not a final decision on the Use Permit application as ZAB does.
>
> Thank you. – Anne Burns, Design Review Committee Secretary, (510) 981-7415
>
> 2025-05-15_DRC_Agenda_Linked.pdf

--
Elizabeth Stevick Scherer
Property Manager
(510) 289-3881

From: Mariscal, Cecelia
To: Jason Scholz
Bcc: Hersch, Anne
Subject: RE: 2109 Virginia St - Status of Approvals
Date: Thursday, April 3, 2025 9:40:00 AM
Attachments: image001.png
image002.png
image003.png

That's right, the project is still under review.

Cecelia Mariscal (she/her/s)
Associate Planner
Planning and Development, Land Use Division
1947 Center St., 2nd Floor, Berkeley, CA 94704
Phone: (510) 981-7439
Email: cmariscal@berkeleyca.gov
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From: Jason Scholz <jscholz@dunn-realestate.com>
Sent: Wednesday, April 2, 2025 2:49 PM
To: Mariscal, Cecelia <CMariscal@berkeleyca.gov>
Subject: RE: 2109 Virginia St - Status of Approvals

Hi Cecelia,

Thank you.

I had previously pulled up documents from the website.

It appears the owner has not received zoning permit approval?

Thanks,

Jason

From: Mariscal, Cecelia <CMariscal@berkeleyca.gov>
Sent: Wednesday, April 2, 2025 1:28 PM
To: Jason Scholz <jscholz@dunn-realestate.com>
Subject: RE: 2109 Virginia St - Status of Approvals

Hi Jason,

Thank you for your message. Application submittal items and project status can be viewed through our Citizen Access Portal linked, here. Please see the attached screenshot guide to help you navigate the site. Please let me know if you have additional questions.

Best,
Cecelia

Cecelia Mariscal (she/her/s)
Associate Planner
Planning and Development, Land Use Division
1947 Center St., 2nd Floor, Berkeley, CA 94704
Phone: (510) 981-7439
Email: cmariscal@berkeleyca.gov
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All permit-related and Zoning services are available online. Please visit us online for more information.

From: Jason Scholz <jscholz@dunn-realestate.com>
Sent: Tuesday, April 1, 2025 12:43 PM
To: Mariscal, Cecelia <CMariscal@berkeleyca.gov>
Subject: 2109 Virginia St - Status of Approvals

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Hi Cecelia,

Good afternoon.

I understand you are one of the planning contacts for the referenced project.

I am working on an analysis for the project.

Is it possible to provide the current status of the approvals, or if more convenient do you have a moment on the phone?

Thanks,

Jason

JASON SCHOLZ, MAI

DUNN & ASSOCIATES
1901 OLYMPIC BOULEVARD, SUITE 230
WALNUT CREEK, CALIFORNIA 94596

PHONE: (925) 472-5852
FAX: (925) 472-5855
E-MAIL: jscholz@dunn-realestate.com
Web Site: www.dunnandassociates.net

Virus-free.www.avg.com

From: Melinda Lopez
To: Mariscal, Cecelia
Subject: Re: 2109 Virginia (ZP2024-0066) - Proposed development inquiry
Date: Tuesday, July 9, 2024 6:03:10 PM

On Tue, Jul 9, 2024 at 5:28 PM Mariscal, Cecelia <CMariscal@berkeleyca.gov> wrote:

Hello Cecelia:

Many thanks for your detailed response.

Have a great week!

Best regards,

Melinda

> Hi Melinda,
>
> Thank you for your message. The proposed project is currently under review; however, there are missing items that are still required for a complete submittal. Members of the public can track a project's progress through the City's Citizen Portal Access, linked here. I've attached a screenshot guide to this email to help you navigate the portal more easily. As noted in your email communication, the project includes the former "Virginia Cleaners" which includes contaminants of concern (Hydrocarbon solvents) and requires remedial/clean-up action by the California Department of Toxic Substances. Please note that although the site is contaminated, it has not been identified as a "Superfund" site. For more information on Superfund sites, please visit the EPA's website, which is linked here. Due to the site's existing contamination, the City required a Phase I assessment report, which can be viewed along with the other Zoning Project Submittal Requirements through the Citizen Access Portal.
>
> The timeline for review by the Zoning Adjustments Board Due is indeterminate at the moment. The applicant must first submit the additionally required application contents for review and then staff will work to determine the appropriate CEQA review. The project review is paused until the additional contents are submitted by the applicant. You can track the project through our Online Portal or reach out to me periodically. Additionally, I regularly work the walk-in Zoning Counter, on the 3rd floor at 1947 Center Street every Monday from 12:30–2:30 p.m. (last check-in at 2 p.m.) where anyone can drop by to inquire about the project's status.
>
> Once the project is deemed complete, the CEQA status is determined, and the analysis is complete, the project will be put on the calendar for the Zoning Adjustments Board, where anyone from the public can comment on the project. If the project were to be approved, there is a 14-day appeal period that begins once the notice is posted, and anyone from the public can appeal the project. Please see the information on our website regarding the appeal

process linked here.

Lastly, the proposed development has an SB330 State Density. State Bill No. 330, also known as the Housing Crisis Act, was enacted in 2019 to address the housing shortage. The bill aims to achieve this through streamlined permit approval, allowing projects to build units beyond what local development standards allow when offering low-income and middle-income units, and constraining the power of the land use decision-making body to deny a project a housing project or deny a housing development project at a lesser density than what is being proposed unless it could be proven that it would have an adverse impact on public health and safety. There is currently no case law that establishes a threshold.

I hope this information has answered your questions. Please feel free to reach out with any additional queries or visit the zoning counter on Monday from 12:30 to 2:30 p.m. We are here to support you and ensure you are fully informed about the project.

Best,
Cecelia

From: Melinda Lopez <melindaelopez@gmail.com>
Sent: Monday, June 24, 2024 3:54 PM
To: Mariscal, Cecelia <CMariscal@berkeleyca.gov>
Subject: 2109 Virginia - Proposed development inquiry

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello Cecilia:

I was born in Berkeley and a long time resident of our properties in North Berkeley of over 60 years.

We are all concerned about the pending proposed development in our single-family homes residential properties of which we have enjoyed over the years the privacy, charm and safety.

We have a few questions:

1. How do we comment on the project?

2. Are there any hearings on the project coming up?

3. Are there any deadlines for comments?

4. Has any toxic studies been done on this former Superfund site which had a fire caused by Virginia Cleaners (now moved across the street to Shattuck/Cedar street)?

5. we are pro-housing in our backyard but inquiring on why the City approves an 8-story building of 132 units/93 parking spaces?

6. Also, if the City approved all the potential ADUS, our survey indicates several thousand units would be added, well distributed through single-family home areas. Is this large-scale intrusive development really needed at this time in our small scale community?

Hope to hear from you soon on our concerns.

Thank you for your time and consideration.

Sincerely,

Melinda E. Lopez

North Shattuck Alliance

From:	Mariscal, Cecelia
To:	Vijesh Unnikrishnan
Cc:	Hersch, Anne; Melinda Lopez; Glen Stevick; Nan Noonan; Elizabeth Stevick; Michael Apte; Mark Williams; Bert Gordon; Rohini Kumar; rhojati1@yahoo.com; Karen Streets
Subject:	RE: Memorandum in Support of Reconsideration of the proposed 8-Story Building at 2109 Virginia, Adjacent to Two-Story Single-Multi-Family Homes, No. ZP-2018-0172.
Date:	Thursday, October 3, 2024 3:40:56 PM

Members of the North Shattuck Alliance,

Thank you for your message. As you have pointed out, the project site was inhabited by the Virginia Cleaners from approximately 1920-1967, which rendered the site contaminated due to its use of an underground storage tank for Stoddard solvent. The presence of hydrocarbon solvents was the confirmed chemical of concern at the site, and it was added to the Cortese List as a result. The project was remediated/cleaned up in 1987 and granted case closure by the Department of Toxic Substances and Chemicals (DTSC) in 1987 and the San Francisco Regional Water Quality Control Board (RFRWQCB) in 1999. However, due to the absence of documentation of post-excavation soil confirmation sampling, vapor concentrations below permissible thresholds for residential use could not be confirmed, resulting in a Phase II assessment and subsequent report published on August 14, 2024. The Phase II report concluded that subsurface impacts were consistent with historical site use and the subsurface conditions described in the closure letter. No recommended land use restrictions or continuing obligations were associated with the initial case closure, and since the Phase II assessment results were consistent with the findings in the case closure letter, no further assessment or regulatory oversight is recommended. An Initial Study pursuant to the California Environmental Quality Act Guidelines (CEQA) will be required to determine the project's potential environmental impacts. The Phase I and Phase II assessment reports can be viewed along with the other Zoning Project Submittal Requirements through the Citizen Access Portal.

Constructing a multi-family building in the Commercial North Shattuck building requires a Use Permit and public hearing pursuant to Berkeley Municipal Code (BMC) 23.204.020(A). the project must meet the findings in BMC 23.406.040(E)(1)and BMC Section 23.204.090(E), as well as any other findings related to deviations from other development standards and Design Review as required by the Municipal Code. The project sponsor has applied for a density bonus request, which allows projects to waive development standards and build beyond the density permissible in what a Zoning District allows if providing very low-income (VLI), Low-income (LI), or Middle-income (MI) units allowed under §65915.

This is also a housing development project allowed under State Bill No 330, also known as the Housing Crisis Act, enacted in 2019. The law locks in development standards from the date of application filing and limits the authority of the land use decision-making body to deny a project a housing project or reduce density unless findings are made demonstrating that there is an adverse impact on public health and safety.

Yellow project information signs are posted on the property, and a community outreach meeting, required by the Zoning Project Submittal Requirements for large projects, was held virtually on May 23, 2024. The records show that Melinda Lopez, who was copied on your email as a North Shattuck Alliance affiliate, was in attendance. I recommend reaching out to her to get more details on what was discussed in this meeting and to review the notes from the community outreach meeting, which can be viewed along with other submittal items in the

Citizen Access Portal linked here.

If you are interested, the Housing Community Development website, linked here, allows you to track the addition of housing units by jurisdiction.

I hope this information is helpful. Please let me know if you have additional questions.

Best,
Cecelia

From: Vijesh Unnikrishnan <unnikvij@gmail.com >
Sent: Tuesday, September 24, 2024 7:45 PM
To: Kate.Chatfield@sen.ca.gov; Tregub, Igor <ITregub@berkeleyca.gov>; Berkeley Mayor's Office <Mayor@berkeleyca.gov>; Mariscal, Cecelia <CMariscal@berkeleyca.gov>
Cc: Melinda Lopez <melindaelopez@gmail.com>; Glen Stevick <gstevick@gmail.com>; Nan Noonan <catlady_1619@hotmail.com>; Elizabeth Stevick <lizstevick@gmail.com>; Michael Apte <mgapte@gmail.com>; Mark Williams <415jazz@gmail.com>; Bert Gordon <bgordon9962@hotmail.com>; Rohini Kumar <ronasidvj@gmail.com>; rhojati1@yahoo.com; Karen Streets <karen.streets@gmail.com>; Bolotina, Olga <OBolotina@berkeleyca.gov>
Subject: Memorandum in Support of Reconsideration of the proposed 8-Story Building at 2109 Virginia, Adjacent to Two-Story Single-Multi-Family Homes, No. ZP-2018-0172.

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Cecelia Mariscal-

We, the residents of North Shattuck Alliance, wish to formally submit our petition to the ZAB with regards to the proposed project at 2109 Virginia. The attached document lays out our concerns and requests to the city council and the ZAB. We sincerely request that you consider this petition in its entirety and provide us a written acknowledgement as well as a plan to address our concerns at the earliest.

cc: Igor Tregub, Berkeley District 4 Council Member, Jessie Arreguin, Mayor of Berkeley, Kate Chatfield, Chief of Staff and Legislative Director, Housing Issue Area Lead for Senator Nancy Skinner District 9.

We look forward to hearing from you on next steps towards a resolution of the matters raised.

Regards,
Vijesh Unnikrishnan
Representing Residents of North Shattuck Alliance
1632 Walnut Street, Berkeley 94709
Ph: 612-207-3788

North Shattuck Alliance

September 24, 2024

By Electronic Mail

Member Emails:
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ZAB Board
2180 Milvia Street
Berkeley, CA. 94704
cmariscal@berkeleyca.gov

CC: Council Member District 4, Mayor of Berkeley, Rep. California Senate District 9 Nancy Skinner

RE: Memorandum in Support of Reconsideration of the proposed 8-Story Building at 2109 Virginia, Adjacent to Two-Story Single-Multi-Family Homes, No. ZP-2018-0172.

Dear ZAB, Cecelia Mariscal,

We are the neighbors adjacent to the proposed 8-story building at 2109 Virginia St. We are very supportive of adding housing and many of us have restored properties, provided housing and proposed smart fill-in housing in our neighborhood.

We have several concerns regarding the 2109 Virginia Street project:

- There appears to have been outdated cleanup and measurement protocols, dating back over 30 years, were utilized to assess and manage the toxic waste generated by the historical commercial operations of Virginia Cleaners on the proposed development site. These protocols may have been inappropriately applied to classify the site as safe for construction

- There appears to have been environmental, safety, and intrusion of privacy posed by the project to existing two-story single and multi-unit homes adjacent to the proposed large disparity of size and volume of the 8-story building that has yet to be researched and evaluated before the permit approval is granted

- There appears to have been concerns around significant duress to quality of life and safety of current residents, many of them elderly, living in the immediate city block of the proposed building, due to deficiency in parking, police, utilities, and other public needs demanded by the introduction of almost 100+ additional units which has not been researched and evaluated before the permit approval is granted

- There appears to have been inconsistent use of design and zoning requirements such as gradual story/height step-down rules and other design rules approved to be applied to high-density parts of Berkeley being applied to low density parts of the proposed site without proper research and evaluation before the design should be considered ready for review.

- There appears to have been no consideration of the concrete urban heat island effects being created by this project without removal of open space with virtually no offsets being researched and evaluated as part of the proposed design being considered for permitting

- There appears to have been no consideration of the smart infill housing that has already occurred in Berkeley, which has added more such units that most other cities in California and specifically District 4 which has added more such units than any other Districts in Berkeley. In fact, residents along Walnut Street in District 4 have added smart infill housing (6 out of 9 residents on this petition on walnut street have added infill housing) and hence request the housing density per city block be used as a measure of equity and fairness to be researched and assessed factoring in the existing smart infill housing provisioned in district 4 and more specifically in the proposed city block to ensure balance of density of housing distribution per city block in Berkeley

- There appears to be no consideration of the advantages of smart infill into single family home areas, which would provide to lower income residents the numerous positive characteristics of single-family home areas (lower crime, lower pollution, higher income, more greenery, less concrete and better health and hence must be part of the evaluation of proposed housing plan to incorporate the societal and economic enablement assessments factoring existing smart infill housing vs. proposed 8 story complex.[1]

We, Berkeley residents of North Shattuck Alliance , oppose this proposed project in its form as submitted and request the ZAB and city council to enforce judgment and good common sense to guide the approval of this project. Without appropriate action from the city, we would [will?] have no recourse left but to pursue legal action against the approval of the [a] permit.

Detailed points of residents of North Shattuck Alliance Memorandum

1. **SB 330 Housing Crisis Act of 2019**
   As long-term residents of Berkeley, tenants and homeowners, we have all first-hand experience and witnessed the significant economic and emotional pressure the housing crisis in the Bay Area and the state of California. The historic act that was passed by the state, is a testament to the courage of Sacramento to change the course of housing shortfalls in our community

2. **Accessory Dwelling Unit Ordinance in the City of Berkeley**
   City of Berkeley has been at the forefront of encouraging innovative approaches and formats to put a dent in the housing crisis, such as supportive ADU ordinance passed by the city. ADUs

[1] Single-Family Zoning in California: A Statewide Analysis, A California Zoning Atlas Report, Stephen Menendian, Shahan Shahid Nawaz & Samir Gambhir, Othering & Belonging Institute, May 22, 2024, https://belonging.berkeley.edu/single-family-zoning-california-statewide-analysis.

according to innumerable policy experts are affordable, low cost to develop, environmentally friendly, safe and smart in infilling neighborhoods with housing density. According to certain estimates, continued supportive policies for ADUs that protect homeowner and rental rights can yield close to 5000 new housing units in Berkeley – which is roughly 60% of the city's goals set through 2030. Several residents in our community, provide ADUs, even sometimes overcoming adversities from the planning department. 6 out of 9 residents in this petition have provided in-fill housing in their properties.

However, the SB 330 act has also resulted in unintended consequences, which are untenable for our community and if faced, probably untenable for residents and even lawmakers across the city, county and state.

3. **Minimal regulatory requirements for property size expansion**
   Height step-down between the proposed 8 story apartments and one and two-story single-family and muti-unit homes in our neighborhood is essential to ensure a balanced transition between differing building scales. Studies show that abrupt height differences can cause significant overshadowing, leading to a reduction in sunlight by up to 50% for adjacent properties, negatively affecting residents' quality of life[2]. In addition, step-down designs help maintain neighborhood privacy by limiting direct sightlines from taller buildings into single-family yards and homes. Research from urban design studies also suggests that transitioning heights can reduce wind tunnel effects common in densely built areas, improving pedestrian comfort by lowering wind speeds by 15-20%[3]. Overall, this approach fosters a visually harmonious streetscape and protects the character and property values of residential neighborhoods. Especially in a neighborhood, where there is a significant portion of elderly residents who are aging-in-place, the proposed construction puts a threat and likely force many of us to be displaced from our homes due to safety and quality of life impairment.
   Ask– the city must request analysis and evaluation of sunlight and wind effects on quality of life and safety of residents in the immediate vicinity of proposed structure and/or reduce proposed building size to mitigate risks

4. **Inadequate and incoherent design decisions**
   The design choices for the proposed apartment project raises significant concerns. For instance, the inclusion of a car park for 93 vehicles directly contradicts Berkeley's push for walkable, transit-oriented housing, as exemplified by the University Avenue project. Prioritizing such extensive parking will only encourage more car ownership and traffic, which runs counter to Berkeley's goals for sustainable, pedestrian-friendly development. Additionally, the elimination of setbacks, justified solely by the inclusion of low-income housing, introduces serious risks for resident safety by restricting accessibility for fire and emergency personnel. Given the likely price point of these units, it's highly likely that many residents will be families and higher-income individuals who per studies have shown to own two cars, further increasing the parking burden on nearby streets. This will lead to more cars circling for parking, especially in this locale where elderly citizens and schoolchildren from Berkeley Arts Magnet Elementary School inhabit posing significant safety concerns.

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[2] https://www.mdpi.com/1660-4601/17/14/5014

[3] https://windtechconsult.com/20-seriously-effective-wind-mitigation-strategies-for-your-next-project/

Ask – the city must request analysis and evaluation of realistic demands of likely residents and family structure, their car ownership, proposed parking slots and the impact on nearby street parking availability to ensure the right balance of transit-orientated housing goals are met without endangering current residents safety in walkability and convenience to accessible street parking in the vicinity and/or reduce proposed building size to mitigate risks

5. **Lack of congruence with the community**
   The current design proposal along Shattuck lacks the thoughtful integration needed to complement the unique, small-business-friendly nature of North Berkeley. Iconic places like the Cheeseboard Collective, which embodies Berkeley's values of independence, employee ownership, and prioritizing community over profit, are vital to the area's cultural and historical significance. A large-scale, developer-driven project with ground floor commercial storefronts risks disrupting this community-centric character. These new high-rises that are appearing in Berkeley, have not been able to attract local community-based businesses due to their high rent demands and therefore being leased by large national chains Adding commercial storefronts on Virginia Street—a completely residential area—raises concerns about maintaining the neighborhood's tranquility and balance. Just as it would be illogical to place a large-scale housing development in the heart of a commercial district like 4th Street, introducing commercial activity on a quiet residential street would disrupt the established character of the area. And with the likely rent burden, such a storefront being occupied by a national chain like a pizza hut or a seven-eleven or a clothing store is incongruent. Thoughtful design choices that align with community values are essential for maintaining safety, accessibility, and the neighborhood's integrity.
   Ask – the city must require re-layout of the proposed commercial storefronts away from Virginia street and include analysis and evaluation of the rent burden on such an establishment and ensure the rent is controlled to make the storefronts affordable to local businesses (representative businesses such as Poulet, GoingPlaces) versus national chains

6. **Urban heat islands and their environmental impact**
   High-density clusters of tall apartment buildings exacerbate the urban heat island (UHI) effect, disproportionately impacting marginalized communities and worsening climate change. These towering structures, often made of heat-absorbing materials like concrete and steel, trap heat in urban areas, making cities significantly warmer—by as much as 12°F compared to lower density regions.[4] The urban heat island effects already existing in Berkeley can be viewed using the hot stop mapping available on Climate Central's website[5,6]. This not only increases energy consumption through higher demand for air conditioning, but also leads to more greenhouse gas emissions, fueling the climate crisis. What's more, these heat islands disproportionately affect low-income and working-class communities, where green spaces and cooling infrastructure are often lacking. By prioritizing sustainable, human-centered urban planning -

[4] https://journalism.columbia.edu/news/urban-heat-island-effect-making-new-yorkers-hotter-study-finds

[5] https://journalism.columbia.edu/news/urban-heat-island-effect-making-new-yorkers-hotter-study-finds.

[6] https://climatecentral.observablehq.cloud/urban-heat-hot-spots/conus-map

such as reducing building density, integrating renewable energy solutions, and expanding green spaces—we can fight back against climate injustice and create healthier, more equitable cities for all.
Ask – the city must require a heat island effect analysis of the proposed structure and its environmental impact including the overall impact on environmental burden to the community and its residents health and quality of life and/or reduce proposed building size to mitigate risks

7. **Developer friendly policies at the disregard of residents**
While Berkeley housing code allows flexibility in how affordable units are distributed within a development, this approach is fundamentally unenforceable. Developers can easily prioritize profit by placing all affordable units on the less desirable lower floors while reserving the more valuable upper floors for high-paying buyers. There's no effective mechanism in place to ensure a fair distribution of affordable units, and without stricter regulations, developers are likely to exploit this loophole. This leads to a situation where promises of affordability are undermined by market-driven interests, and the concerns of existing neighborhoods about towering eight-story buildings next to single-family homes are completely disregarded. Ultimately, this approach benefits developers, not the broader community, and leaves too much room for manipulation.
Ask – the city must amend its design requirement policy around affordable housing allotment to within a building to pre-set and stipulate how many unites on which floor and of what design type (ex. 1, 2, 3 bedrooms) to ensure developers cannot game the system and/or reduce proposed building size to mitigate risks

8. **Opaque permitting, review and approval process**
The opaque zoning process for developers compared to everyday citizens creates significant issues for the community. When developers propose projects, there is often minimal communication, with only a notice posted on the proposed site providing an email and phone number for contact. In contrast, when residents want to make even a small addition to their property, they must go through multiple rounds of notifications, obtain signatures from neighbors, and follow several bureaucratic steps. This inconsistency in the process is problematic, especially for the diverse community that lives in the neighborhood, including elderly residents aging in place, working families, single parents, and those who are not tech-savvy. The lack of clear, accessible communication in zoning matters makes the process exclusionary and ableist, effectively undermining due process. Major projects that can disrupt the neighborhood should not be sprung upon residents without proper, transparent engagement. Lastly, the City is not being transparent in terms of the housing it has provided compared to other Cites and how the new housing has been distributed throughout the City.
Ask – the city must provide density increase analysis and evaluation for proposed building factoring in how the proposed building affects the fair and equitable increase in density versus other similar neighborhoods in District 4 and other districts within the city

Conclusion:

Berkeley has an average vacancy rate of 9-13%, meaning around 5,000 rental units are currently unoccupied out of 50,000 total. Despite the introduction of a vacancy tax in 2024, it is unclear whether this will effectively incentivize landlords to release these units into the market. Current incentives encourage property owners to keep units off the market, and simply building more housing—particularly under the banner of affordable housing—won't guarantee these units are

made available at low-income rates. Large developers, especially those who sell the finished housing to commercial property management firms, often exploit legal loopholes due to their significant financial and legal resources, making it difficult to achieve true affordability. Claims that state law and Berkeley's middle housing policy will empower small developers to build small multi-unit projects or duplexes that align with the ethos of the city are largely inaccurate. As a detailed analysis highlights, 25 developers are responsible for building 25% of all housing units in the U.S., even though there are 60,000 developers nationwide[7]. This trend is driven by large developers' access to public markets and capital, enabling them to undertake giant projects—far from what Berkeley envisions with its housing goals. Experts, including the Berkeley Rental Board Chair, remain skeptical that building large market-rate units will significantly improve affordability[8]. In summary, we believe un-fettered development with disregard to the community is not the answer to fixing current distorted housing policies and perverse incentives.

We, the community of North Shattuck Alliance, should not be at the receiving end of well-meaning housing policies that create unintended consequences. We sincerely request the city and state government to help us preserve our rights and our homes by addressing the requested asks at the earliest. We are willing to work closely with the city and the developer to achieve an amicable resolution that addresses our concerns.

[7] https://www.noahpinion.blog/p/why-small-developers-are-getting

[8] https://www.berkeleyside.org/2023/10/23/berkeley-affordable-housing-construction

On Tue, Jul 22, 2025 at 3:37 PM John Lopez <johnlopez8801@gmail.com> wrote:

To: Zoning Adjustments Board (ZAB)

From: John Lopez 1618 Walnut Street

Re: July 24, 2025 Agenda Item 7. A.

Project:2109 Virginia St. ZZP2024-0066

Request the ZAB to consider more study of the size and scope of this proposed project. **The current zoning for the C-NS North Shattuck Commercial District sets a maximum height of 35 feet and 3 stories for non-residential and mixed-use projects, and 28 feet and 2 stories for residential-only projects**

To avoid irreversible mistakes to the surrounding neighborhoods please consider some of these points:

1. The view study must include streets and views or estimated views from houses and apartment buildings. The views from their windows and yards that will be obstructed must be included.
2. Study noise pollution from open windows, HVAC, and Commercial use needs more study.
3. Study underground parking exhaust on air quality at location and neighborhood.
4. Study impact of Guest / Customer parking in residential neighborhoods and associated air and noise pollution.
5. Study the alternative of a lower height of 3-6 stories. 89 feet is too high for the character of the surrounding neighborhood.
6. Study if there are Aquifers under any section of the proposed project.
7. Maybe outside of this discussion but study Hospitals and First responder staffing and medical response. Police, Fire, and Paramedics will remain the same or is there a plan to increase? I hope more studies for all the large increases in Berkeley's population with the large projects being proposed and approved.

w/ attchmts

Date: July 24, 2025

To: The Zoning Adjustments Board (ZAB) - July 24 Meeting

From: Melinda E. Lopez, North Shattuck Alliance of concerned neighbors on Walnut Street, Berkeley, California 94709

Subject: Concerns Regarding 2109 Virginia Development Proposal of an 8-Story Building (110 units, 109 Parking) Adjacent to Two-Story Single-Multi-Family Homes – Use Permit for a Project at 2109 Virginia Street - ZAB App # ZP2024-0066

Dear Members of the Zoning Adjustments Board,

We, the undersigned neighbors and residents of the surrounding North Berkeley community, are writing to express our significant concerns regarding the proposed 8-story, 110-unit development at 2109 Virginia Street, which also includes 109 parking spaces. We understand that our submission is past the formal deadline, but we respectfully request that this letter and any accompanying documentation be entered into the record for the July 24th ZAB meeting.

Primary Concerns:

1. **Geotechnical and Soil Stability:**
    - The area surrounding 2109 Virginia, including the adjacent streets of Cedar, Walnut, and Shattuck, has not been thoroughly evaluated in recent public geotechnical studies.
    - We are concerned about potential risks of soil instability, settlement, or lateral movement affecting neighboring historic and residential properties, particularly those on Walnut Street.
2. **Scale and Massing Incompatibility:**
    - An 8-story building is significantly out of scale with the immediate neighborhood, which primarily consists of 1-3 story buildings.
    - The visual impact and shadowing effects on nearby residences and community spaces must be more carefully reviewed.
3. **Traffic and Parking Impact:**
    - The proposed 109 parking spaces raise concerns about increased vehicular traffic and congestion on nearby narrow streets.
    - We request a thorough and publicly accessible traffic impact analysis.

4. **Environmental and CEQA Review:**
    - It is unclear whether all CEQA-required assessments have been completed and made available for public review.
    - We request the full publication of CEQA-related findings and mitigation measures, including potential impacts on local air quality, noise, and water runoff.
5. **Community Process and Transparency:**
    - We respectfully request greater transparency and opportunities for community input throughout the development review process.
    - Consideration should be given to alternative designs that better reflect the character and infrastructure capacity of the neighborhood.

We appreciate your service and the opportunity to express our concerns, and we urge you to delay any final decision until a more comprehensive review—including soil studies, CEQA documentation, and additional community input—is completed.

Sincerely,

Melinda E. Lopez

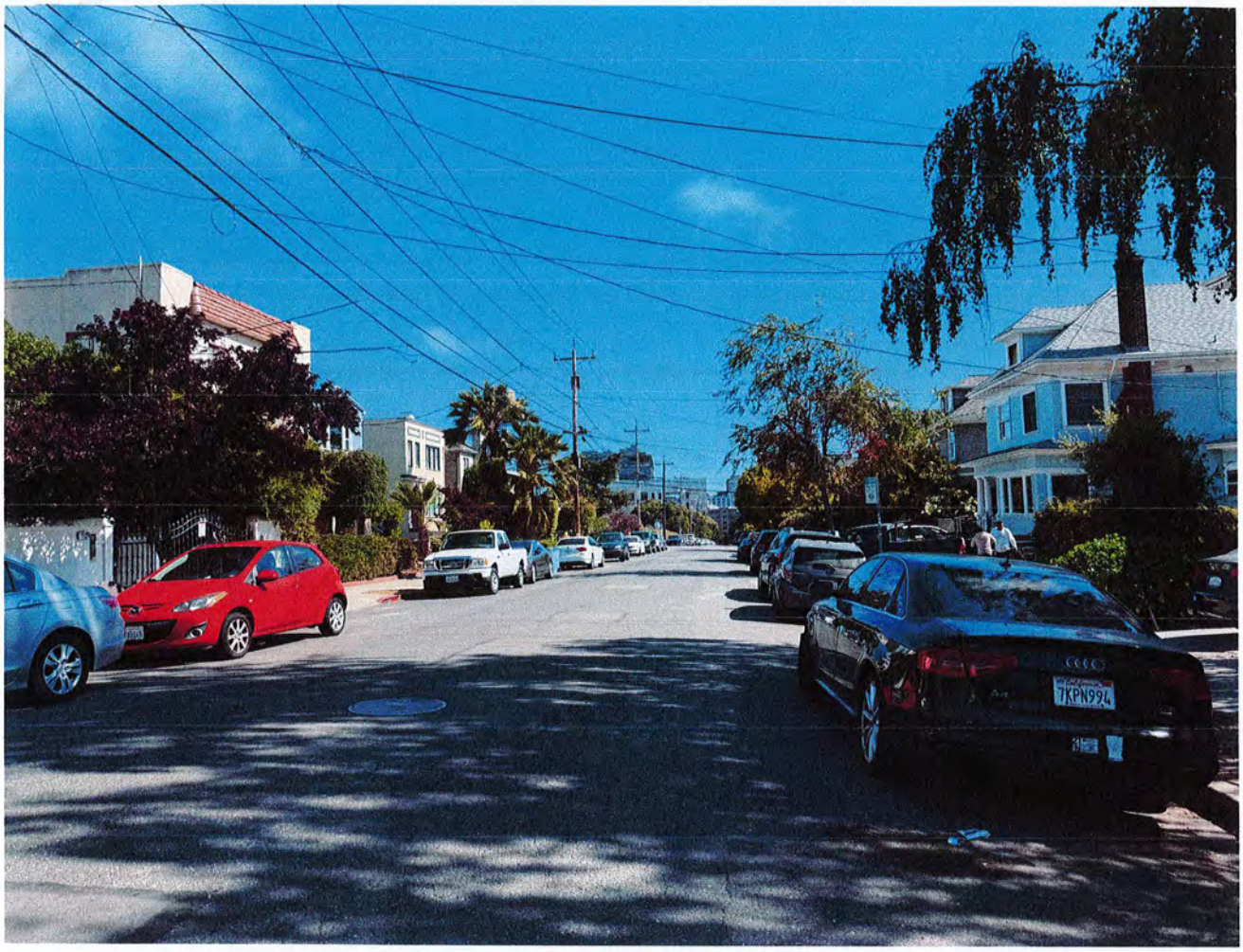
Melinda E. Lopez
North Shattuck Alliance
Member emails:

melindaelopez@gmail.com; johnlopez8801@gmail.com; karen.streets@gmail.com; unnikvij@gmail.com;lizstevick@gmail.com;gstevick@gmail.com;bgordon9962@hotmail.com;ronasidivj@gmail.com; mgapte@gmail.com;415jazz@gmail.com;catlady_1619@hotmail.com; rhojati1@yahoo.com

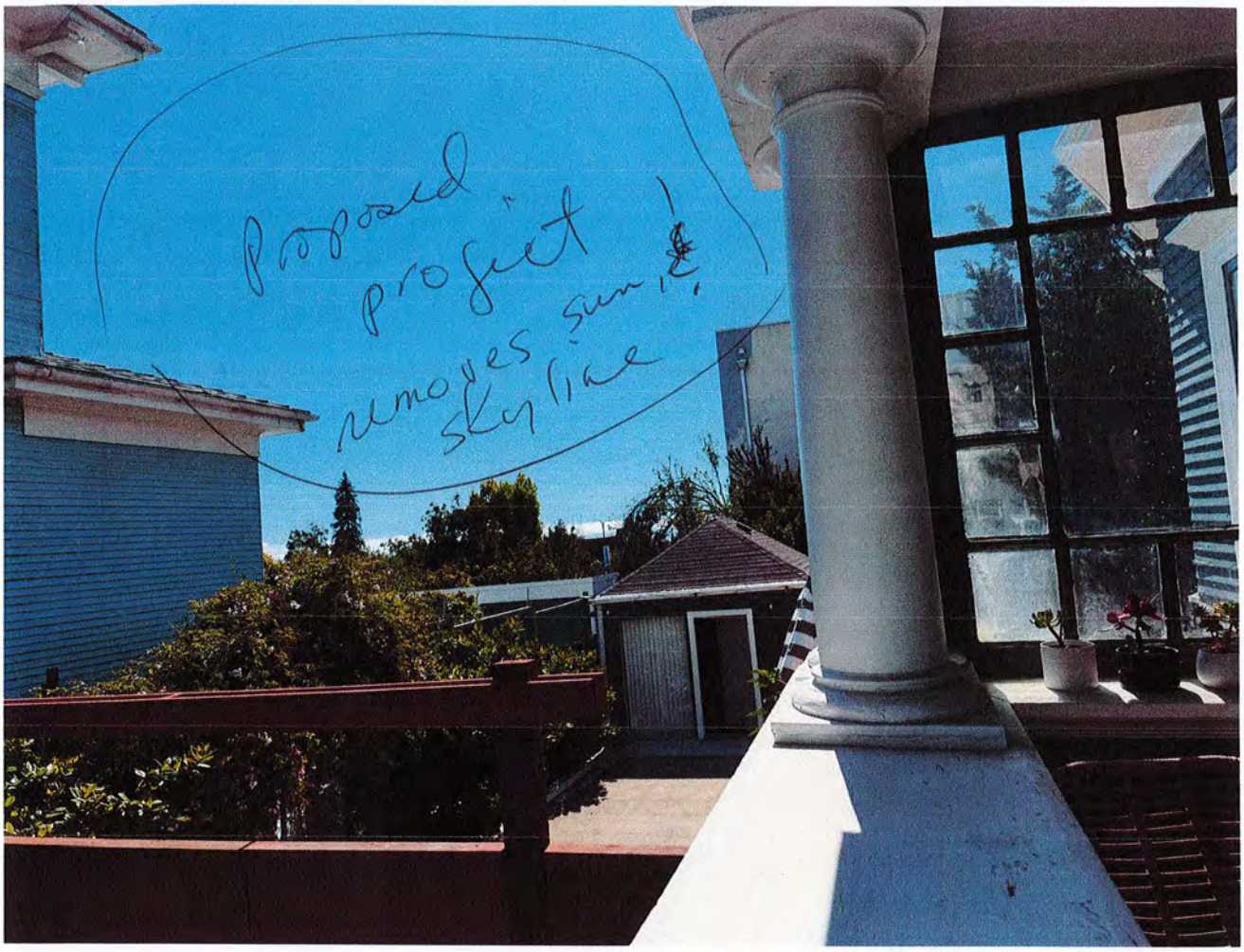
cc: igor@igortregub.com;mayor@berkelyca.gov; senator.grayson@senate.ca.gov; governor@governor.ca.gov



Walnut Street
2 story dwellings



Walnut Street



Wd Land St

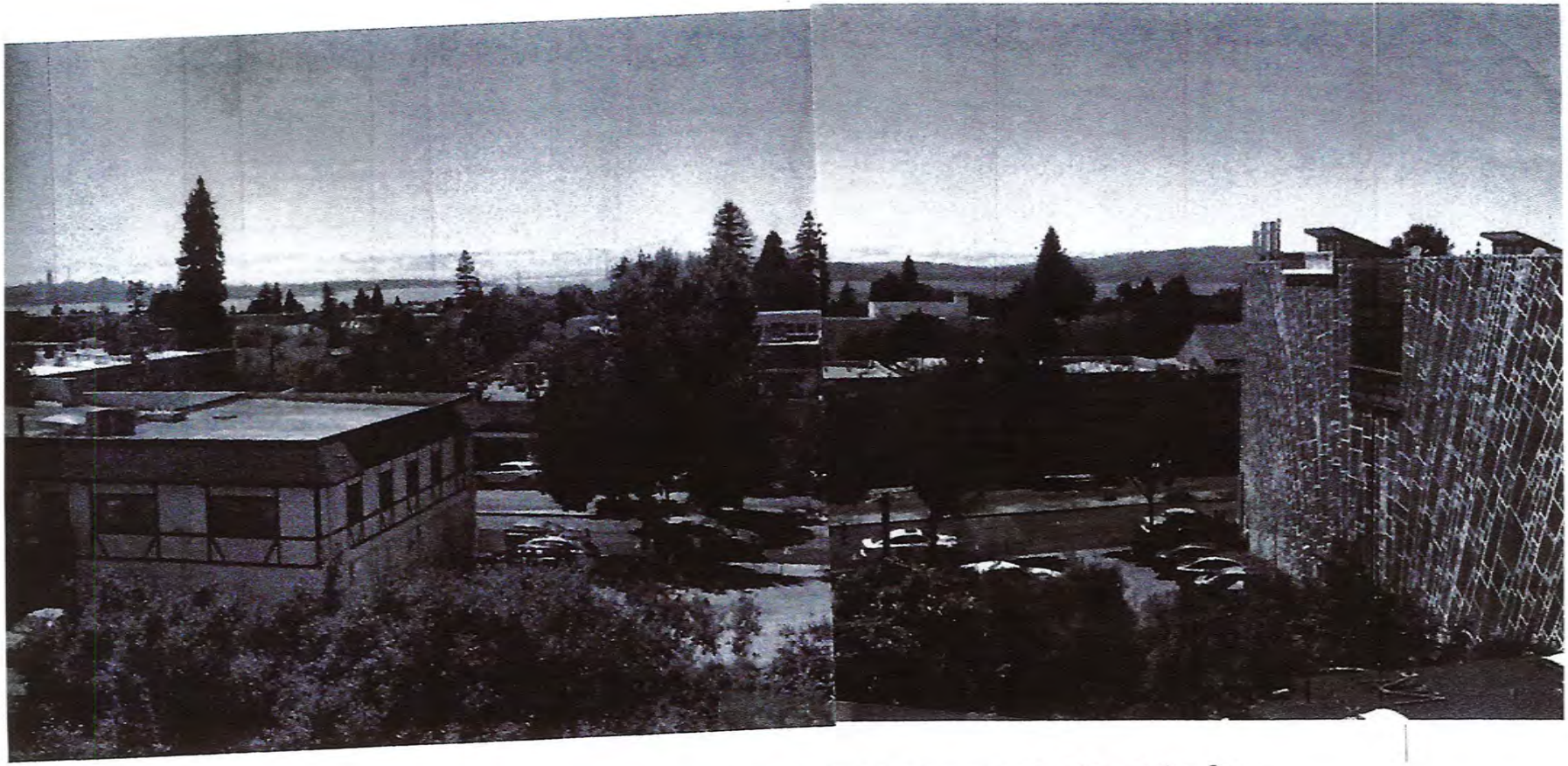
Residence

July 25, 2025

Elizabeth Scherer, 1636 Walnut Street, near Virginia Street
Resident for 46 years in this neighborhood, and former Commissioner

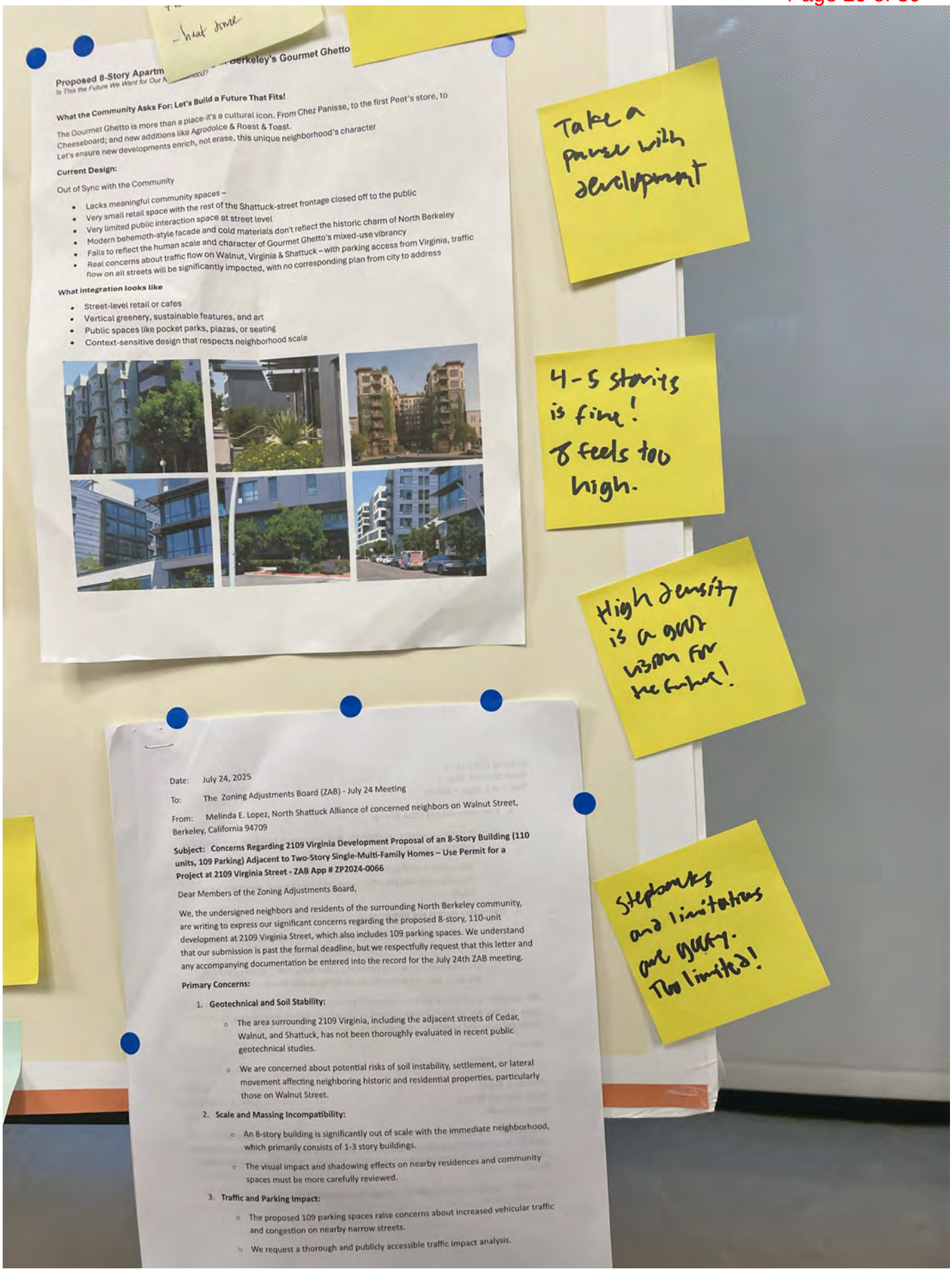
Many single-family homes in this area will be impacted. We are not downtown. We have mostly two to three story buildings. The blocking of the view will not only impact the residents close by with homes, but all homes on the north side. The Hills will see a large unattractive cement building sticking out like a tooth cutting their views. Those looking up will now have their views of the hills blocked as well.

We know that this new building will benefit from being in the attractive Gourmet Ghetto, but they will contribute nothing. It is a take, take, take situation. Let's not allow that to happen! Instead let's wait for a developer who comes in with plans for a beautiful 2 to 3-story building, adding shops, restaurants, and beautiful architecture like the historic Peets building. The developers boast they will have a coffee shop for the residents. That's it! No shops, restaurants, nothing to add. Who benefits from that? We already have two fabulous coffee shops on the block, the French café and the Guerilla Café and one block away is a big new coffee shop. What makes us bent on building these inappropriate complexes? The cities which have held out are now so happy they did. We should avoid any money transfer schemes coming at the expense of current residents. Living in the Gourmet Ghetto area is highly valued. Don't take away the beauty and specialness of the community. A seven or eight story is too high for any residential area and it is a travesty if it is right next to your home. It will reduce property values. Remember that often the initially presented plan is much different from the finalized project as the developers will continually take any advantage possible. There is potential for increased noise and shadows. Temperatures (global warming) will rise with more cement and a huge ugly high block of cement.



When we build, let us think that we build forever. Let it not be for present delight nor for present use alone. Let it be such work as our descendants will thank us for; and let us think, as we lay stone on stone, that a time is to come when those stones will be held sacred because our hands have touched them, and that men will say, as they look upon the labor and wrought substance of them, 'See! This our fathers did for us.

John Ruskin



Proposed 8-Story Apartm
Is This the Future We Want for Our N
Berkeley's Gourmet Ghetto

What the Community Asks For: Let's Build a Future That Fits!

The Gourmet Ghetto is more than a place-it's a cultural icon. From Chez Panisse, to the first Peet's store, to Cheeseboard; and new additions like Agrodolce & Roast & Toast.
Let's ensure new developments enrich, not erase, this unique neighborhood's character

Current Design:

Out of Sync with the Community

- Lacks meaningful community spaces –
- Very small retail space with the rest of the Shattuck-street frontage closed off to the public
- Very limited public interaction space at street level
- Modern behemoth-style facade and cold materials don't reflect the historic charm of North Berkeley
- Fails to reflect the human scale and character of Gourmet Ghetto's mixed-use vibrancy
- Real concerns about traffic flow on Walnut, Virginia & Shattuck – with parking access from Virginia, traffic flow on all streets will be significantly impacted, with no corresponding plan from city to address

What integration looks like

- Street-level retail or cafes
- Vertical greenery, sustainable features, and art
- Public spaces like pocket parks, plazas, or seating
- Context-sensitive design that respects neighborhood scale

Take a pause with development

4-5 stories is fine! 8 feels too high.

High density is a good vision for the future!

Stepbacks and limitations are good. Too limited!

Date: July 24, 2025

To: The Zoning Adjustments Board (ZAB) - July 24 Meeting

From: Melinda E. Lopez, North Shattuck Alliance of concerned neighbors on Walnut Street, Berkeley, California 94709

Subject: Concerns Regarding 2109 Virginia Development Proposal of an 8-Story Building (110 units, 109 Parking) Adjacent to Two-Story Single-Multi-Family Homes – Use Permit for a Project at 2109 Virginia Street - ZAB App # ZP2024-0066

Dear Members of the Zoning Adjustments Board,

We, the undersigned neighbors and residents of the surrounding North Berkeley community, are writing to express our significant concerns regarding the proposed 8-story, 110-unit development at 2109 Virginia Street, which also includes 109 parking spaces. We understand that our submission is past the formal deadline, but we respectfully request that this letter and any accompanying documentation be entered into the record for the July 24th ZAB meeting.

Primary Concerns:

1. **Geotechnical and Soil Stability:**
   - The area surrounding 2109 Virginia, including the adjacent streets of Cedar, Walnut, and Shattuck, has not been thoroughly evaluated in recent public geotechnical studies.
   - We are concerned about potential risks of soil instability, settlement, or lateral movement affecting neighboring historic and residential properties, particularly those on Walnut Street.
2. **Scale and Massing Incompatibility:**
   - An 8-story building is significantly out of scale with the immediate neighborhood, which primarily consists of 1-3 story buildings.
   - The visual impact and shadowing effects on nearby residences and community spaces must be more carefully reviewed.
3. **Traffic and Parking Impact:**
   - The proposed 109 parking spaces raise concerns about increased vehicular traffic and congestion on nearby narrow streets.
   - We request a thorough and publicly accessible traffic impact analysis.

Date: July 25, 2025 Re: **2109 Virginia Street**

Elizabeth Scherer, 1636 Walnut Street, Resident for 46 years in this neighborhood

Many single-family homes in this area will be impacted. We are not downtown. We have mostly two to three story buildings. The blocking of the view will not only impact the residents close by with homes, but all homes on the north side. Many will see a large unattractive cement building sticking out like a tooth cutting out their views. Those looking up from the flats or from the city will now have their views of the hills blocked as well.

We know this new building will benefit from being in the attractive Gourmet Ghetto, but what will they contribute? Nothing! It will detract! It's a take, take situation. Let's not allow that to happen! Instead, let's wait for a developer with plans for a beautiful 2 to 3-story building, adding shops, restaurants, and beautiful architecture like the historic Peets building. The developers boast a coffee shop for the residents. That's it! No shops, restaurants, nothing to add. Who benefits from that? We already have two fabulous coffee shops on the block, the French café and the Guerilla Café and one block away is a big new coffee shop. What makes us bent on building these inappropriate complexes? The cities which have held out are now so happy they did. We should avoid any money transfer schemes coming at the expense of current residents. Living in the Gourmet Ghetto area is highly valued. Don't take away the beauty and specialness of the community. A seven or eight story is too high for any residential area and it is a travesty if it is right next to your home. It will reduce property values. Remember that often the initially presented plan is much different from the finalized project as the developers will continually take any advantage possible. There is potential for increased noise and shadows. Temperatures (global warming) will rise with more cement and a huge ugly high block of cement.

Neighborhood Character: A 7-story or 8-story building can significantly alter the visual landscape and character of a neighborhood, potentially clashing with the existing scale and aesthetic of smaller buildings.

Infrastructure Strain: Increased density can strain existing infrastructure like water, sewer, and electrical systems. Traffic congestion and parking availability may also worsen.

Property Values: While some properties may benefit from increased demand, others, particularly those with views obstructed by the taller building, may see a decrease in value.

Shadows and Light: The taller building could cast long shadows, impacting sunlight access for surrounding properties and potentially affecting landscaping or solar panel efficiency.

Noise Pollution: Construction and occupancy of a larger building can lead to increase noise levels.

ENVIRONMENTAL CONSISTENCY ANALYSIS PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES SECTIONS 15183 AND 15162

2109 VIRGINIA STREET PROJECT

BERKELEY, CALIFORNIA

LSA

August 2025

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ENVIRONMENTAL CONSISTENCY ANALYSIS PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES SECTIONS 15183 AND 15162

2109 VIRGINIA STREET PROJECT

BERKELEY, CALIFORNIA

Submitted to:

Cecelia Mariscal, Associate Planner
City of Berkeley
Planning and Development Department
Land Use Division
1947 Center Street, 2nd Floor
Berkeley, California 94704

Prepared by:

LSA
157 Park Place
Pt. Richmond, California 94801
(510) 236-6810

Project No. CBE1906.18

LSA

August 2025

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LIST OF ABBREVIATIONS AND ACRONYMS

2,3,7,8-TCDD	2, 3, 7, 8-tetrachloro-dibenzodioxin
AAQS	ambient air quality standards
AB	Assembly Bill
ABAG	Association of Bay Area Governments
AC Transit	Alameda-Contra Costa County Transit
ACM	asbestos-containing material
Air District	Bay Area Air District
APN	Assessor's Parcel Number
BART	Bay Area Rapid Transit
Basin Plan	Water Quality Control Plan
bgs	below ground surface
BMC	Berkeley Municipal Code
BMPs	best management practices
Cal/EPA	California Environmental Protection Agency
Cal/OSHA	California Occupational Safety and Health
CalEEMod	California Emissions Estimator Model
CALGreen Code	California Green Building Standards Code
California Register	California Register of Historical Resources
CalRecycle	California Department of Resources Recycling and Recovery
Caltrans	California Department of Transportation
CARB	California Air Resources Board
CBC	California Building Code
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CGS	California Geological Society
CH_4	methane

City	City of Berkeley
CNDDB	California Natural Diversity Database
CNEL	Community Noise Equivalent Level
C-NS zone	North Shattuck Commercial zone
CO	carbon monoxide
CO_2	carbon dioxide
CO_2e	carbon dioxide equivalent
COA	Condition of Approval
CREC	Controlled Recognized Environmental Condition
CWA	Clean Water Act
dB	decibels
dBA	A-weighted decibels
DDT	dichlorodiphenyltrichloroethane
DIR	California Department of Industrial Relations
DOC	California Department of Conservation
DOSH	Division of Occupational Safety and Health
DPM	diesel exhaust particulate matter
DTSC	Department of Toxic Substances Control
DWR	California Department of Water Resources
EBMUD	East Bay Municipal Utility District
EIR	Environmental Impact Report
EMA	Environmental Management Area
EMFAC2021	Emission Factor model
EPA	United States Environmental Protection Agency
ESL	Environmental Screening Level
FEMA	Federal Emergency Management Agency
FESA	federal Endangered Species Act
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Map
FMMP	Farmland Mapping and Monitoring Program
FTA	Federal Transit Authority

GHG	greenhouse gas
gpd	gallons per day
GSP	Groundwater Sustainability Plan
GWP	Global Warming Potential
HASP	Health and Safety Plan
HCD	California Department of Housing and Community Development
HFCs	hydrofluorocarbons
HMBP	Hazardous Materials Business Plan
Housing Element	2023-2031 Housing Element Update
Housing Element EIR	2023-2031 Housing Element Update Draft Environmental Impact Report
HRE	Historical Resources Evaluation
HVAC	heating, ventilation, and air conditioning
I-580	Interstate 580
I-80	Interstate 80
ITE	Institute of Transportation Engineers
J Number	Air District Job Number
LBP	lead-based paint
LCI	Governor's Office of Land Use and Climate Innovation
L_{dn}	day-night average noise level
L_{eq}	equivalent continuous sound level
L_{max}	maximum instantaneous sound level
LOS	level of service
LUST	leaking underground storage tank
mgd	million gallons per day
MRP	Municipal Regional Stormwater NPDES Permit
MWWTP	Main Wastewater Treatment Plant
N_2O	nitrous oxide
ND/MND	Negative/Mitigated Negative Declaration
NOD	Notice of Determination
NO_X	nitrogen oxides

NPDES	National Pollutant Discharge Elimination System
NWIC	Northwest Information Center
OSHA	Occupational Safety and Health Administration
PCBs	polychlorinated biphenyls
PCE	perchloroethylene
PFCs	perfluorocarbons
Phase I ESA	Phase I Environmental Site Assessment
Phase II ESA	Phase II Environmental Site Assessment
PM	particulate matter
PM_{10}	particulate matter less than 10 microns in size
$PM_{2.5}$	particulate matter less than 2.5 microns in size
POTW	publicly owned treatment works
PRC	Public Resources Code
proposed project	2109 Virginia Street Project
R-2A zone	Restricted Multiple-Family Residential zone
R-4 zone	Multiple-Family Residential zone
RCRA	Resource Conservation and Recovery Act
RHNA	Regional Housing Needs Assessment
RMS	root-mean-square
ROGs	reactive organic gases
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SDSs	Safety Data Sheets
SF_6	sulfur hexafluoride
SGMP	Soil and Groundwater Management Plan
SRA	State Responsibility Area
Stormwater Requirements Checklist	City of Berkeley C.3 Stormwater Requirements Checklist, Municipal Regional Stormwater Permit (MRP 3), Stormwater Controls for Development Project Checklist
SWRCB	State Water Resources Control Board
TACs	toxic air contaminants
TMD	Toxics Management Division

TMDLs	Total Maximum Daily Loads
TPA	transit priority area
TPH	total petroleum hydrocarbons
USDOT	United States Department of Transportation
USFWS	United States Fish and Wildlife Service
VdB	vibration velocity decibels
VDECS	Verified Diesel Emission Control Strategies
VEC	vapor intrusion condition
VHFHSZ	Very High Fire Hazard Severity Zone
VMT	vehicle miles traveled
vpd	vehicles per day
vph	vehicles per hour
WEAP	Worker Environmental Awareness Program
WSMP 2040 Plan	Water Supply Management Program 2040 Plan
ZAB	Zoning Adjustments Board

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1.0 PROJECT INFORMATION

1. **Project Title:**

   2109 Virginia Street Project

2. **Lead Agency Name and Address:**

   City of Berkeley
   Planning and Development Department
   Land Use Planning Division
   1947 Center Street, 2nd Floor
   Berkeley, California 94704

3. **Contact Person and Phone Number:**

   Cecelia Mariscal, Associate Planner
   Email: cmariscal@berkeleyca.gov
   Phone: (510) 981-7439

4. **Project Location:**

   The project site is located at 2109 Virginia Street (Assessor's Parcel Number [APN] 058-2178-18) in Berkeley, Alameda County, California.

5. **Project Sponsor's Name and Address:**

   Trachtenberg Architects
   2421 Fourth Street
   Berkeley, California 94710
   Phone: (510) 649-1414

6. **General Plan Designation:**

   Neighborhood Commercial

7. **Zoning:**

   North Shattuck Commercial (C-NS)
   Multiple-Family Residential (R-4)
   Restricted Multiple-Family Residential (R-2A)

8. **Project Description:**

   The proposed project would include the demolition of the existing approximately 4,604-square-foot, two-story commercial building on the project site, and construction of a new eight-story mixed-use residential building consisting of 112,969 square feet of residential space and 690 square feet of commercial space in the southwest corner of the ground floor. The new mixed-use residential building would consist of a total of 110 dwelling units, including 9 very low-income units and 9 middle-income units. In addition, each unit would include a private balcony, providing a total of 3,240 square feet of private outdoor space. The proposed project also

includes a shared 4,912-square-foot courtyard area on the second floor for use by residents containing: 1,965 square feet of landscaped area; a shared 1,030-square-foot roof deck on the eighth floor, containing 412 square feet of landscaped area; a solar array on the roof; and 109 vehicle and 97 bicycle parking spaces. The ground floor would also include the residential lobby, the leasing office, the mail room, and a storage area. Landscaping would also be provided along the project site frontages on Shattuck Avenue and Virginia Street. Overall, the proposed project would provide a total of 9,182 square feet of usable open space and landscaped area. Refer to Section 3.0 for a complete description of the project.

9. **Surrounding Land Uses and Setting:**

   The project site is generally surrounded by existing development, including single- and multi-family residential and commercial uses.

10. **Other Public Agencies Whose Approval is Required (e.g., permits, financial approval, or participation agreements):**

    East Bay Municipal Utility District (EBMUD) regarding proposed utility connections.

b

2.0 INTRODUCTION

This consistency evaluation compares the potential environmental effects of the proposed 2109 Virginia Street Project (proposed project) with the scope of analysis and identified environmental impacts in the program-level Final Environmental Impact Report (EIR) for the 2023-2031 Housing Element Update (Housing Element),[1,2] certified on January 18, 2023 (Housing Element EIR) by the City of Berkeley (City). The purpose of this analysis is to determine whether the proposed project: (a) falls within the scope of the Housing Element EIR; (b) is consistent with the findings of the Housing Element EIR; and (c) would result in any potential impacts during project construction or operation that were not previously analyzed in the Housing Element EIR or that are unique or peculiar to the project site. This evaluation has been prepared pursuant to *State CEQA Guidelines* Sections 15183 and 15162. As discussed in Section 4.0 of this document and further explained in Sections 5.0 and 6.0, the proposed project is consistent with the Housing Element EIR and no new or more severe impacts would result. Therefore, a Notice of Determination (NOD) may be filed for the project.

2.1 PURPOSE OF STATE CEQA GUIDELINES SECTIONS 15183 AND 15162 CONSISTENCY ANALYSIS

This consistency analysis is prepared pursuant to *State CEQA Guidelines* Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), which provides that projects "consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site." These provisions streamline the review of such projects and reduce the need to prepare repetitive environmental studies.

Pursuant to *State CEQA Guidelines* Section 15183, the public agency shall limit its examination of environmental effects to those which the agency determines, in an Initial Study or other analysis:

1. Are peculiar to the project or the parcel on which the project would be located;
2. Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan with which the project is consistent;
3. Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action; or
4. Are previously identified significant effects which, as a result of substantial new information not known at the time of EIR certification, are determined to have a more severe adverse impact than discussed in the prior EIR.

---

1 Berkeley, City of. 2022. *City of Berkeley 2023-2031 Housing Element Update Draft Environmental Impact Report, SCH No. 2022010331*. August.

2 Berkeley, City of. 2023. *City of Berkeley Housing Element Update 2023-2031*. January. Amended February 17, 2023.

In addition, in accordance with the California Environmental Quality Act (CEQA), as set forth in Public Resources Code (PRC) Section 21166 and *State CEQA Guidelines* Section 15162, no subsequent or supplemental EIR or other environmental analysis shall be required unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was adopted, shows any of the following:

    a. The project will have one or more significant effects not discussed in the previous EIR;

    b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;

    c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

    d. Mitigation measures or alternatives that are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative (see *State CEQA Guidelines* Section 15162(a) and also PRC Section 21166).

2.2 PROJECT CONSISTENCY WITH A COMMUNITY PLAN, GENERAL PLAN, OR ZONING

On January 18, 2023, the City of Berkeley City Council approved the City's 2023-2031 Housing Element Update following certification of the Housing Element EIR. The Housing Element identifies the City's housing needs and outlines the specific goals, policies, and programs to address them. Importantly, the Housing Element quantifies how many new housing units the City needs to accommodate growth in the region as part of the Regional Housing Needs Assessment (RHNA). As part of the Housing Element, the City identified adequate land with appropriate zoning and development standards to accommodate the City's RHNA allocation (i.e., Opportunity Sites). The Opportunity Sites identified in the Housing Element include vacant or underutilized sites with near-term potential for residential or mixed-use development. The project site was identified as an Opportunity Site for residential development in the Housing Element. Refer to Section 3.3 of this document for additional information regarding the relationship between the proposed project and the City's General Plan.

3.0 PROJECT DESCRIPTION

The following section describes the proposed 2109 Virginia Street Project (proposed project) that is the subject of this consistency evaluation, which has been prepared pursuant to *State CEQA Guidelines* Section 15183 (Projects Consistent with a Community Plan or Zoning) and Section 15162 (Subsequent EIRs and Negative Declarations). The proposed project involves the construction of a new mixed-use residential building on a site that was identified as an Opportunity Site for residential development in the City of Berkeley (City) 2023-2031 Housing Element Update and in the City's 2023-2031 Housing Element Update Draft Environmental Impact Report (Housing Element EIR). The City of Berkeley is the lead agency for review of the proposed project under the California Environmental Quality Act (CEQA).

3.1 PROJECT SITE

The following section describes the project location, existing conditions, surrounding land uses, and the regulatory setting.

3.1.1 Project Location

The approximately 0.51-acre project site is located at 2109 Virginia Street (Assessor's Parcel Number [APN] 058-2178-18) in Berkeley, Alameda County, California. The project site is bounded by commercial uses to the north, single-family residential uses to the east, Virginia Street to the south, and Shattuck Avenue to the west.

Regional vehicular access to the project site is provided by Interstate 80 (I-80) and Interstate 580 (I-580) via University Avenue. Local access is provided primarily via Shattuck Avenue and Virginia Street. Shattuck Avenue is designated as a Major Street[3] in the City's General Plan. Transit in the project vicinity includes the extensive bus transit service provided by Alameda-Contra Costa County (AC) Transit, including Lines 7, 18, and FS, which provide service along Shattuck Avenue.[4] The closest bus stop is at Virginia Street and Shattuck Avenue, approximately 70 feet south of the project site.

Figure 3-1 shows the regional and local context of the project site.

3.1.2 Existing Conditions

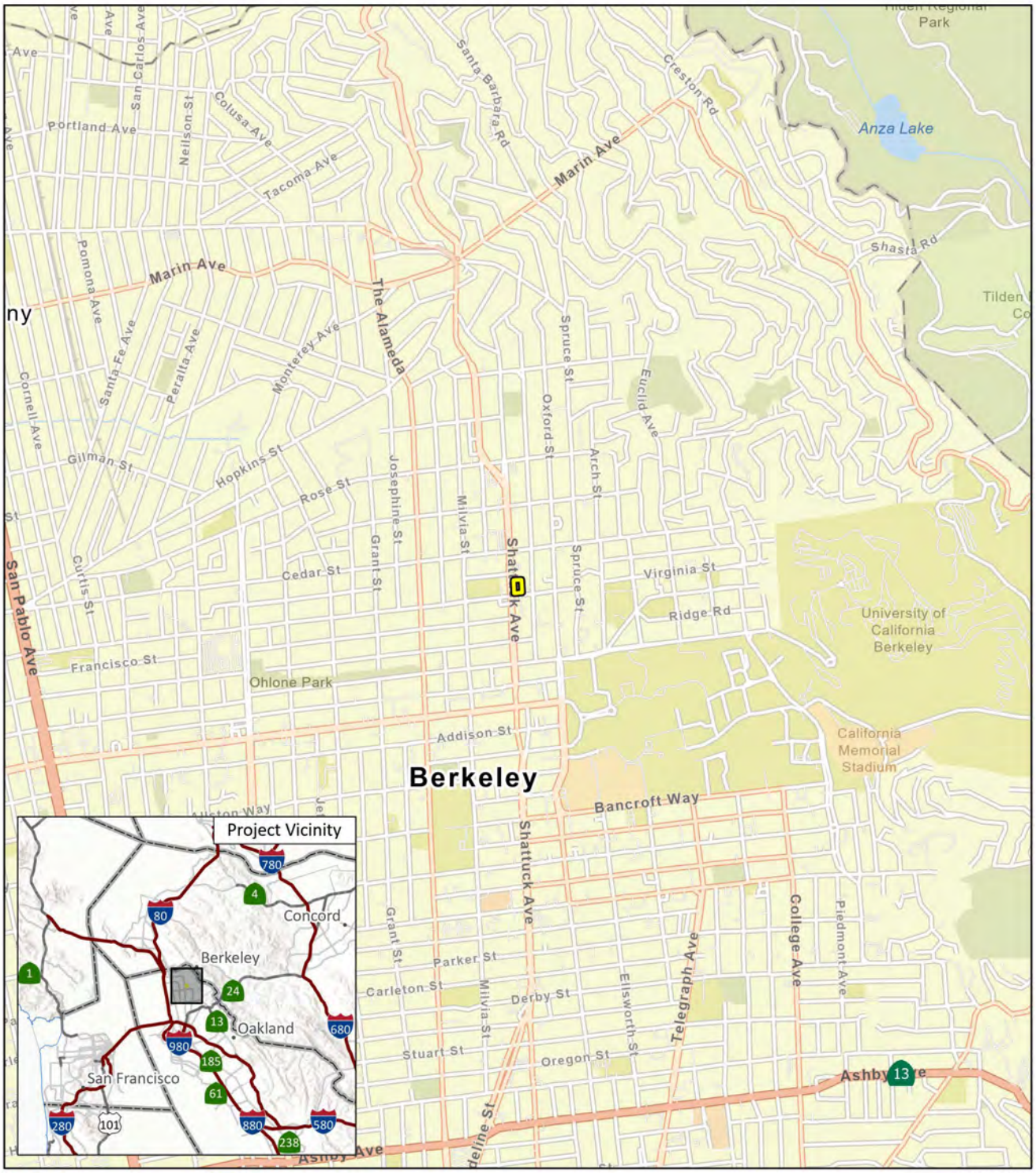
The southwestern portion of the project site is currently developed with an approximately 4,604-square-foot, two-story commercial building. The remainder of the project site consists of a paved surface parking lot. Vegetation on the project site is limited to street trees along Shattuck Avenue.

Figure 3-2 depicts an aerial photograph of the project site and surrounding land uses.

[3] Major Streets serve the movement of automobiles, trucks, buses, pedestrians, and bicycles across the city, connecting to the regional transportation network, and to other jurisdictions.

[4] Alameda-Contra Costa County Transit. 2024. Maps & Schedule. Website: https://www.actransit.org/maps-schedules (accessed March 2025).

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FIGURE 3-1

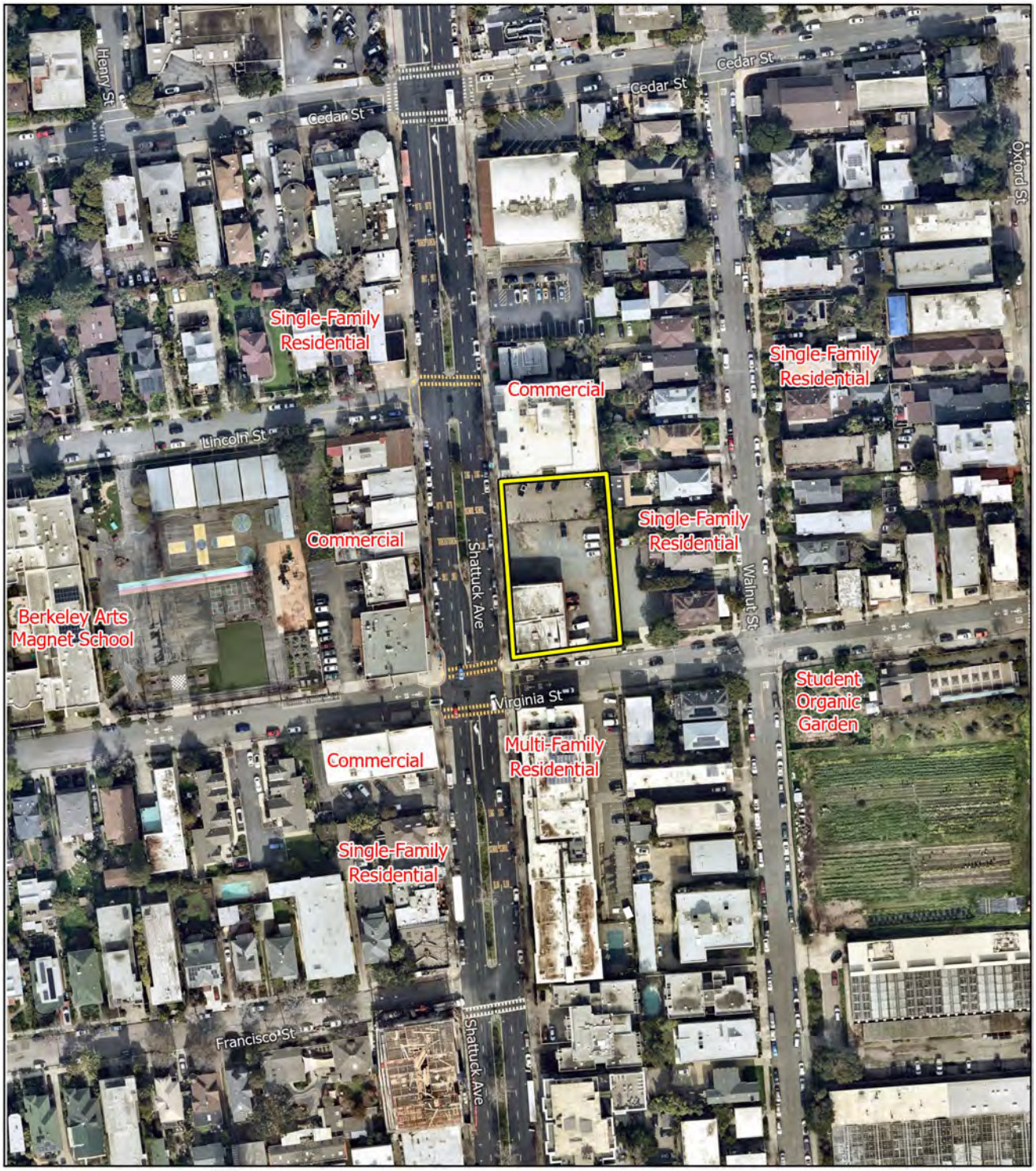
SOURCE: Esri World Street Map (2025)

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2109 Virginia Street

Project Location and Regional Vicinity

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LSA

Project Site

FIGURE 3-2

N

0 75 150
FEET

SOURCE: Nearmap (2/15/2025)

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2109 Virginia Street
Aerial Photograph of the Project Site

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3.1.3 Surrounding Land Uses

As shown on Figure 3-2, the project site is surrounded by existing development, including single- and multi-family residential and commercial uses. Virginia Street bounds the project site to the south, followed by the University Park Apartments complex, and Shattuck Avenue bounds the project site to the west. The Student Organic Garden is located approximately 0.04 mile southeast of the project site, across Virginia Street, and the Berkeley Arts Magnet School is located 0.04 mile west of the project site, across Shattuck Avenue.

3.1.4 Regulatory Setting

The City's General Plan designates the project site as Neighborhood Commercial. Areas designated as Neighborhood Commercial in the city are generally characterized by pedestrian-oriented, neighborhood-serving commercial development and multi-family residential structures. These areas are typically located on two-lane streets with on-street parking and transit, and the appropriate uses for these areas include local-serving commercial, residential, office, community service, and institutional.[5]

The project site is located within three zoning districts: (1) 19,788 square feet of the project site are in the North Shattuck Commercial (C-NS) zone; (2) 1,970 square feet are in the Multiple-Family Residential (R-4) zone; and (3) 584 square feet are in the Restricted Multiple-Family Residential (R-2A) zone. As outlined in Section 23.204.090 of the Berkeley Municipal Code (BMC), the purpose of the C-NS zone is to encourage the maintenance and establishment of retail and service activities that provide goods and services to serve the residents of the adjacent and outlying neighborhoods, provide locations for other activities compatible with these commercial activities, promote compatibility between such commercial areas and adjacent residential neighborhoods, and encourage an adequate commercial and residential mix along Shattuck Avenue.[6] As outlined in Sections 23.202.110 and 23.202.090 of the BMC, respectively, the purpose of the R-4 zone is to make available housing for persons who desire both convenience of location and a reasonable amount of usable open space. The purpose of the R-2A zone is to make available housing for persons who desire apartment-type accommodations with a maximum of open space.[7,8]

The project site has also been identified as an Opportunity Site for residential development in the City's 2023-2031 Housing Element Update.

3.2 PROPOSED PROJECT

The proposed project would demolish the existing 4,604-square-foot, two-story commercial building on site and would construct an eight-story mixed-use residential building consisting of 112,969 square feet of residential space and 690 square feet of commercial space in the southwest corner of

5 Berkeley, City of. 2001b. General Plan, Land Use Element. December 18.

6 Berkeley, City of. n.d. Berkeley Municipal Code, Chapter 23.204, Commercial Districts, Section 23.204.090, C-NS North Shattuck Commercial District.

7 Berkeley, City of. n.d. Berkeley Municipal Code, Chapter 23.202, Residential Districts, Section 23.202.110, R-4 Multi-Family Residential District.

8 Berkeley, City of. n.d. Berkeley Municipal Code, Chapter 23.202, Residential Districts, Section 23.202.090, R-2A Restricted Multiple-Family Residential District.

the ground floor. The proposed project is utilizing a 100 percent density bonus pursuant to the State Density Bonus Law and would include 110 dwelling units with a mix of 9 very low-income units and 9 middle-income units. As shown in Table 3.A, overall, the proposed project would include 14 studio units, 28 one-bedroom units, and 68 two-bedroom units. In addition, each unit would include a private balcony, providing a total of 3,240 square feet of private balcony space.

Table 3.A: Summary of Proposed Units

Floor	Studio	1-Bedroom	2-Bedroom	2-Bedroom + Office	Total Units
Ground Level	-	-	-	-	0
Second Floor	2	4	6	4	16
Third Floor	2	4	6	4	16
Fourth Floor	2	4	6	4	16
Fifth Floor	2	4	6	4	16
Sixth Floor	2	4	6	4	16
Seventh Floor	2	4	6	4	16
Eighth Floor	2	4	5	3	14
Total	**14**	**28**	**41**	**27**	**110**

Source: Trachtenberg Architects (2025)

In addition, the proposed project would include a shared 4,912-square-foot courtyard area on the second floor for use by residents, a shared 1,030-square-foot roof deck on the eighth floor, a solar array on the roof, and vehicle and bicycle parking spaces. The ground floor would also include the residential lobby, the leasing office, the mail room, and a storage area.

Figure 3-3 depicts the proposed floor plans for the proposed project, including for the ground level, second through seventh floors, eight floor, and the proposed roof plan.

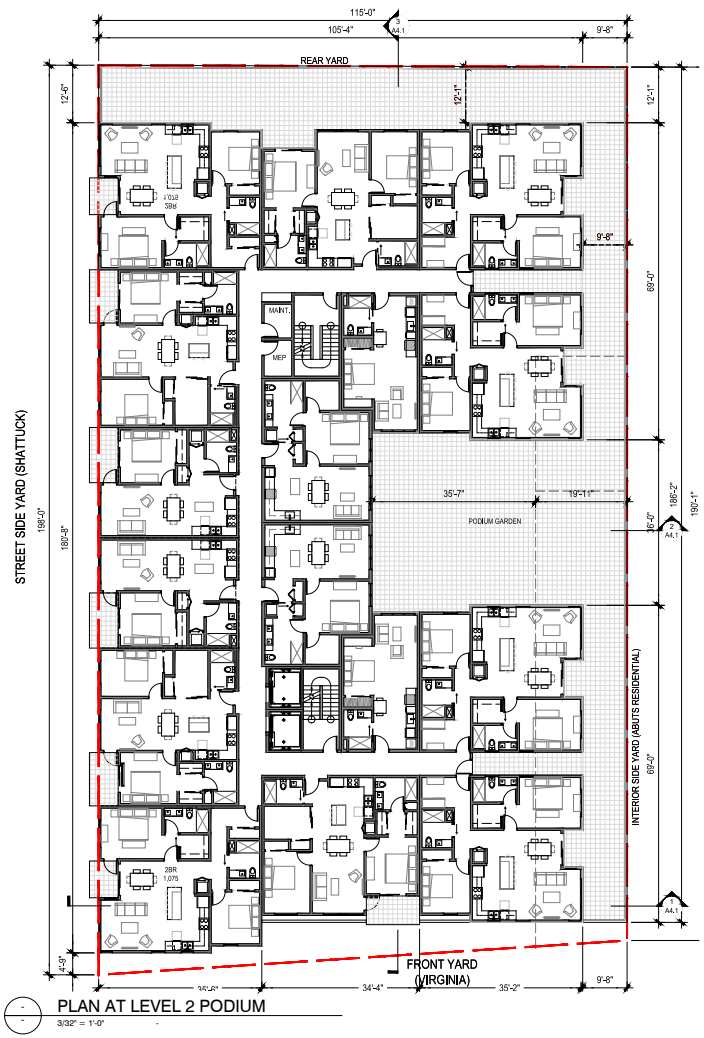
3.2.1 Access and Parking

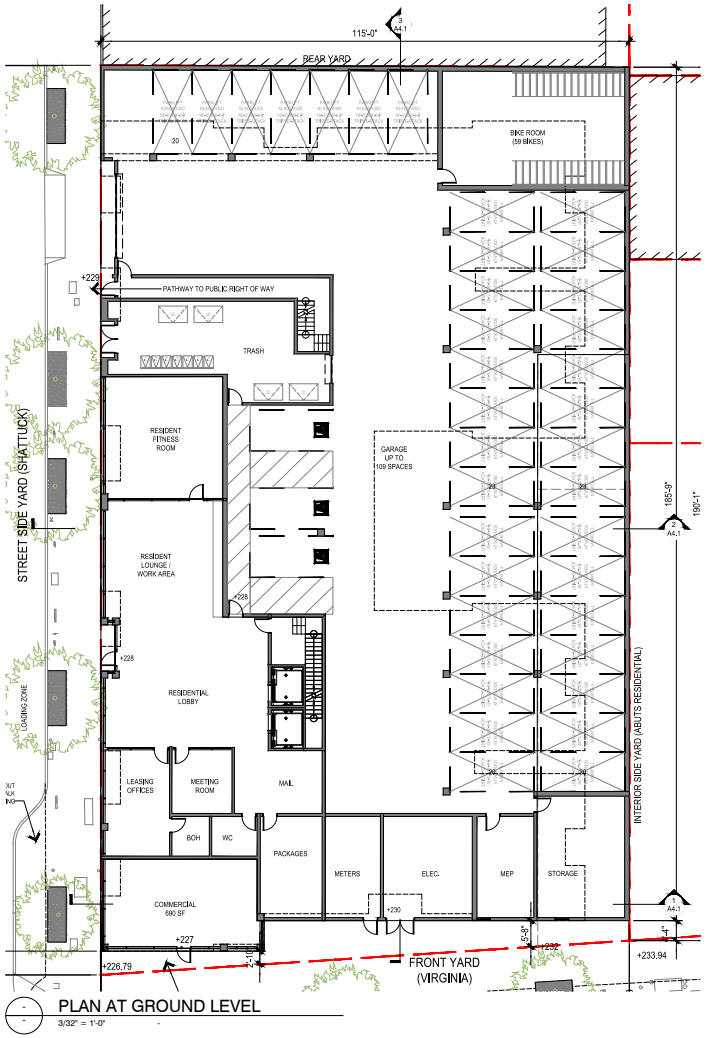
As shown on Figure 3-3, the proposed project would be accessed via a driveway from Shattuck Avenue that would provide access to the proposed garage on the ground floor. The proposed garage would provide up to 109 vehicle parking spaces for residents. The proposed project would also provide 97 bicycle parking spaces, including 59 secure bicycle parking spaces located in a bike room in the northeast corner of the project site.

In addition, a new curb ramp and crossing is proposed for the corner of Virginia Street and Shattuck Avenue. The proposed curb ramp and crossing would be constructed pursuant to City standards.

3.2.2 Open Space and Landscaping

As discussed above, the proposed project would include a shared 4,912-square-foot courtyard area on the second floor for use by residents, containing 1,965 square feet of landscaped area, and a shared 1,030-square-foot roof deck on the eighth floor, containing 412 square feet of landscaped area. The proposed courtyard area on the second floor would feature a variety of trees and other ornamental plan species and a central sitting nook. The roof deck on the eighth floor would feature landscaped vegetation, a gathering area, and a fire pit.





LSA

FIGURE 3-3
Page 1 of 3

0 20 40
FEET

SOURCE: Stackhouse De La Pena Trachtenberg Architects
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2109 Virginia Street
Proposed Floor Plans - Ground and Level 2



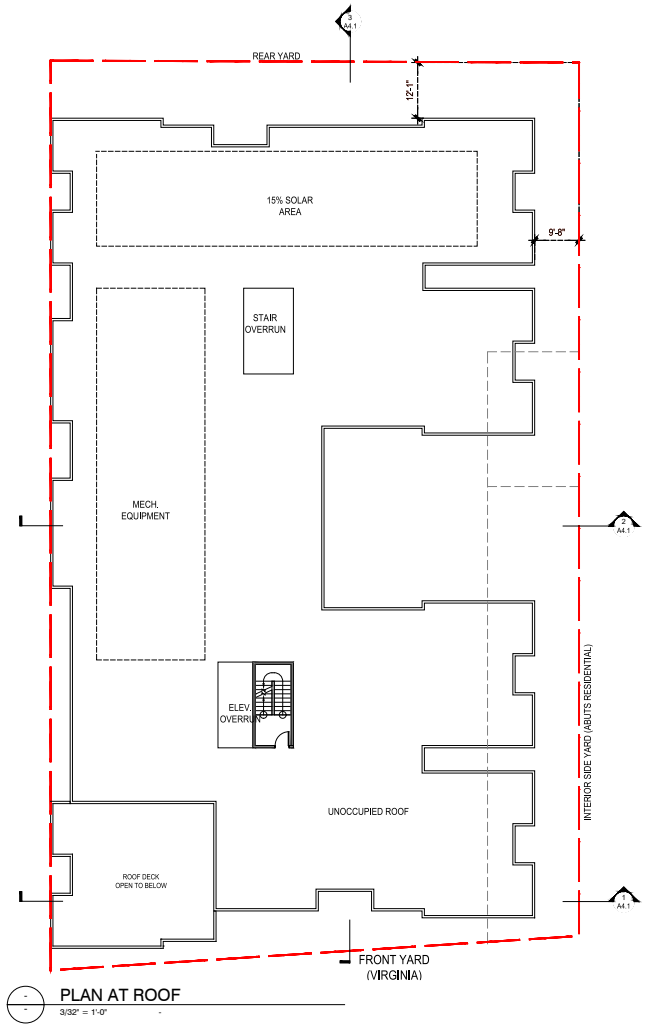
LSA

FIGURE 3-3
Page 2 of 3

0 20 40
FEET

SOURCE: Stackhouse De La Pena Trachtenberg Architects
I:\C\CBE1906.18\G\Proposed_Floor_Plans.ai (5/14/2025)

2109 Virginia Street
Proposed Floor Plans - Levels 3, 7, and 8



LSA

FIGURE 3-3
Page 3 of 3

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0 20 40
FEET

SOURCE: Stackhouse De La Pena Trachtenberg Architects
I:\C\CBE1906.18\G\Proposed_Floor_Plans.ai (5/14/2025)

2109 Virginia Street
Proposed Floor Plans - Roof Level

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Landscaping would also be provided along the project site frontages on Shattuck Avenue and Virginia Street, as depicted on Figure 3-4. As shown on Figure 3-4, all but one of the existing street trees along Shattuck Avenue would be protected in place, and two new street trees would be planted along Virginia Street.

Overall, the proposed project would provide a total of 9,182 square feet of usable open space and landscaped area.

3.2.3 Utilities and Infrastructure

The project site is located in an urban area that is currently served by existing utilities, including water, sanitary sewer, storm drainage, electricity, gas, and telecommunications infrastructure. The proposed project would connect to the existing utility infrastructure in the surrounding area, including existing water and wastewater lines in Virginia Street and Shattuck Avenue.

Under existing conditions, stormwater from the project site is collected on site and discharged to stormwater infrastructure in the surrounding area. Upon construction of the proposed project, stormwater from the project site would be directed to the proposed vegetated areas and treated by flow-through planters (biotreatment) before being discharged to the existing stormwater infrastructure in the surrounding area, similar to existing conditions.

The proposed project would also include connections to the existing electricity and natural gas infrastructure in the surrounding area.

3.2.4 Demolition and Construction

Proposed project construction would include site preparation, installation of utilities, paving, building construction, landscaping, and architectural coating activities. The proposed project would be constructed over approximately 21 months, with construction anticipated to begin in March 2026. Construction of the proposed project is anticipated to require excavation to a maximum depth of 6 feet for construction of utilities, drainage facilities, and parking facilities. The entire 0.51-acre project site is anticipated to be disturbed during construction activities, and project construction would result in approximately 4,343 cubic yards of exported soil.

3.2.5 Project Approvals

The proposed project is subject to action by the City of Berkeley's Zoning Adjustments Board (ZAB). The proposed project would require the following discretionary entitlements from the City of Berkeley, per the BMC:

- Administrative Use Permit, pursuant to BMC 23.322.070(D)(1), for exceeding the parking maximum
- Administrative Use Permit, pursuant to BMC Section 23.326.070, to demolish a non-residential building
- Use Permit, pursuant to BMC 23.326.070(A), for demolition of a non-residential main building

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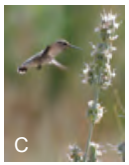


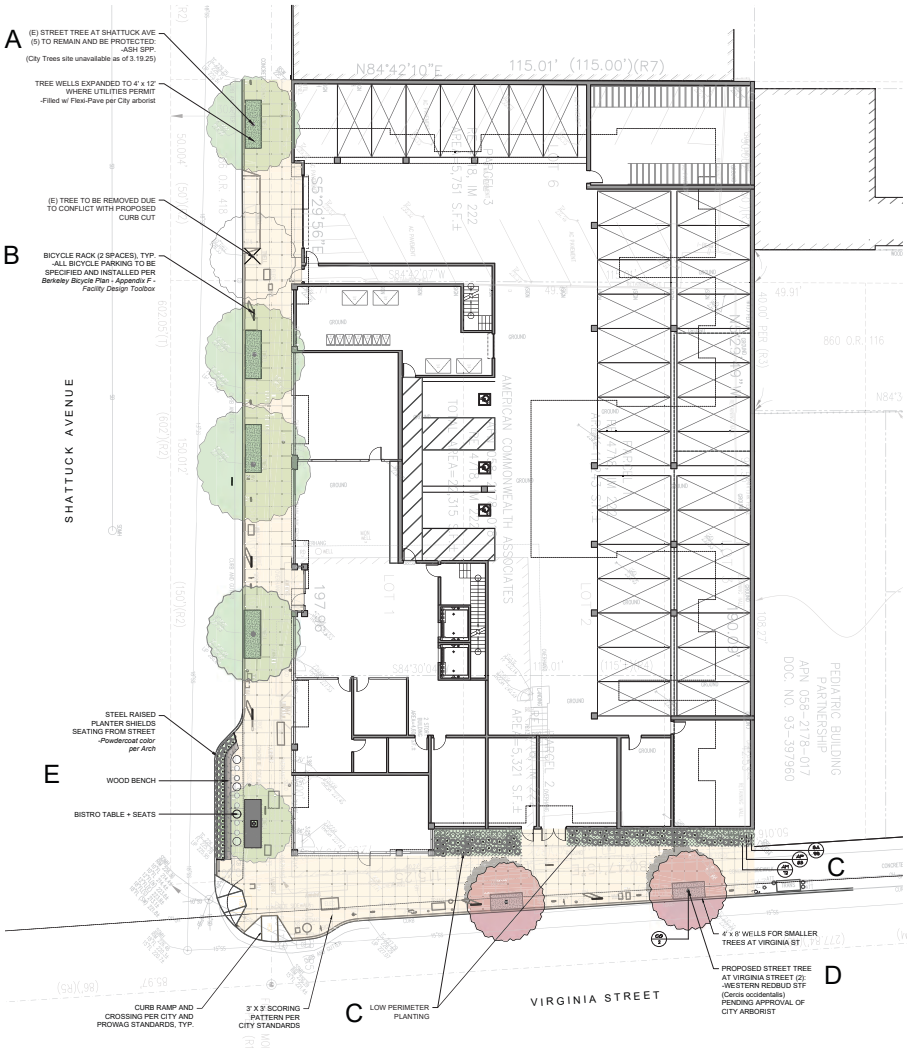












LSA

FIGURE 3-4

N

NO SCALE

SOURCE: Trachtenberg Architects

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2109 Virginia Street

Proposed Landscape Plan

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- Use Permit, pursuant to BMC 23.204.020(A), for construction of a multi-family building
- Use Permit, pursuant to BMC 23.204.304(A), for construction of 2,000 square feet of new floor area

In addition, the project sponsor is requesting a waiver/modification of the height limit, building stories, lot coverage, building footprint, and setback development standards under the State Density Bonus Law (Government Code Section 65915(e)). This will be processed by the City in conjunction with the permits described above.

Proposed project development, if approved, would also be subject to the City of Berkeley's standard Conditions of Approval (COA), pursuant to BMC 23B.32.040.D and consistent with the findings made by ZAB for approval of the project and issuance of the requested Administrative Use Permit. Applicable COAs related to the protection of the environment are identified in Table 7.B in Section 7.0, Applicable Housing Element EIR Mitigation Measures and Regulatory Compliance Measures, and are summarized in the appropriate topical sections. Each COA is titled pursuant to the subject area it addresses.

While the City is the CEQA Lead Agency for the proposed project, other agencies also have discretionary authority related to the project or serve as a responsible and/or trustee agency in connection to the proposed project. The proposed project may also require approval from the East Bay Municipal Utility District (EBMUD) regarding proposed utility connections.

3.3 RELATIONSHIP TO CITY OF BERKELEY GENERAL PLAN

On January 18, 2023, the City of Berkeley City Council approved the City of Berkeley 2023-2031 Housing Element Update (Housing Element). The Housing Element identifies the City's housing needs and outlines the specific goals, policies, and programs to address them. Importantly, the Housing Element quantifies how many new housing units the City needs to accommodate growth in the region as part of the Regional Housing Needs Assessment (RHNA). As shown in Table 3.B below, the City of Berkeley must construct 8,934 new housing units by 2031 to meet its housing allocation. The proposed project represents approximately 1.2 percent of the total housing units.

Table 3.B: City of Berkeley RHNA for 2023-2031

	Extremely/Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
RHNA	2,446	1,408	1,416	3,664	8,934
Percent Total (%)	27.4	15.8	15.8	41.0	100.0

Source: 2023-2031 Housing Element Update (City of Berkeley 2023).
RHNA = Regional Housing Needs Assessment

As part of the Housing Element, the City identified adequate land with appropriate zoning and development standards to accommodate the City's RHNA allocation (i.e., Opportunity Sites). The Opportunity Sites identified in the Housing Element include vacant or underutilized sites with near-term potential for residential or mixed-use development.

The Housing Element was determined by the City Council to be in substantial compliance with State Housing Element Law on January 18, 2023. On February 28, 2023, the California Department of Housing and Community Development (HCD) also found the City's 2023-2031 Housing Element Update to be in substantial compliance with State Housing Element Law. An EIR was prepared for the Housing Element Update in August 2022 (SCH No. 2022010331), which was certified by the City Council on January 18, 2023 (Resolution No. 70,669-N.S).

4.0 CEQA ENVIRONMENTAL CHECKLIST

4.1 AESTHETICS

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
a. Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☐	☒
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒

4.1.1 Housing Element EIR Analysis

Section 4.1 of the 2023-2031 Housing Element Update Draft Environmental Impact Report (Housing Element EIR) analyzed potential impacts related to aesthetics. The Housing Element EIR determined that all impacts related to aesthetics would be less than significant, and no mitigation was prescribed. Although implementation of the Housing Element would alter the development pattern of the city such that scenic views of and from public viewpoints could be adversely affected, development pursuant to the 2023-2031 Housing Element Update (Housing Element) would occur on individual sites and would be limited.

In addition, the Housing Element EIR determined that most of the sites in the Housing Element that were identified for future development are located within a transit priority area (TPA), and aesthetic impacts in those areas cannot be considered to be significant impacts, pursuant to Senate Bill (SB) 743 (Public Resources Code [PRC] Section 21099). There are also no designated or eligible Scenic Highways in the city or with significant views of the city, and the Housing Element EIR determined that with compliance with existing regulations, including Berkeley Municipal Code (BMC) Sections 23.304.100 and 23.304.130, future development under the Housing Element would not conflict with applicable zoning and other regulations governing scenic quality or substantially add to existing light and glare in the city.

4.1.2 Project Impacts

PRC Section 21099(d) provides that, among other items, “aesthetics… impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area

shall not be considered significant impacts on the environment." Accordingly, aesthetics is no longer to be considered in determining if a project has the potential to result in significant environmental effects for projects that meet all of the following three criteria:

1. The project is residential, mixed-use residential, or an employment center.
2. The project is on an infill site.[9]
3. The project is in a transit priority area.[10]

The proposed project would result in the development of a new eight-story, mixed-use residential building containing a total of 110 dwelling units and approximately 690 square feet of commercial space on an infill site. Transit in the project vicinity includes the extensive bus transit service provided by Alameda-Contra Costa County Transit (AC Transit). The project site is located within a transit priority area because it is within 0.5 mile of several intersecting major bus routes, including Lines 7, 18, and FS. Line 7 provides bus service from the El Cerrito del Norte Bay Area Rapid Transit (BART) Transit Center to Downtown Berkeley, Line 18 provides bus service from University Village in Albany to the Lake Merritt BART Transit Center, and Line FS provides bus service from Solano Avenue and Colusa Street to the Salesforce Transit Center in San Francisco.[11] These lines provide service at a frequency of less than 15 minutes during the morning and afternoon peak commute periods. In addition, as shown on the Household VMT Per Capita and Home-Work VMT Per Worker maps in the *City of Berkeley Transportation VMT Criteria and Thresholds*,[12] the project site is located within a TPA.

Because the proposed project meets each of the above three criteria, aesthetic impacts are not required to be considered in determining the significance of project impacts under the California Environmental Quality Act (CEQA). Project elements that relate to changes to aesthetic conditions at the site and vicinity, such as proposed building heights, architecture, effects of new light and glare, etc., will be considered as part of the planning approval process, including through design review. In addition, the proposed project would be required to adhere to the City of Berkeley (City) standard Condition of Approval (COA) for Exterior Lighting, below, which requires all exterior lighting to be energy efficient where feasible, and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

> ***COA: Exterior Lighting.*** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

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9 PRC Section 21099(a) defines an "infill site" as a lot located within an urban area that has been previously developed, or a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.

10 PRC Section 21099(a) defines a "transit priority area" as an area within 0.5 mile of an existing or planned major transit stop. A "major transit stop" is defined in Section 21064.3 of the California Public Resources Code as a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency or service interval of 15 minutes or less during the morning and afternoon peak commute periods.

11 Alameda-Contra Costa County Transit (AC Transit). 2024. *Maps & Schedules.* Website: https://www.actransit.org/maps-schedules (accessed March 2025).

12 Berkeley, City of. 2020. *City of Berkeley Transportation VMT Criteria and Thresholds*. June 29.

The proposed project would have no impact, either individually or cumulatively, on aesthetics.

4.1.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to aesthetics. Impacts related to aesthetics would remain less than significant as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.2 AGRICULTURE AND FORESTRY RESOURCES

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.				
Would the project:				
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒
d. Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

4.2.1 Housing Element EIR Analysis

Section 1.6 of the Housing Element EIR discussed issues determined to have a less than significant impact due to the unique conditions of the city and were therefore not analyzed in further detail in the Housing Element EIR, including agricultural and forestry resources. The Housing Element EIR states that the city does not have agricultural or forest lands, and the City's General Plan and Zoning Map do not contain agricultural or forestry land designations. In addition, the Housing Element EIR determined that the city is classified as urban and built-up land under the California Department of Conservation's (DOC) Farmland Mapping and Monitoring Program (FMMP) and there is no Williamson Act contract land within the city.

4.2.2 Project Impacts

The project site and vicinity are located within an urban area of the city that does not contain prime farmland, unique farmland, or farmland of Statewide importance;[13] forest land; or land under a Williamson Act contract.[14] In addition, the area is not zoned for any agricultural uses. The proposed project would have no impact, either individually or cumulatively, on agricultural or forest resources.

4.2.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to agricultural or forestry resources. Impacts on agricultural and forestry resources would remain less than significant as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

13 California Department of Conservation (DOC). 2022. *California Important Farmland Finder* (map). Website: https://maps.conservation.ca.gov/dlrp/ciff (accessed March 2025).

14 California Department of Conservation (DOC). 2023. *California Williamson Act Enrollment Finder*. Website: https://maps.conservation.ca.gov/dlrp/WilliamsonAct/ (accessed March 2025).

4.3 AIR QUALITY

Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations.

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒
b. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☐	☒
c. Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒
d. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☐	☒

4.3.1 Housing Element EIR Analysis

Section 4.2 of the Housing Element EIR analyzed potential impacts related to air quality. The Housing Element EIR determined that all impacts related to air quality would either be less than significant or less than significant with incorporation of prescribed mitigation measures. The Housing Element EIR determined that implementation of the Housing Element would not conflict with the control measures within the 2017 Clean Air Plan, and the vehicle miles traveled (VMT) increase from implementation of the Housing Element would be less than the projected population increase. In addition, development facilitated by the Housing Element would not create objectionable odors that could affect a substantial number of people. Therefore, implementation of the Housing Element would not conflict with or obstruct implementation of applicable air quality plans or result in objectionable odors, and no mitigation was prescribed.

The Housing Element EIR also determined that construction facilitated by the Housing Element would temporarily increase air pollutant emissions, which would affect local air quality. However, implementation of Mitigation Measure AQ-1, which requires compliance with the current Bay Area Air District (Air District) basic control measures for reducing construction emissions of PM_{10}, and adherence to the City's COAs would reduce construction emissions such that impacts would be less than significant.

In addition, the Housing Element EIR determined that construction activities for individual projects facilitated by the Housing Element lasting longer than 2 months or located within 1,000 feet of sensitive receptors could expose sensitive receptors to substantial pollutant concentrations. Additionally, development facilitated by the Housing Element would site new sensitive land uses near Interstate 580/Interstate 80 (I-580/I-80), which may expose them to substantial pollutant concentrations. However, implementation of Mitigation Measure AQ-2, which requires construction

health risk assessments for projects where construction activities would occur within 1,000 feet of sensitive receptors, would last longer than 2 months and would not utilize Tier 4 and/or alternative fuel construction equipment. Mitigation Measure AQ-3, which details design features for residential development located within 1,000 feet of I-580/I-80 or on a lot that fronts on a section of roadway with 10,000 vehicles per day or more, would reduce this impact to less than significant.

4.3.2 Project Impacts

The information and analysis in this section is based on the Air Quality Analysis Technical Memorandum[15] prepared for the proposed project. This report is provided as Appendix A.

a) Would the project conflict with or obstruct implementation of the applicable air quality plan?

The applicable air quality plan is the Air District's 2017 Clean Air Plan, which defines control strategies to reduce emissions and ambient concentrations of air pollutants, safeguard public health by reducing exposure to air pollutants that pose the greatest heath risk (with an emphasis on protecting the communities most heavily affected by air pollution), and reduce greenhouse gas (GHG) emissions to protect the climate. Consistency with the 2017 Clean Air Plan can be determined if the project (1) supports the goals of the Clean Air Plan, (2) includes applicable control measures from the Clean Air Plan, and (3) would not disrupt or hinder implementation of any control measures from the Clean Air Plan.

Clean Air Plan Goals. The primary goals of the Air District's 2017 Clean Air Plan are to attain air quality standards, reduce population exposure and protect public health in the Bay Area, and reduce GHG emissions and protect the climate.

The Air District has established significance thresholds for project construction and operational impacts at a level at which the cumulative impact of exceeding these thresholds would have an adverse impact on the region's attainment of air quality standards. The health and hazards thresholds were established to help protect public health. As discussed below, construction and operation of the proposed project would not result in the generation of criteria air pollutants that would exceed Air District thresholds of significance after the implementation of mitigation. Therefore, the proposed project would not conflict with the 2017 Clean Air Plan goals.

Clean Air Plan Control Measures. The control strategies of the 2017 Clean Air Plan include measures in the following categories: Stationary Source Measures, Transportation Measures, Energy Measures, Building Measures, Agriculture Measures, Natural and Working Lands Measures, Waste Management Measures, Water Measures, and Super-GHG Pollutants Measures. The proposed project's compliance with each of these control measures is discussed below:

- **Stationary Source Control Measures:** The Stationary Source Control Measures, which are designed to reduce emissions from stationary sources such as metal melting facilities, cement kilns, refineries, and glass furnaces, are incorporated into rules adopted by the Air District and then enforced by the Air District Permit and Inspection programs. Since the proposed project

[15] LSA Associates, Inc. 2025. Air Quality Analysis Technical Memorandum for the 2109 Virginia Street Project. August 15.

would not include any of these stationary sources, the Stationary Source Control Measures of the 2017 Clean Air Plan are not applicable to the proposed project.

- **Transportation Control Measures:** The Air District identifies Transportation Control Measures as part of the 2017 Clean Air Plan to decrease emissions of criteria pollutants, toxic air contaminants (TACs), and GHGs by reducing demand for motor vehicle travel, promoting efficient vehicles and transit service, decarbonizing transportation fuels, and electrifying motor vehicles and equipment. The proposed project would construct a mixed-use residential building consisting of 110 dwelling units and 690 square feet of commercial space. The proposed project would locate residential uses within walking or bicycling distance to surrounding commercial shopping areas, thereby reducing the demand for travel by single-occupancy vehicles. The proposed project would also provide paved pedestrian pathways that would circle around the perimeter of the proposed development and that would provide access to Virginia Street and Shattuck Avenue, which would increase connectivity with the surrounding areas. In addition, existing bus stations and other high-quality transit services are within 0.5 mile of the project site along Shattuck Avenue (refer to Section 4.1.2). Therefore, the proposed project would support the ability to use alternative modes of transportation, would promote initiatives to reduce vehicle trips and vehicle miles traveled, and would increase the use of alternate means of transportation. Therefore, the proposed project would not conflict with the identified Transportation Control Measures of the 2017 Clean Air Plan.**Energy Control Measures:** The 2017 Clean Air Plan also includes Energy Control Measures, which are designed to reduce emissions of criteria air pollutants, TACs, and GHGs by decreasing the amount of electricity consumed in the Bay Area and decreasing the carbon intensity of the electricity used by switching to less GHG-intensive fuel sources for electricity generation. Since these measures apply to electrical utility providers and local government agencies (and not individual projects), the Energy Control Measures of the 2017 Clean Air Plan are not applicable to the proposed project.

- **Building Control Measures:** The Air District has authority to regulate emissions from certain sources in buildings such as boilers and water heaters but has limited authority to regulate buildings themselves. Therefore, the strategies in the Building Control Measures for this sector focus on working with local governments that do have authority over local building codes so as to facilitate adoption of best GHG control practices and policies. The proposed project would be required to comply with the latest Title 24 standards of the California Code of Regulations (CCR) regarding energy conservation and green building standards. Therefore, the proposed project would not conflict with any of the Building Control Measures.

- **Agriculture Control Measures:** The Agriculture Control Measures are designed to primarily reduce emissions of methane. Since the project does not include any agricultural activities, the Agriculture Control Measures of the 2017 Clean Air Plan do not apply to the proposed project.

- **Natural and Working Lands Control Measures:** The Natural and Working Lands Control Measures focus on increasing carbon sequestration on rangelands and wetlands and encouraging local governments to adopt ordinances that promote urban tree plantings. Since the proposed project does not include the disturbance of any rangelands or wetlands, the

Natural and Working Lands Control Measures of the Clean Air Plan do not apply to the proposed project.

- **Waste Management Control Measures:** The Waste Management Control Measures focus on reducing or capturing methane emissions from landfills and composting facilities, diverting organic materials away from landfills, and increasing waste diversion rates through efforts to reduce, reuse, and recycle. The proposed project would comply with local requirements for waste management (e.g., recycling and composting services). Therefore, the proposed project would be consistent with the Waste Management Control Measures of the 2017 Clean Air Plan.

- **Water Control Measures:** The Water Control Measures focus on reducing emissions of criteria pollutants, TACs, and GHGs by encouraging water conservation, limiting GHG emissions from publicly owned treatment works (POTW), and promoting the use of biogas recovery systems. Since these measures apply to POTWs and local government agencies (and not individual projects), the Water Control Measures are not applicable to the proposed project.

- **Super GHG Control Measures:** The Super-GHG Control Measures are designed to facilitate the adoption of best GHG control practices and policies through the Air District and local government agencies. Since these measures do not apply to individual projects, the Super-GHG Control Measures do not apply to the proposed project.

Clean Air Plan Implementation. As discussed above, the proposed project would generally implement the applicable measures outlined in the 2017 Clean Air Plan, including Transportation Control Measures. Therefore, the proposed project would not conflict with or obstruct implementation of the applicable air quality plan.

b) Would the project violate any air quality standard or contribute substantially to an existing or projected air quality violation?

The Air District is currently designated as a nonattainment area for State and federal ozone standards and federal particulate matter (PM) ambient air quality standards (AAQS). The Air District's nonattainment status is attributed to the region's development history. Past, present, and future development projects contribute to the region's adverse air quality impacts on a cumulative basis. By its very nature, air pollution is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of AAQS. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. If a project's contribution to the cumulative impact is considerable, then the project's impact on air quality would be considered significant.

In developing thresholds of significance for air pollutants, the Air District considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. Therefore, additional analysis to assess cumulative impacts is unnecessary. The following analysis assesses the potential project-level construction- and operation-related air quality impacts.

Construction Emissions. During construction, short-term degradation of air quality may occur due to the release of particulate emissions generated by demolition, grading, building, paving, and other activities. Emissions from construction equipment are also anticipated and would include carbon monoxide (CO), nitrogen oxides (NO_X), reactive organic gases (ROGs), directly emitted particulate matter (particulate matter less than 2.5 microns and 10 microns in size [$PM_{2.5}$ and PM_{10}, respectively]), and toxic air contaminants (TACs) (e.g., diesel exhaust particulate matter [DPM]).

Project construction activities would include demolition, site preparation, grading, building, paving, and architectural coating (painting). Construction-related effects on air quality from the proposed project would be greatest during demolition, grading, and site preparation phases due to the disturbance of soils. If not properly controlled, these activities would temporarily generate particulate emissions. Sources of fugitive dust would include disturbed soils at the construction site. Unless properly controlled, vehicles leaving the site would deposit dirt and mud on local streets, which could be an additional source of airborne dust after it dries. PM_{10} emissions would vary from day to day, depending on the nature and magnitude of construction activity and local weather conditions. PM_{10} emissions would depend on soil moisture, silt content of soil, wind speed, and the amount of operating equipment. Larger dust particles would settle near the source, while fine particles would disperse over greater distances from the construction site.

Water or other soil stabilizers can be used to control dust, resulting in emission reductions of 50 percent or more. The Air District has established standard measures for reducing fugitive dust emissions (PM_{10}). With the implementation of these basic best management practices (BMPs), fugitive dust emissions from construction activities would not result in adverse air quality impacts. In addition, the City of Berkeley has established *COA: Public Works – Implement Air District-Recommended Measures During Construction*, which requires the implementation of the Air District's basic BMPs.

In addition to dust-related PM_{10} emissions, heavy trucks and construction equipment powered by gasoline and diesel engines would generate CO, NO_X, ROGs, and some soot particulate ($PM_{2.5}$ and PM_{10}) in exhaust emissions. If construction activities were to increase traffic congestion in the area, CO and other emissions from traffic would increase slightly while those vehicles idle in traffic. These emissions would be temporary in nature and limited to the immediate area surrounding the construction site.

The California Emissions Estimator Model (CalEEMod) was used to calculate emissions from on-site construction equipment and emissions from worker and vehicle trips to the site. Construction-related emissions are presented in Table 4.3.A, below.

Table 4.3.A: Project Construction Emissions

Project Construction	Average Daily Pollutant Emissions (lbs/day)					
	ROGs	NO_X	Exhaust PM_{10}	Fugitive Dust PM_{10}	Exhaust $PM_{2.5}$	Fugitive Dust $PM_{2.5}$
2026	0.3	6.4	0.2	0.6	0.2	0.2
2027	4.8	7.3	0.3	0.6	0.2	0.1
Maximum Average Daily Emissions	**4.8**	**7.3**	**0.3**	**0.6**	**0.2**	**0.2**
Air District Thresholds	**54.0**	**54.0**	**82.0**	**BMP**	**54.0**	**BMP**
Exceeds Threshold?	**No**	**No**	**No**	**No**	**No**	**No**

Source: Compiled by LSA (August 2025).
Air District = Bay Area Air District
BMP = best management practice
lbs/day = pounds per day
NO_X = nitrogen oxides
$PM_{2.5}$ = particulate matter 2.5 microns or less in size
PM_{10} = particulate matter 10 microns or less in size
ROGs = reactive organic gases

As shown in Table 4.3.A, construction emissions associated with the project would not exceed the Air District's thresholds for ROGs, NO_X, CO, exhaust PM_{10}, and exhaust $PM_{2.5}$ emissions. In addition to the Air District regulations, the City requires the implementation of *COA: Public Works – Implement Air District-Recommended Measures During Construction*, which are consistent with the Air District's requirements for fugitive dust impacts. The City also requires the implementation of *COA: Air Quality – Diesel Particulate Matter Controls During Construction* to require cleaner construction equipment for projects with construction lasting more than 2 months. With implementation of these COAs, which are outlined below, construction impacts would be less than significant.

> ***COA: Public Works – Implement Air District-Recommended Measures During Construction.*** For all proposed projects, Air District recommends implementing all the Basic Best Management Practices, listed below to meet the best management practices threshold for fugitive dust:
>
> - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
> - All haul trucks transporting soil, sand, or other loose material off site shall be covered.
> - All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
> - All vehicle speeds on unpaved roads shall be limited to 15 mph.
> - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
> - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne

toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- A publicly-visible sign shall be posted with the telephone number and person to contact at the City of Berkeley regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

COA: Air Quality – Diesel Particulate Matter Controls During Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with one of the following measures:

a. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from Air District and Office of Environmental Health Hazard Assessment (OEHHA). The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

b. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

   In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:

   - An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
   - A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

The proposed project would be required to comply with the above City-required COAs, which are consistent with Housing Element EIR Mitigation Measure AQ-1, requiring compliance with the Air District's basic control measures for reducing construction emissions of PM_{10}. The Air District's Basic BMPs would be implemented during the construction period through compliance with the City's COA.

Also refer to Section 4.3.2.c, below, which discusses potential health risk impacts to sensitive receptors during project construction. In compliance with *COA: Air Quality – Diesel Particulate Matter Controls During Construction*, the proposed project would use at least Tier 2 equipment in conjunction with the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type during project construction and will prepare a Construction Emission Minimization Plan. The City has determined that implementation of these measures reduce emissions to such an extent that sensitive receptors would not be exposed to substantial pollutant concentrations during project construction. As such, construction of the proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or State AAQS, and impacts would be less than significant.

Operational Emissions. Long-term air pollutant emission impacts are those associated with mobile sources (e.g., vehicle trips), energy sources (e.g., natural gas), and area sources (e.g., architectural coatings and the use of landscape maintenance equipment) related to the proposed project. Mobile source emissions include ROG and NO_X emissions that contribute to the formation of ozone. Additionally, PM_{10} emissions result from running exhaust, tire and brake wear, and the entrainment of dust into the atmosphere from vehicles traveling on paved roadways. Energy source emissions would generally result from activities in buildings for which natural gas is used. Typically, area source emissions consist of direct sources of air emissions located at the project site, including architectural coatings, consumer products, and the use of landscape maintenance equipment.

As discussed above, the Air District has developed screening criteria to provide lead agencies with a conservative indication of whether a proposed project would result in potentially significant air quality impacts. If all of the screening criteria are met by a proposed project, then the lead agency would not need to perform a detailed air quality assessment of the proposed project's emissions. These screening levels are generally representative without any form of mitigation measures taken into consideration. In addition, the screening criteria do not account for project design features, attributes, or local development requirements that could also result in lower emissions.

For operational criteria pollutants, the Air District screening size for Apartment Housing land uses is 638 units and for Strip Mall land uses is 204,000 square feet. The proposed project would construct a mixed-use residential building consisting of 110 dwelling units and 690 square feet of commercial space. Based on the Air District's screening criteria, operational activities associated with the proposed project are not anticipated to exceed established thresholds; therefore, operation of the proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project is in non-attainment under applicable federal or State AAQS. Impacts would be less than significant, and no mitigation is required.

Long-Term Microscale (CO Hot Spot) Analysis. Emissions and ambient concentrations of CO have decreased dramatically in the Bay Area with the introduction of the catalytic converter in 1975. No exceedances of the State or federal CO standards have been recorded at Bay Area monitoring stations since 1991. The Air District's CEQA Guidelines include recommended methodologies for quantifying concentrations of localized CO levels for proposed transportation projects. A screening level analysis using guidance from the Air District CEQA Guidelines was performed to determine the impacts of the proposed project. The screening methodology provides a conservative indication for

whether the implementation of a proposed project would result in significant CO emissions. According to the Air District's CEQA Guidelines, a proposed project would result in a less than significant impact to localized CO concentrations if the following screening criteria are met:

- The project is consistent with an applicable congestion management program established by the county congestion management agency for designated roads or highways, and the regional transportation plan and local congestion management agency plans.
- Project traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour.
- The project would not increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnel, parking garage, bridge underpass, natural or urban street canyon, or below-grade roadway).

Implementation of the proposed project would not conflict with the policies or programs of the Alameda County Transportation Commission. Based on the size of the project, the proposed project did not meet the criteria for an evaluation of study area intersection or roadway segment level of service (LOS). The proposed project includes the construction of a parking garage; therefore, the applicable screening threshold would be 24,000 vehicles per hour (vph). The proposed project would generate 561 average daily trips, including 37 AM peak-hour trips and 36 PM peak-hour trips. Therefore, based on the average daily trips generated by the proposed project, it is anticipated that the project's contribution to peak-hour traffic volumes at intersections in the vicinity of the project site and within the parking garage would be well below 24,000 vph. As such, the CO concentrations are not expected to significantly increase as a result of the project, and the proposed project would not result in localized CO concentrations that exceed State or federal standards.

c) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

Sensitive receptors are defined as people that have an increased sensitivity to air pollution or environmental contaminants. Sensitive receptor locations include schools, parks and playgrounds, daycare centers, nursing homes, hospitals, and residential dwelling units. The closest sensitive receptor to the project site includes a single-family home located immediately east of the project site at approximately 40 feet measured from the project eastern boundary to the residential building façade.

Construction Emissions. Construction activities can expose sensitive receptors to airborne particulates and fugitive dust as well as a small quantity of construction equipment pollutants (i.e., diesel-fueled vehicles and equipment). Construction contractors would be required to implement *COA: Public Works – Implement Air District-Recommended Measures During Construction*. Additionally, given the proximity of the nearby receptors, the City would also require implementation of *COA: Air Quality – Diesel Particulate Matter Controls During Construction* to

ensure the proposed project would not result in a significant health risk impact to nearby sensitive receptors.

As provided above, the Housing Element EIR prescribed Mitigation Measure AQ-2, which requires construction health risk assessments for projects where construction activities would occur within 1,000 feet of sensitive receptors, would last longer than 2 months, and would not utilize Tier 4 and/or alternative fuel construction equipment. The project sponsor has not prepared a health risk assessment; however, consistent with *COA: Air Quality – Diesel Particulate Matter Controls During Construction*, the proposed project would use at least Tier 2 equipment in conjunction with the most effective VDECS available for the engine type during project construction and will prepare a Construction Emission Minimization Plan. The City has determined that implementation of these measures reduce emissions to such an extent that sensitive receptors would not be exposed to substantial pollutant concentrations during project construction. Therefore, with implementation of *COA: Air Quality – Diesel Particulate Matter Controls During Construction*, project construction health risk impacts would be less than significant, and Housing Element EIR Mitigation Measure AQ-2 would not be applicable to the proposed project.

Operational Emissions. Land uses that have the potential to expose sensitive receptors to TACs include distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners, and large gas dispensing facilities. In addition, various commercial and industrial processes have the potential to emit TACs associated with the use of diesel-fueled trucks or equipment. The proposed project would construct a mixed-use residential building consisting of 110 dwelling units and 690 square feet of commercial space. The proposed project does not include any uses that would generate a substantial amount of DPM emissions from off-road equipment use or truck idling that would result in the generation of a substantial amount of TACs. In addition, as identified above, operational activities associated with the proposed project are not anticipated to exceed the Air District's established thresholds; thus, operation of the proposed project is not expected to have a significant impact on sensitive receptors. As such, once operational, the proposed project would not be a source of substantial emissions. The proposed project would not expose sensitive receptors to substantial levels of TACs.

In addition, because the project site is within 1,000 feet of a roadway with more than 10,000 vehicles per day (vpd) (i.e., Shattuck Avenue)[16], the proposed project would be required to implement Housing Element EIR Mitigation Measure AQ-3, which details design features for residential development located within 1,000 feet of I-580/I-80 or on a lot that fronts on a section of roadway with 10,000 vpd or more. Project design features would include installing a HVAC system with high efficiency particulate filters (HEPA), weatherproofed windows, and ongoing maintenance of the HVAC and infiltration systems. With implementation of Housing Element EIR Mitigation Measure AQ-3, impacts associated with exposing sensitive land uses to substantial pollutant concentrations would be less than significant.

16 City of Berkeley. 2001. Berkeley General Plan, Transportation Element. December 18.

d) Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

During construction, the various diesel-powered vehicles and equipment in use on site would create localized odors. These odors would be temporary and are not likely to be noticeable for extended periods of time beyond the project site.

Odor-generating land uses typically include wastewater treatment plants, landfills, and food manufacturing facilities. The proposed project would construct a mixed-use residential building consisting of 110 dwelling units and 690 square feet of commercial space. Therefore, the proposed land uses would not be considered potential generators of odor that could affect a substantial number of people. Additionally, the proposed uses that would be developed within the project site are not expected to produce any offensive odors that would result in frequent odor complaints. The proposed project would also include trash enclosures, which would reduce any potential for odors from project-related waste. Therefore, the proposed project would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.

4.3.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to air quality. Impacts related to air quality would remain less than significant with the incorporation of mitigation, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.4 BIOLOGICAL RESOURCES

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
c. Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

4.4.1 Housing Element EIR Analysis

Section 4.3 of the Housing Element EIR analyzed potential impacts related to biological resources. The Housing Element EIR determined that all impacts on biological resources would either be less than significant or no impact would occur. No mitigation measures were prescribed because future development would be subject to the policies contained in the City's General Plan, including Policies EM-1, EM-3, and EM-5, which encourage the City to adopt and implement environmental management programs, promote the City's environmental management and sustainability policies and programs and encourage other cities in the region to establish similar or better policies and programs, and promote and encourage compliance with "green" building standards, as well as the City's *COA: Nesting Birds*, which prohibits vegetation removal during the general avian nesting season (February 1 to August 31) and requires that preconstruction nesting bird surveys be performed.

In addition, future development projects would also be subject to State and federal laws, regulations, and management policies regarding biological resources (e.g., federal Endangered

Species Act [FESA]) and would be reviewed to determine whether their impacts fall within the scope of the Housing Element EIR, or if additional site-specific environmental review will be required. Therefore, the Housing Element EIR determined that potential impacts on special-status species would be less than significant. In addition, the Housing Element EIR indicated that although some riparian areas may occur within or adjacent to the city, the specific development areas identified in the Housing Element are in already developed urban areas and no impacts to riparian areas are anticipated. The Housing Element EIR determined that the majority of the housing opportunity sites are located on infill sites that are already developed with structures and/or parking and are not proximate to wetlands or waterways. For development that would occur in these areas, Berkeley's creek protection ordinance (BMC Chapter 17.08) and permitting pursuant to Section 404/401 of the Clean Water Act (CWA), Section 1600 *et seq.* of the California Fish and Game Code, and the Porter-Cologne Water Quality Control Act would be required. Therefore, the Housing Element EIR determined that compliance with these existing regulations would ensure impacts to wetlands would be less than significant.

In addition, the Housing Element EIR determined that impacts related to migratory corridors and inconsistency with local policies or ordinances protecting biological resources would be less than significant with adherence to existing regulations, including General Plan Policies EM-28, EM-29, and EM-30, BMC Chapter 17.08, the City's bird safety requirements, and the City's Tree Ordinance (BMC No. 6,509-N-S).

4.4.2 Project Impacts

The 0.51-acre site is located in a highly urbanized area of Berkeley and situated among existing commercial and residential uses. Due to previous disturbance of the project site and the surrounding urban area, use of the project site by wildlife is expected to be limited. Vegetation on the project site is limited to street trees along Shattuck Avenue.

To establish existing conditions related to biological resources, the California Department of Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDB)[17] was reviewed for lists of special-status species that have occurred or could occur within 0.5 mile of the project site.

Special-Status Plants and Wildlife. A total of six special-status wildlife species and two special-status plant species have CNDDB occurrences within 0.5 mile of the project site, as provided in Table 4.4.A.

Table 4.4.A: Special-Status Species Within 0.5 Mile of the Project Site

Species	Taxonomic Group	Status[1]
Animals		
Pallid bat (*Antrozous pallidus*)	Mammal	-/CSC
Hoary bat (*Lasiurus cinereus*)	Mammal	None[2]
Big free-tailed bat (*Nyctinomops macrotis*)	Mammal	-/CSC
Crotch's bumble bee (*Bombus crotchii)*	Insect	-/CE
Bridges' coast range shoulderband (*Helminthoglypta nickliniana bridgesi*)	Mollusk	None[2]

[17] California Department of Fish and Wildlife (CDFW). 2022. California Natural Diversity Database, commercial version dated April 30, 2022. Biogeographic Data Branch, Sacramento.

Table 4.4.A: Special-Status Species Within 0.5 Mile of the Project Site

Species	Taxonomic Group	Status[1]
Pacific walker (*Pomotiopsis californica*)	Mollusk	None[2]
Plants		
Dark eyed gilia (*Gilia millefoliata)*	Dicot	1B.2
Marin knotweed (*Polygonum marinense*)	Dicot	3.1

Source: Compiled by LSA (2025).

[1] Federal/State
CE = Candidate Endangered
CSC = California Species of Special Concern
1B.2 = Plants rare, threatened, or endangered in California and elsewhere; fairly threatened in California
3.1 = Plants moderately rare, threatened, or endangered in California

[2] This species is not listed on the Federal or State Endangered/Threatened Species list but is included on the State of California Natural Resources Agency Department of Fish and Wildlife CNDDB Special Animals List (April 2024).

CNDDB = California Natural Diversity Database

Riparian Habitat or Other Sensitive Natural Communities. The CNDDB contains no occurrences for sensitive natural communities within 0.5 mile of the project site. In addition, there are no sensitive natural communities or riparian habitat on the project site.

a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

The proposed project would result in redevelopment of the project site with commercial and residential uses. The project site has negligible value as habitat for any species listed as endangered or threatened by the FESA or California Endangered Species Act (CESA). The site is entirely paved and developed with the on site building; therefore, none of the special-status plant species are expected to occur on the site. Similarly, no suitable habitat (e.g., streams, marshes, or chaparral) for most of the special-status wildlife in the area occurs on the site.

The existing building on the project site is not expected to provide habitat or roosting sites for bats due to the highly urbanized surrounding area and because it is not abandoned or vacant, which is usually where bats roost. Therefore, the demolition of the existing structure would not result in impacts on bat species.

The proposed project would develop the project site with a new eight-story building, which could increase the potential for bird strikes. However, the proposed project would be required to adhere to BMC Section 23.304.150, which details the City's bird safe building requirements. As stated in BMC Section 23.304.150, transparent or reflective material (e.g., windows) associated with future development of the project site would be required to either have an American Bird Conservancy Threat Factor Rating of 30 or less or undergo pattern glazing treatment. In addition, all panes with exterior screens, shutters, or shading devices would be required to be installed permanently over windows, structures, and building features such that there is no gap larger than 9 inches in any single dimension.

In addition, all native birds and their nests, regardless of their regulatory status, are protected by the California Fish and Game Code. If conducted during the breeding season (February through August), vegetation removal and other demolition or construction activities could directly impact nesting birds by removing trees and/or vegetation or structures that support active nests. Implementation of *COA: Avoid Disturbance of Nesting Birds* would ensure that potential impacts to special-status species would be less than significant.

> ***COA: Avoid Disturbance of Nesting Birds*.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 31), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the Migratory Bird Treaty Act and the California Fish and Game Code, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/ nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

With adherence to all applicable City requirements, including BMC Section 23.304.150 and *COA: Avoid Disturbance of Nesting Birds*, potential impacts associated with special-status species would not occur.

b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

The proposed project would not adversely affect any sensitive natural communities or riparian habitat, which is absent from the project site. There would be no impact to riparian habitats or sensitive natural communities.

c) Would the project have a substantial adverse effect on state or federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

According to the United States Fish and Wildlife Service (USFWS) National Wetlands Inventory,[18] no protected wetlands are present on the project site. The proposed project would have no impact related to State or federally protected wetlands.

d) Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

The project site is not located within a migratory wildlife movement corridor. Most of the species that likely use the site are "generalists" that are adept at moving through urban landscapes. However, trees, shrubs, other vegetation, and structures have the potential to support nests of many common native bird species. All native birds and their nests, regardless of their regulatory status, are protected by the California Fish and Game Code. If conducted during the breeding season (February through August), vegetation removal and other demolition or construction activities could directly impact nesting birds by removing trees and/or vegetation, or structures that support active nests. As discussed above under Section 4.4.a, implementation of *COA: Avoid Disturbance of Nesting Birds* would ensure that there would be no impacts to nesting birds.

e) Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

BMC Section 12.44.020[19] protects certain trees, including street trees, within the city. As discussed above, street trees are present along Shattuck Avenue. The trees are considered protected trees under BMC Section 12.44.020. As shown on Figure 3-4, all but one of the existing street trees along Shattuck Avenue would be protected in place and two new trees would be planted along Virginia Street.

Construction of the proposed project would comply with the City's Tree Preservation Guidelines, including the establishment of a tree protection zone, tree protection fencing, adding irrigation and

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18 United States Fish and Wildlife Service (USFWS). *National Wetlands Inventory*. Website: https://fws primary.wim.usgs.gov/wetlands/apps/wetlands-mapper/ (accessed March 2025).

19 BMC Section 12.44.020: It unlawful for any person to cut, trim, remove, mutilate, injure or in any way impair the growth of any tree, shrub or plant being or growing in or on any public property within the City, or to cause or permit the same to be done. Provided, however, that in the event that any person desires permission to cut, trim, remove or in any way impair the natural growth of any such tree, shrub or plant, application shall first be made to the Director of Recreation and Parks for a permit therefor. Upon receipt of such application, the Director of Recreation and Parks may cause an inspection to be made and may thereafter issue or refuse to issue a permit for such work. Provided, further, that whenever it is deemed necessary by the Director of Recreation and Parks, he may require the work specified in said application, or any part thereof, to be done under his supervision, and the cost of such supervision shall be borne by the project sponsor if so determined by the Director of Recreation and Parks.

mulch, and specifications for if any root pruning occurs. Further, the proposed project would replace the one removed street tree in accordance with the City's Tree Planting Location Standards.[20]

The proposed project would not conflict with any local policies or ordinances protecting biological resources, and no potential impacts to protected trees would occur.

f) Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

The project area is not subject to any adopted habitat conservation plan or natural community conservation plan. As such, the proposed project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Plan, or other approved local, regional, or State habitat conservation plan, and no impact would occur.

4.4.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to biological resources. Impacts on biological resources would remain less than significant as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

[20] Berkeley, City of. 2022b. *Tree Planting Location Standards.* February.

4.5 CULTURAL RESOURCES

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?	☒	☐	☐	☐
b. Cause a substantial adverse change in the significance of an archeological resource pursuant to §15064.5?	☐	☐	☐	☒
c. Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒

4.5.1 Housing Element EIR Analysis

Section 4.4 of the Housing Element EIR analyzed potential impacts related to cultural resources. The Housing Element EIR determined that potential impacts on archeological resources, including human remains, would be less than significant; however, impacts to historical resources were determined to be significant and unavoidable even with implementation of mitigation measures. The Housing Element EIR also identified a cumulatively considerable impact related to historical resources.

The Housing Element EIR determined that although development facilitated by the Housing Element could adversely affect identified and previously unidentified archeological resources, including human remains, adherence to the City's *COA: Archeological Resources* and *COA: Human Remains* would ensure impacts would be less than significant.

The Housing Element EIR also determined that future development facilitated by the Housing Element could result in the material impairment of a historical resource if demolition of a historical structure occurs as part of that future development. The City has adopted regulations that would apply to future development facilitated by the Housing Element, including the City's Landmarks Preservation Commission ordinance, which provides procedures for the local designation of historical resources. The ordinance also includes a provision for a permit review, which allows the Landmarks Preservation Commission to review and approve any construction, alteration, or demolition of a designated landmark, buildings in designated historic districts, and structures of merit. In addition, the Housing Element EIR prescribed Mitigation Measure CUL-1, which requires the City to conduct a citywide historic context statement and a cultural resource survey to identify historic resources, and Mitigation Measure CUL-2, which requires a historical resources assessment be prepared for projects that are subject to discretionary review when a historical-age building or structure that has not been previously evaluated is present. However, even with implementation of the prescribed mitigation measures, the Housing Element EIR determined that existing and eligible historical resources could still be materially impaired by future development because specific actions intended for the reduction of impacts to historical resources could be deemed infeasible. Therefore, the Housing Element EIR determined that impacts to historical resources would be significant and unavoidable.

4.5.2 Project Impacts

a) Would the project cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

The records search of the Northwest Information Center (NWIC) database indicates there is one potentially historic resource (i.e., the existing commercial building) located on the project site and one historic resource (i.e., a historic building located at 1540 Shattuck Avenue) within 0.25 mile of the project site. In addition, the NWIC record search results identified 10 cultural reports that have been previously conducted within the 0.25-mile study area and 18 previously conducted cultural reports have included a portion of the project site within their search radius.

Pursuant to Housing Element EIR Mitigation Measure CUL-2, a Historical Resources Evaluation (HRE) was prepared [21] to evaluate the existing structure's eligibility for listing in the California Register of Historical Resources (California Register) and whether the existing structure meets the criteria for designation as a City of Berkeley Landmark and/or Structure of Merit. This report was peer reviewed by LSA.

The HRE found that the existing structure, which was initially built in 1906, was remodeled several times, and various parts of the building are incongruous in form. As such, the building represents various architectural styles. In addition, the structure suffered a number of fires during its history, the last of which (in 1981) destroyed almost the entire building. Only the portion of the building fronting Shattuck Avenue was repaired/reconstructed, and it was given an entirely different architectural treatment than it previously had. The HRE did not find a significant connection to historically significant events or people. Therefore, the HRE concluded that the existing building does not appear eligible for listing in the California Register, or as a candidate Berkeley Landmark, or as a Structure of Merit due to a general lack of historical significance relating to events or people, which is exacerbated by its substantial loss of integrity and subsequent inability to represent any of its history prior to 1981.

Because no historical resources as defined by *State CEQA Guidelines* Section 15064.5(b)(2)(A)(B) are present at the project site, implementation of the proposed project would not cause a substantial adverse change in the significance of a historical resource.

b) Would the project cause a substantial adverse change in the significance of an archeological resource pursuant to §15064.5?

The search of the NWIC database indicates there are no previously recorded archeological cultural resources at the project site. Therefore, no archeological resources are currently known to exist on the project site. However, the proposed project would include excavation to a depth of approximately 6 feet below the ground surface. Ground-disturbing activities could have a substantial adverse change on unrecorded buried archeological deposits that qualify as historical resources, as defined in *State CEQA Guidelines* Section 15064.5, and could materially impair pre-

[21] Left Coast Architectural History. 2024. *Historical Resources Evaluation*. April 23.

contact archeological deposits. However, the proposed project would be required to comply with the City's *COA: Archeological Resources,* which addresses this potential impact.

> ***COA: Archeological Resources.*** *(Ongoing throughout demolition, grading, and/or construction).* Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archeological resources accidentally discovered during construction" should be instituted. Therefore:
>
> A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archeologist, historian or paleontologist to assess the significance of the find.
>
> B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
>
> C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
>
> D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
>
> E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

Implementation of the appropriate procedures required by *COA: Archeological Resources* for the treatment of archeological resources and deposits would ensure that these resources are protected if encountered at the project site during construction by including stop work procedures in the event of a find as well as handling procedures. With this COA in place, the project would have no impact on archeological resources.

c) Would the project disturb any humans remains, including those interred outside of formal cemeteries?

No human remains have been identified at the project site; however, the proposed project would require excavation to a depth of approximately 5 feet below the ground surface. Ground-disturbing activities could disturb, and in turn have a substantial adverse change on, unrecorded human remains. However, the proposed project would be required to comply with the City's *COA: Human Remains*, which addresses this potential impact.

> ***COA: Human Remains.*** (*Ongoing throughout demolition, grading, and/or construction*). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt, and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

Implementation of the appropriate procedures required under State law and by *COA: Human Remains* for the treatment of Native American remains would ensure that descendant communities have significant input in the treatment and final disposition of human remains, if encountered at the project site during construction. With these regulations and conditions of approval in place, the project would have no impact on human remains, including those interred outside of formal cemeteries.

4.5.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to cultural resources, including historical resources. Impacts on archeological resources would remain less than significant, and impacts on historical resources would remain significant and unavoidable as identified in the Housing Element EIR. Because the proposed project would result in no impact on historic resources, the proposed project would not contribute to, exacerbate, or increase the significant unavoidable impact identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.6 ENERGY

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation?	☐	☐	☐	☒
b. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒

4.6.1 Housing Element EIR Analysis

Section 4.5 of the Housing Element EIR analyzed potential impacts related to energy. The Housing Element EIR determined that all impacts related to energy would be less than significant, and no mitigation was prescribed. The Housing Element EIR determined that although construction and operation of future development facilitated by the Housing Element would require temporary and long-term consumption of energy resources, future development would not result in the wasteful, inefficient, or unnecessary consumption of energy resources with adherence to State and local regulations. In addition, the Housing Element EIR determined that the Housing Element would be consistent with the State plans and General Plan policies related to energy efficiency and utilizing renewable energy.

4.6.2 Project Impacts

a) Would the project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation?

Construction Energy Use. The anticipated construction schedule assumes that construction of the proposed project would begin in March 2026 and last for approximately 21 months. The proposed project would require demolition, grading, site preparation, and building activities during construction.

Proposed project construction would require energy for the manufacture and transportation of building materials, preparation of the site for grading activities, and building construction. Petroleum fuels (e.g., diesel and gasoline) would be the primary sources of energy for these activities. To increase energy efficiency on the site during project construction, idling times would be restricted to 5 minutes or less and construction workers would be required to shut off idle equipment, as required by *COA: Public Works – Implement Air District-Recommended Measures During Construction*. Energy usage on the project site during construction would be temporary in nature and would be relatively small in comparison to the State's available energy sources.

Operational Energy Use. Typically, energy consumption is associated with fuel used for vehicle trips and electricity and natural gas use.

The proposed project would be required to comply with the latest California Energy Code and California Green Building Standards Code (CALGreen Code) standards, including any locally adopted amendments, and would include solar panels, which would help to reduce energy consumption. In 2018, SB 100 was passed, which committed California to generating all electricity from carbon-free sources by 2045. While the proposed project would include natural gas, the project would be required to comply with State building code requirements as Title 24 advances to implement the building decarbonization goals. In addition, the proposed project also would use new modern appliances and equipment, in accordance with the Appliance Efficiency Regulations (Title 20, CCR Sections 1601 through 1608). The expected energy consumption during operation of the proposed project would be consistent with typical usage rates for residential uses; however, energy consumption is largely a function of personal choice and the physical structure and layout of buildings. It can be assumed that implementation of the proposed project would result in additional energy demand in the project area; however, as the proposed project would be located in a primarily developed urban area, the proposed project is not expected to result in wasteful, inefficient, or unnecessary consumption of electricity or natural gas resources.

The proposed project would also result in energy usage associated with gasoline for project-related trips. The proposed project would generate a net increase of 436 average daily trips. Based on fuel consumption obtained from the California Air Resources Board (CARB) Emission Factor model (EMFAC2021), approximately 540.5 million gallons of gasoline and approximately 156.2 million gallons of diesel fuel will be consumed from vehicle trips in Alameda County in 2024. Therefore, based on the total fuel usage in Alameda County and the minimal increase in average daily trips, vehicle trips associated with the proposed project would negligibly increase the annual fuel use in Alameda County. Additionally, the project site is served by existing sidewalks along Shattuck Avenue and Virginia Street and is located within 0.5 mile of several intersecting major bus routes, including AC Transit Lines 7, 18, and FS. The proposed project would also provide 97 secure bicycle parking spaces for the proposed residential uses in a covered bike storage area. Therefore, the project would support the ability of residents and employees to use alternative modes of transportation. As such, fuel consumption associated with vehicle trips generated by project operations would not be considered inefficient, wasteful, or unnecessary in comparison to other similar developments in the region.

Given the location of the project and proposed improvements, implementation of the proposed project would not result in a substantial increase in electricity, natural gas, or transportation-related energy, such that it would result in a wasteful, inefficient, or unnecessary consumption of energy resources and there would be no impact.

b) Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

In 2002, the State Legislature passed SB 1389, which required the California Energy Commission (CEC) to develop an integrated energy plan every 2 years for electricity, natural gas, and transportation fuels for the California Energy Policy Report. The plan calls for the State to assist in the transformation of the transportation system to improve air quality, reduce congestion, and increase the efficient use of fuel supplies with the least environmental and energy costs. To further this policy, the plan identifies a number of strategies, including assistance to public agencies and

fleet operators, in implementing incentive programs for zero-emission vehicles and their infrastructure needs, as well as encouragement of urban designs that reduce VMT and accommodate pedestrian and bicycle access.

The most recently adopted CEC energy report is the 2024 Integrated Energy Policy Report Update.[22] The 2024 Integrated Energy Policy Report Update provides the results of the CEC's assessments of a variety of energy issues facing California. Many of these issues will require action if the State is to meet its climate, energy, air quality, and other environmental goals while maintaining energy reliability and controlling costs. The 2024 Integrated Energy Policy Report Update covers a broad range of topics, including implementation of SB 350, integrated resource planning, distributed energy resources, transportation electrification, solutions to increase resiliency in the electricity sector, energy efficiency barriers faced by disadvantaged communities, demand response, transmission and landscape-scale planning, the California Energy Demand Preliminary Forecast, the preliminary transportation energy demand forecast, renewable gas (in response to SB 1383), updates on Northern California electricity reliability, natural gas outlook, and climate adaptation and resiliency.

Locally, the Berkeley City Council adopted a Climate Action Plan (CAP) in 2009 and has made additional commitments regarding renewable energy and energy efficiency including:

- 100 percent renewable electricity by 2035;
- Net-Zero Carbon Emissions by 2045 in alignment with Governor Brown's Executive Order B-55-18;
- Declaring a Climate Emergency and resolving to become a Fossil Fuel Free City; and the
- Cities Race to Zero Campaign: Committed to reducing emissions 60.5 percent from 2018 levels by 2030, an emission reduction target that reflects Berkeley's fair share of the 50 percent global reduction in carbon dioxide equivalent (CO_2e).

As indicated above, energy usage on the project site during construction would be temporary in nature. In addition, energy usage associated with operation of the proposed project would be negligible in comparison to the State's available energy sources, and energy impacts would be minimal at the regional level. Because California's energy conservation planning actions are conducted at a regional level and the project's total impact to regional energy supplies would be minor, the proposed project would not conflict with California's energy conservation plans as described in the CEC 2024 Integrated Energy Policy Report Update. As discussed above, while the proposed project would include natural gas, the proposed project would be required to comply with State building code requirements as Title 24 advances to implement building decarbonization goals. As such, the proposed project would not conflict with or obstruct a State or local plan for renewable energy or energy efficiency, and there would be no impact.

[22] California Energy Commission. 2024. *2024 Integrated Energy Policy Report Update.* Docket Number 24-IEPR-01.

4.6.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to energy. Impacts related to energy would remain less than significant as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.7 GEOLOGY AND SOILS

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☒
ii. Strong seismic ground shaking?	☐	☐	☐	☒
iii. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒
iv. Landslides?	☐	☐	☐	☒
b. Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	☐	☐	☐	☒
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☒
f. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☒

4.7.1 Housing Element EIR Analysis

Section 4.6 of the Housing Element EIR analyzed potential impacts related to geology and soils. The Housing Element EIR determined that all impacts related to geology and soils would either be less than significant or less than significant with incorporation of prescribed mitigation measures. The Housing Element EIR indicated that portions of the city are located within the Hayward Fault Zone and determined that development facilitated by the Housing Element would be subject to seismically induced ground shaking and other seismic hazards, including liquefaction and landslides, which could damage structures and result in loss of property and risk to human health and safety. However, the Housing Element EIR determined that implementation of State-mandated building standards and compliance with the Alquist-Priolo Act Earthquake Fault Act, the California Building Code (CBC), and the City's General Plan policies and actions (including Policies S-13A, S-13B, and S-14B) and BMC would ensure that impacts would be less than significant. The Housing Element EIR also determined that with adherence to existing laws and regulations and standard engineering practices, impacts related to soil erosion, the loss of soil, and expansive soils would also be less than significant. In addition, because the Housing Element would not include septic tanks or alternative

wastewater disposal systems, the Housing Element EIR determined that no impact related to septic tanks would occur.

The Housing Element EIR also determined that future development facilitated by the Housing Element could impact paleontological resources during construction ground-disturbing activities and prescribed Mitigation Measure GEO-1. Mitigation Measure GEO-1 details requirements for projects where ground disturbance below the level of prior disturbance and into native soils is proposed to occur in areas mapped as Pleistocene alluvial fan and fluvial deposits (Qpaf), Orinda Formation (Tor), or Knoxville Formation (Kjk). With implementation of Mitigation Measure GEO-1, the Housing Element EIR determined that potential impacts to paleontological resources would be less than significant.

4.7.2 Project Impacts

The California Geological Survey (CGS) mapped Seismic Hazard Zones that delineate areas susceptible to geologic hazards (including earthquakes, liquefaction, and landslides) that require additional investigation to determine the extent and magnitude of potential ground failure. According to the CGS, the project site is not located within any Seismic Hazard Zone.[23] However, as provided in the Housing Element EIR, the project site is underlain by soils classified as Urban land-Tierra complex, 2-5 percent slopes, which have a high potential for expansiveness. Therefore, as required by the CBC and the City's General Plan Action S-14B, a project-specific geotechnical evaluation would be required for the proposed project in order to provide geotechnical recommendations for development of proposed building foundations.

The City has adopted the 2022 CBC (CCR Title 24), with local amendments, which provides for stringent construction requirements on projects in areas of high seismic risk. The design and construction of the proposed project is required to conform with, or exceed, current best standards for earthquake resistant construction in accordance with the 2022 CBC (or more recent applicable code) and with the generally accepted standards of geotechnical practice for seismic design in Northern California.

a) Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: (i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. (ii) Strong seismic ground shaking? (iii) Seismic-related ground failure, including liquefaction? (iv) Landslides?

The California Supreme Court concluded in its *CBIA v. Air District* decision that "CEQA generally does not require an analysis of how existing environmental conditions will affect a project's future users or residents." With this ruling, CEQA no longer considers the impact of the environment on a project (e.g., the impact of existing seismic hazards on new project occupants) to be an environmental impact unless the project could exacerbate an existing environmental hazard. The proposed project

[23] California Geological Survey (CGS). 2021. *Earthquake Zones of Required Investigation*. September 23. Website: https://maps.conservation.ca.gov/cgs/EQZApp/app/. (accessed March 2025).

would not change existing seismic hazards and therefore would not exacerbate existing hazards related to surface fault rupture and seismic ground shaking. As such, the following discussions of seismic hazards are provided for informational purposes only.

Fault Rupture. Fault-rupture hazard results in ground breakage and displacement along fault traces during earthquakes. Fault rupture is generally expected to occur along active fault traces. Areas susceptible to fault rupture are delineated by the CGS Alquist-Priolo Earthquake Fault Zones and require specific geological investigations prior to development to reduce the threat to public health and safety and to minimize the loss of life and property posed by earthquake-induced ground failure. The project site is not located within or adjacent to an Alquist-Priolo Earthquake Fault Zone.[24] The closest fault zone to the project site is the Hayward Fault Zone, located approximately 0.7 mile east of the project site. As such, it is unlikely that active traces of the Hayward Fault are present within the project site, and the risk for a fault-rupture hazard to exist on the site is low. Therefore, the proposed project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault.

Ground Shaking. Seismic ground shaking generally refers to all aspects of motion of the Earth's surface resulting from an earthquake and is normally the major cause of damage in seismic events. As previously discussed, the closest fault zone to the project site is the Hayward Fault Zone, located approximately 0.7 mile east of the project site. The extent of ground shaking is controlled by the magnitude and intensity of the earthquake, distance from the epicenter, and local geologic conditions. It is likely that the project site would experience strong ground shaking during the lifetime of the proposed project. The Association of Bay Area Governments (ABAG) published maps predicting ground-shaking intensities for various earthquake scenarios in the Bay Area. Three different scenarios were modeled for the Hayward Fault: (1) a moment-magnitude 7.1 earthquake on the northern segment, (2) a moment-magnitude 7.0 earthquake on the southern segment, and (3) a moment-magnitude 7.3 earthquake on the entire length of the Hayward Fault. Each of these models predicts extreme ground shaking in the vicinity of the site. The probability of a large earthquake on the Hayward Fault is believed to be high during the life of the proposed project.

The risk of ground shaking impacts is reduced through adherence to the design and materials standards set forth in the 2022 CBC. Therefore, compliance with the existing building codes, as described above, would ensure that potential impacts related to seismic ground shaking would be reduced to the extent feasible.

It is acknowledged that seismic hazards cannot be completely eliminated, even with site-specific geotechnical design and advanced building practices. However, the seismic design standards of the 2022 CBC are intended to prevent catastrophic building failure in the most severe earthquakes currently anticipated. Therefore, compliance with the existing building codes, described above, would ensure that people or structures would not be adversely affected by earthquake-induced ground shaking.

[24] California Department of Conservation (DOC). *DOC Maps: Geologic Hazards, Seismic Hazards Program: Alquist-Priolo Fault Hazard Zones*. Website: https://www.conservation.ca.gov/cgs/maps-data (accessed March 2025).

Seismic-Related Ground Failure and Liquefaction. Soil liquefaction is a phenomenon primarily associated with saturated soil layers located close to the ground surface. During ground shaking, these soils lose strength and acquire a "mobility" sufficient to permit both horizontal and vertical movements. Soils that are most susceptible to liquefaction are clean, loose, uniformly graded, saturated, fine-grained sands that lie relatively close to the ground surface. However, loose sands that contain a significant amount of fines (silt and clay) may also liquefy. According to the CGS, the project site is not located within a Seismic Hazard Zone for seismically-induced liquefaction.[25] In addition, final grading, foundation, and building plans must be designed in accordance with the 2022 CBC. These designs would include measures that would address, as necessary, the potential for differential settlement related to liquefaction. Therefore, compliance with the existing regulations would ensure that people or structures would not be adversely affected by liquefaction associated with ground shaking.

Landslides. Seismically-induced landslides occur as the rapid movement of large masses of soil on unstable slopes during an earthquake. According to the CGS, the project site is not located within a Seismic Hazard Zone for seismically-induced landslides.[26] Therefore, the proposed project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides.

Based on the analysis presented above, the proposed project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, including liquefaction, or landslides.

b) Would the project result in substantial soil erosion or the loss of topsoil?

Soil erosion, which is discussed in detail in Section 4.10, Hydrology and Water Quality, could occur during project grading and construction. As discussed in Section 4.10, compliance with the City's *COA: Stormwater Requirements* and *COA: Public Works*, including implementation of BMPs that address soil erosion during construction, would ensure that potential impacts related to erosion of topsoil during construction would not occur.

The proposed project would replace all existing impervious surface area, resulting in no net change in the total impervious surface area at the project site. The remaining portion of the site would consist of pervious surface area, which would contain landscaping that would minimize on-site erosion by stabilizing the soil. Therefore, on-site erosion impacts would be minimal. Additionally, compliance with Municipal Regional Permit (MRP) requirements and standard conditions of approval require applicants to establish and maintain drainage patterns so as to not adversely affect adjacent properties and rights-of-way. For these reasons, potential on- and off-site erosion impacts during project operation would not occur.

25 *Earthquake Zones of Required Investigation*. September 23. Website: https://maps.conservation.ca.gov/cgs/EQZApp/app/. (accessed March 2025).
26 Ibid.

c) Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

As discussed above, the proposed project would not be susceptible to landslide or liquefaction because the project site is not located within a mapped landslide or liquefaction zone. In addition, the proposed project's required compliance with existing regulations, including the 2022 CBC, would reduce the potential risks to people and structures. Final grading, foundation, and building plans would be designed in accordance with the 2022 CBC (or more recent applicable code). Therefore, compliance with the existing regulations would ensure that the potential impacts associated with potential landslide, liquefaction, or lateral spreading would be less than significant.

Subsidence or collapse can result from the removal of subsurface water resulting in either catastrophic or gradual depression of the surface elevation of the project site. According to the Phase I Environmental Site Assessment (Phase I ESA)[27] prepared for the proposed project, the depth to groundwater at the project site is approximately 17 feet below ground surface (bgs). Construction of the proposed project is anticipated to require excavation to a maximum depth of 6 feet for construction of utilities, drainage facilities, and parking facilities. Based on the depth to groundwater at the project site and the maximum depth of excavation, groundwater dewatering is not anticipated to be required during construction. Potential impacts related to subsidence or soil collapse would not occur.

d) Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

Expansive soils are characterized by the potential for shrinking and swelling as the moisture content of the soil decreases and increases, respectively. Shrink-swell potential is influenced by the amount and type of clay minerals present and can be measured by the percent change of the soil volume. Plasticity indexes greater than 15 usually indicate that a swelling problem may exist, and the swell percentage generally increases with the plasticity indexes.[28] In general, clays have a higher plasticity index, silts have a lower plasticity index, and soils with a plasticity index of 0 typically have little or no silt or clay.

According to the United States Department of Agriculture Natural Resource Conversation Service Web Soil Survey and the Housing Element EIR, the project site is entirely underlain by the Urban land-Tierra complex, 20 to 5 percent slopes.[29,30] The Urban land-Tierra complex typically consists of

27 ACC Environmental Consultants. 2024. *Phase I Environmental Site Assessment Report, 1685 Shattuck Avenue/2109 Virginia Street, ACC Project Number: 10230-001.00.* February 9.

28 Federal Highway Administration (FHWA). 1977. *An evaluation of expedient methodology for identification of potentially expansive soils.* Report No. FHWA-RD-77-94. June.

29 United States Department of Agriculture Natural Resource Conversation Service. 2023a. *Web Soil Survey.* Website: https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx (accessed March 2025).

30 A "complex" consists of two or more soils or miscellaneous areas in such an intricate pattern or in such small areas that they cannot be shown separately on the maps. The pattern and proportion of the soils or miscellaneous areas are somewhat similar in all areas. Alpha-Beta complex, 0 to 6 percent slopes, is an example.

loam in the first 12 inches, clay between 12 to 32 inches bgs, and sandy clay loam between 32 and 60 inches bgs.[31] This complex is well to moderately drained, and the depth to restrictive feature (i.e., bedrock) is more than 80 inches.[32]

As discussed above, the project site is underlain by the Urban land-Tierra complex, which is considered to have a high potential for expansiveness, as provided in the Housing Element EIR. However, the proposed project would be required to comply with the 2022 CBC and the City's General Plan Action S-14B, which would require a project-specific geotechnical evaluation to ensure that impacts from development associated with implementation of the proposed project on expansive soil are minimized. In addition, final grading, foundation, and building plans would be designed in accordance with the 2022 CBC and would include measures to either: (1) excavate the existing fill materials susceptible to expansion and replace the materials with engineered fill or further evaluate the possible reuse of the materials as engineered fill; or (2) design foundations and other improvements to withstand the shrinking and swelling cycles of the soils without causing significant damage. These measures would be incorporated into the proposed project as conditions of approval. Compliance with the existing 2022 CBC would ensure that the potential impacts associated with expansive soils would not occur.

e) Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of waste water?

The project site would be served by a wastewater conveyance system maintained by the City and would not involve the use of septic tanks or alternative wastewater disposal systems. As such, the proposed project would have no impact related to septic tanks or alternative wastewater disposal systems.

f) Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

There are no identified paleontological resources or unique geologic features or sites within, or in the vicinity of, the project site. However, as provided in the Housing Element EIR, the project site is underlain by Pleistocene alluvial fan and fluvial deposits (Qpaf). As such, implementation of Housing Element EIR Mitigation Measure GEO-1 would be applicable to the proposed project.

Demolition, site preparation, and construction activities associated with the proposed project could adversely impact previously unidentified fossils. Such fossils, if present, could be identified during deep excavation. However, the proposed project would be required to implement Housing Element EIR Mitigation Measure GEO-1, which would require a qualified paleontologist to determine the project's potential to significantly impact paleontological resources, conduct a paleontological Worker Environmental Awareness Program (WEAP) training for construction personnel regarding

[31] United States Department of Agriculture Natural Resource Conversation Service. 2023b. *Web Soil Survey, Report - Map Unit Description: 150 – Urban land-Tierra complex, 2 to 5 percent slopes.* Website: https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx (accessed March 2025).

[32] Ibid.

the appearance of fossils and procedures for notifying paleontological staff should fossils be discovered by construction staff, and monitor ground-disturbing construction activities. In addition, development projects that require a use permit are required to comply with the City's *COA: Paleontological Resources*, which requires that work be stopped in the event of an unanticipated discovery of a paleontological resource during construction. Implementation of Housing Element EIR Mitigation Measure GEO-1 and compliance with *COA: Paleontological Resources* would ensure that this impact would be less than significant because paleontological resources would be properly documented and protected if encountered during project construction.

> ***COA: Paleontological Resources.*** (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

Implementation of the appropriate procedures required by Housing Element EIR Mitigation Measure GEO-1 and *COA: Paleontological Resources* for the treatment of paleontological resources would ensure that these resources are protected if encountered at the project site during construction by including stop work procedures in the event of a find as well as handling procedures.

4.7.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to geology and soils. Impacts related to geology and soils would remain less than significant with incorporation of mitigation, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.8 GREENHOUSE GAS EMISSIONS

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☒
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☒

4.8.1 Housing Element EIR Analysis

Section 4.7 of the Housing Element EIR analyzed potential impacts related to GHG emissions. The Housing Element EIR determined that all impacts related to GHG emissions would be less than significant, and no mitigation was prescribed. The Housing Element EIR determined that because GHG emissions from future development facilitated by the proposed project would not exceed the Air District's interpolated 2031 targets for annual emissions, future development would not directly or indirectly generate GHG emissions that would have a significant effect on the environment. In addition, the Housing Element EIR determined that implementation of the Housing Element would not conflict with GHG reduction goals and policies in the CARB 2017 Scoping Plan, Plan Bay Area 2050, the City's General Plan, or the City's CAP.

4.8.2 Project Impacts

GHGs are present in the atmosphere naturally, are released by natural sources, or are formed from secondary reactions taking place in the atmosphere. The gases that are widely seen as the principal contributors to human-induced global climate change are:

- Carbon dioxide (CO_2);
- Methane (CH_4);
- Nitrous oxide (N_2O);
- Hydrofluorocarbons (HFCs);
- Perfluorocarbons (PFCs); and
- Sulfur hexafluoride (SF_6).

Over the last 200 years, humans have caused substantial quantities of GHGs to be released into the atmosphere. These extra emissions are increasing GHG concentrations in the atmosphere and enhancing the natural greenhouse effect, which is believed to be causing global warming. While manmade GHGs include naturally occurring GHGs such as CO_2, CH_4, and N_2O, some gases, like HFCs, PFCs, and SF_6 are completely new to the atmosphere.

Certain gases, such as water vapor, are short-lived in the atmosphere. Others remain in the atmosphere for significant periods of time, contributing to climate change in the long term. Water

vapor is excluded from the list of GHGs above because it is short-lived in the atmosphere, and its atmospheric concentrations are largely determined by natural processes such as oceanic evaporation.

These gases vary considerably in terms of Global Warming Potential (GWP), a concept developed to compare the ability of each GHG to trap heat in the atmosphere relative to another gas. The GWP is based on several factors, including the relative effectiveness of a gas to absorb infrared radiation and length of time that the gas remains in the atmosphere ("atmospheric lifetime"). The GWP of each gas is measured relative to CO_2, the most abundant GHG. The definition of GWP for a particular GHG is the ratio of heat trapped by 1 unit mass of the GHG to the ratio of heat trapped by 1 unit mass of CO_2 over a specified time period. GHG emissions are typically measured in terms of pounds or tons of CO_2e.

a) Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

This section describes the proposed project's construction- and operation-related GHG emissions and contribution to global climate change. The Air District did not address emission thresholds for construction in their CEQA Guidelines; however, the Air District encourages quantification and disclosure. The Housing Element EIR included a quantitative analysis of GHG emissions associated with development of residential units under the Housing Element. As the project site was identified as an Opportunity Site for residential development in the City's Housing Element, the proposed project's anticipated GHG emissions associated with project construction and operation were included in the GHG emissions analysis contained in the Housing EIR. Project specific construction and operational emissions for the proposed project are discussed in this section.

Construction Activities. Construction activities associated with the proposed project would produce combustion emissions from various sources. During construction, GHGs would be emitted through the operation of construction equipment and from worker and builder supply vendor vehicles, each of which typically use fossil-based fuels to operate. The combustion of fossil-based fuels creates GHGs such as CO_2, CH_4, and N_2O. Furthermore, CH_4 is emitted during the fueling of heavy equipment. Exhaust emissions from on-site construction activities would vary daily as construction activity levels change.

Implementation of the City's *COA: Public Works – Implement Air District-Recommended Measures During Construction*, as identified under Section 4.3.b, Air Quality, would reduce GHG emissions by reducing the amount of construction vehicle idling and by requiring the use of properly maintained equipment. This measure is implemented by the City and the Air District to ensure that GHG emissions would be less than significant. In addition, construction activities would be minimal, and GHG emissions generated during construction of the proposed project would be short term in nature, lasting only for the duration of the construction period. Since GHG emissions associated with construction activities would not represent a long-term source of GHG emissions and would cease once construction is completed, project construction impacts associated with GHG emissions would not occur.

Operational Emissions. Long-term GHG emissions associated with the proposed project would typically be generated from mobile sources (e.g., vehicle trips), area sources (e.g., maintenance activities and landscaping), indirect emissions from sources associated with energy consumption, waste sources (land filling and waste disposal), and water sources (water supply and conveyance, treatment, and distribution). Mobile-source GHG emissions would include project-generated vehicle trips to and from the project site. Area-source emissions would be associated with activities such as landscaping and maintenance on the project site. Energy source emissions would be generated at off-site utility providers from increased electricity demand generated by the proposed project. Waste source emissions generated by the proposed project include energy generated by transporting and managing project generated waste. In addition, water source emissions associated with the proposed project are generated by water supply and conveyance, water treatment, water distribution, and wastewater treatment.

The Housing Element EIR found that operational GHG emissions associated with development facilitated by the Housing Element would result in an increase of 1.7 MT of CO_2e per service population per year, below the interpolated Air District 2031 target of 3.7 MT of CO2e per service population per year. As such, for the purpose of this analysis, the proposed project will be compared to the GHG efficiency of 1.7 MT CO_2e per service population.

Consistent with the Housing Element EIR, GHG emissions were estimated using CalEEMod. Table 4.8.A shows the calculated GHG emissions for the proposed project. CalEEMod output sheets are included in Appendix A.

Table 4.8.A: Project Greenhouse Gas Emissions

Emissions Source Category	Operational Emissions (metric tons per year)			
	CO_2	CH_4	N_2O	CO_2e
Mobile	236.8	<0.1	<0.1	241.1
Area	7.6	<0.1	<0.1	7.6
Energy	101.0	<0.1	<0.1	101.6
Water	3.7	0.1	<0.1	7.8
Waste	7.3	0.7	0.0	25.6
Total Operational Emissions				**383.7**
Total Annual Service Population Emissions (Metric Tons/Year/Service Population)				**1.4**

Source: Compiled by LSA (July 2025).
CH_4 = methane
CO_2 = carbon dioxide
CO_2e = carbon dioxide equivalents
N_2O = nitrous oxide

As shown in Table 4.8.A, the proposed project would generate approximately 383.7 metric tons of CO_2e. As discussed in Section 4.14, Population and Housing, the proposed project would result in approximately three new employees and 261 residents on the project site. Therefore, the total service population (residents plus employees) would be 264 people. As such, the project's GHG emissions would result in a GHG efficiency of 1.4 metric tons CO_2e per service population, which would be below the GHG efficiency of 1.7 MT CO_2e per service population identified in the Housing Element EIR and also below the interpolated 2031 Air District targets for annual emissions. As such,

the proposed project would not generate GHG emissions that would have a significant effect on the environment, and there would be no impact.

b) Would the project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

The City adopted a CAP[33] in 2009 with the goal of reducing communitywide GHG emissions by 80 percent below 2000 levels by 2050. The core recommendation strategies and actions of the CAP are based on the following topics:

- Sustainable Transportation and Land Use
- Building Energy Use
- Waste Reduction and Recycling
- Community Outreach and Empowerment
- Preparing for Climate Change Impacts

While the CAP is not considered a "qualified greenhouse gas reduction plan" for the purposes of streamlining GHG emissions analysis under CEQA, the City actively uses it for guiding GHG emission reduction efforts. Since publication of the CAP, the City added additional climate goals to support implementation of the CAP:[34]

- 100 percent renewable electricity by 2035
- Net-Zero Carbon Emissions by 2045, in alignment with Governor Brown's Executive Order B-55-18
- Declared a Climate Emergency and resolved to become a Fossil Fuel Free City
- Cities Race to Zero Campaign: Committed to reducing emissions 60.5 percent from 2018 levels by 2030, an emission reduction target that reflects Berkeley's fair share of the 50 percent global reduction in CO_2e

The proposed project would result in the development of a new eight-story mixed-use residential building containing a total of 110 dwelling units and approximately 690 square feet of commercial space on an infill site that would locate residents and employees near existing residential and commercial uses. The project site is served by existing sidewalks along Shattuck Avenue and Virginia Street and is located within 0.5 miles of several intersecting major bus routes, including AC Transit Lines 7, 18, and FS. The proposed project would provide 97 secure bicycle parking spaces for the proposed residential uses in a covered bike storage area. Therefore, the project would support the ability of residents and employees to use alternative modes of transportation. Additionally, as further discussed in Section 4.16, Transportation, given the location of the proposed project and proposed improvements, the proposed project would result in a less than significant VMT impact.

33 Berkeley, City of. 2009. *City of Berkeley Climate Action Plan*. June.

34 Berkeley, City of. 2022a. *City of Berkeley 2023–2031 Housing Element Update Environmental Impact Report, SCH No. 2022010331*. August.

Therefore, the proposed project would not conflict with sustainable transportation and land use measures identified in the CAP.

As discussed previously in Section 4.6, Energy, the proposed project would be required to comply with the latest California Energy Code and CALGreen Code standards (including any locally adopted amendments) and would include solar panels, which would help to reduce energy consumption and GHG emissions. In addition, while the proposed project would include natural gas, the proposed project would be required to comply with State building code requirements as Title 24 advances to implement the building decarbonization goals. The proposed project would also include low-flow plumbing fixtures and landscape irrigation. The proposed project would be consistent with the California Department of Resources Recycling and Recovery (CalRecycle) Waste Diversion and Recycling Mandate, which would reduce solid waste production by 75 percent, and the Berkeley Green Code, which also requires 100 percent of concrete, asphalt, and land clearing debris to be reused and recycled. Therefore, the proposed project would not conflict with any of the building energy use or waste and recycling measures identified in the CAP. In addition, the City's *COA: Construction and Demolition Diversion* and *COA: Low-Carbon Concrete* (provided below) would require implementation of a Construction Waste Management Plan and compliance with the Berkeley Green Code.

> ***COA: Construction and Demolition Diversion.*** Applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 including 100 percent diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65 percent diversion of other nonhazardous construction and demolition waste.
>
> ***COA: Low-Carbon Concrete.*** The project shall verify compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25 percent.

Given the above, the proposed project would be consistent the City's CAP, commitment to carbon neutrality by 2045, and the Climate Emergency declaration and would implement measures designed to reduce GHG emissions. The proposed project would not conflict with plans, policies, or regulations adopted for the purpose of reducing GHG emissions.

4.8.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to GHG emissions. Impacts related to GHG would remain less than significant as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.9 HAZARDS AND HAZARDOUS MATERIALS

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒
f. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
g. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

4.9.1 Housing Element EIR Analysis

Section 4.8 of the Housing Element EIR analyzed potential impacts related to hazards and hazardous materials. The Housing Element EIR determined that all impacts related to hazards and hazardous materials would be less than significant, and no mitigation was prescribed. The Housing Element EIR indicated that implementation of the Housing Element would facilitate the development of new residential uses in the city that would not involve the routine transportation, use, or disposal of hazardous materials. Construction of new residences could result in an increase in the overall routine, transport, use, and disposal of hazardous materials in the city for construction activities, including within 0.25 mile of a school. However, required compliance with applicable regulations related to hazardous materials and compliance with General Plan policies and City COAs, including *COA: Toxics*, would minimize the risk of releases and exposure to these materials to less than significant. In addition, the Housing Element EIR determined that implementation of the Housing Element would accommodate development on or near hazardous materials sites; however, compliance with applicable regulations and *COA: Toxics* (which requires site characterization and cleanup, if necessary) would ensure less than significant impacts.

The Housing Element EIR also indicated there are no airports within 2 miles of the city, the city is not within the influence area of any airport, and implementation of the Housing Element would not result in physical changes that could interfere with or impair emergency response or evacuation. Therefore, these impacts were determined to be less than significant.

4.9.2 Project Impacts

The analysis in this section is based, in part, on the Phase I ESA[35] and Phase II Environmental Site Assessment (Phase II ESA)[36] prepared for the proposed project. These reports are provided herein as Appendix B and Appendix C, respectively.

a) Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

The proposed project would result in the demolition of the existing approximately 4,604-square-foot, two-story commercial building, and the construction of a new eight-story, mixed-use residential building consisting of 112,969 square feet of residential space and 690 square feet of commercial space in the southwest corner of the ground floor and associated improvements. Based on the Phase I ESA findings, the project site has a history of subsurface contamination. The project site is located in an Environmental Management Area (EMA) (i.e., areas in the city known or suspected to have groundwater contamination).[37]

Hazardous materials (e.g., oil, grease, fuels, paint) would be transported and used on site for proposed construction activities. The operational phase of the proposed project may also include storage and use of small amounts of hazardous materials associated with commercial uses (e.g., cleaning products) on the project site. The routine transport, use, or disposal of these hazardous materials could pose a potential hazard to construction workers and future employees working at the project site because they would be handling the hazardous materials and could therefore be exposed through inhalation of vapors, direct contact with skin, or accidental ingestion. The routine transport, use, or disposal of these hazardous materials would not pose a significant hazard to the public or environment unless the hazardous materials were accidentally spilled or released into the environment, as discussed In Section 4.9.b, below.

Worker health and safety is regulated at the federal level by the United States Department of Labor, Occupational Safety and Health Administration (OSHA). OSHA regulations include training requirements for construction workers and a requirement that hazardous materials are accompanied by the manufacturer's Safety Data Sheets (SDSs). The Federal Occupational Safety and Health Act of 1970 authorizes states to establish their own safety and health programs with OSHA approval. Worker health and safety protections in California are regulated by the California

35 ACC Environmental Consultants. 2024. *Phase I Environmental Site Assessment Report, 1685 Shattuck Avenue/2109 Virginia Street, ACC Project Number: 10230-001.00.* February 9.

36 ACC Environmental Consultants. 2024. *Phase II Environmental Site Assessment Report, 1685 Shattuck Avenue, Berkeley, California 94709.* August 14.

37 Berkeley, City of. n.d. *Community GIS Portal.* Website: https://berkeley.maps.arcgis.com/apps/webappviewer/index.html?id=2c7dfafbb1f64e159f4fdf28a52f51c6&showLayers=Berkeley%20Parcels;Environment (accessed March 2025).

Department of Industrial Relations (DIR). The DIR includes the Division of Occupational Safety and Health (DOSH), which acts to protect workers from safety hazards through its California Occupational Safety and Health (Cal/OSHA) program. Cal/OSHA regulations include requirements for protective clothing, training, and limits on exposure to hazardous materials. California standards for workers dealing with hazardous materials are contained in CCR Title 8 and include practices for all industries (General Industrial Safety Orders), and specific practices for construction and other industries. The routine transport, use, and disposal of hazardous materials at the project site during construction activities would be required to comply with a project Health and Safety Plan (HASP) prepared in accordance with CCR Title 8, which would reduce potential health hazards for construction workers from the routine transport, use, or disposal of hazardous materials.

In 1990 and 1994, the federal Hazardous Material Transportation Act was amended to improve the protection of life, property, and the environment from the inherent risks of transporting hazardous material in all major modes of commerce. The United States Department of Transportation (USDOT) developed hazardous materials regulations that govern the classification, packaging, communication, transportation, and handling of hazardous materials, as well as employee training and incident reporting. The transportation of hazardous materials is subject to USDOT, the Resource Conservation and Recovery Act (RCRA), and State regulations. The California Highway Patrol, the California Department of Transportation (Caltrans), and the California Environmental Protection Agency (Cal/EPA) Department of Toxic Substances Control (DTSC) are responsible for enforcing federal and State regulations pertaining to the transportation of hazardous materials.

Construction of the proposed project would result in the generation of various waste materials that would require recycling and/or disposal, including some waste materials that may be classified as hazardous waste. Hazardous wastes would be required to be transported by a licensed hazardous waste hauler and disposed of at facilities that are permitted to accept such materials as required by the USDOT, RCRA, and State regulations.

In addition, the proposed project would be required to comply with the City's *COA: Toxics*, including preparation of a site-specific Soil and Groundwater Management Plan (SGMP) (*COA: Toxics[D]*), preparation of a hazardous materials survey prior to demolition (*COA: Toxics[E]*), and a Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 and California Health and Safety Code, Chapter 6.95, Div. 20, if the proposed project stores or handles hazardous materials during construction in aggregate quantities equal to or greater than 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet of compressed gases, or generates any quantity of hazardous waste (*COA: Toxics[F]*).

> ***COA: Toxics.*** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
>
> A. Phase I and Phase II Environmental Site Assessment (ESA) (per ASTM 1527). A recent Phase I ESA (less than 2 years old) shall be submitted to the Toxics Management Division for developments for: all new commercial, industrial and mixed-use developments and all improvement projects that require work 5 or more feet below grade, and all new residential buildings with more than four dwelling units located in the Environmental

Management Area (or EMA). The EMA can be viewed at: City of Berkeley Community GIS Portal (arcgis.com)

B. Depending on the findings in the Phase I, a Phase II or additional investigation may be necessary. Any available soils and groundwater analytical data available for projects listed in this section must also be submitted to TMD.

C. Environmental Site Clearance. The applicant shall provide environmental screening clearance from either the San Francisco Bay Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC), or the Alameda County Department of Environmental Health's Local Oversight Program (LOP). Clearance from one of these regulatory agencies will ensure that the property meets development investigation and cleanup standards for the specific use proposed on the property. Environmental screening clearance shall be submitted to the City of Berkeley's Toxics Management Division prior to issuance of any building permits.

D. Soil and Groundwater Management Plan. A site-specific Soil and Groundwater Management Plan (SGMP) shall be submitted to Toxics Management Division (TMD) for all non-residential projects, and residential or mixed-use projects with more than four dwelling units, that: (1) are in the Environmental Management Area (EMA), as shown on the most recent City of Berkeley EMA map, and (2) propose any excavations deeper than 5 feet below grade or if significant soils removal is anticipated. The SGMP shall be submitted to the TMD with the project's building permit application and shall be approved by TMD prior to issuance of the building permit.

   The SGMP shall comply with the hazardous materials and waste management standards required by BMC Section 15.12.100, the stormwater pollution prevention requirements of San Francisco Bay Regional Water Quality Control Board's Order No. R2-2009-0074, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66260 et seq.), and the East Bay Municipal Utility District's Ordinance 311, and shall include the following:

   i. procedures for soil and groundwater management including identification of pollutants and disposal methods;

   ii. procedures to manage odors, dust and other potential nuisance conditions expected during development;

   iii. notification to TMD within 24 hours of the discovery of any previously undiscovered contamination; and

   iv. the name and phone number of the individual responsible for implementing the SGMP and who will respond to community questions or complaints.

   TMD may require additional information or impose additional conditions as deemed necessary to protect human health and the environment. All requirements of the approved SGMP shall be deemed conditions of approval.

E. Demolitions & Renovations – Building Materials Survey. A hazardous materials survey for building materials and plans on hazardous materials and hazardous waste removal and disposal is required and must be prepared by qualified professionals, and submitted to the Toxics Management Division (TMD) prior to issuance of the building permit.

   i. The survey shall include the identification of all materials to be disturbed for lead-based paints, PCB containing equipment and caulking, hydraulic fluids, refrigerants,

treated wood, and mercury containing devices (including fluorescent light bulbs and mercury switches), asbestos and other hazardous materials and chemicals.

ii. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center. Contractors must follow state regulations where there is asbestos-related work involving 100 square feet or more of asbestos containing material (8 Cal. Code Regs. §1529, §341.6 et seq.)

iii. The report to the TMD shall include, in addition to the survey, plans on hazardous materials and hazardous waste removal and disposal that comply with State and Federal codes including California Code of Regulations (CCR) 66260 et seq.

iv. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition.

Please note, the PCB Screening Form required by Public Works, Engineering, is a separate requirement and does not address the PCB identification requirement of the Toxics Management Division.

F. Hazardous Materials Business Plan. A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 and California Health & Safety Code, Chapter 6.95 Div. 20, shall be submitted to the Toxics Management Division through the California Environmental Reporting System: http://cers.calepa.ca.gov/ for chemicals used or stored on site during construction that exceed reporting thresholds. The reporting is required if your facility stores or handles hazardous materials in aggregate quantities equal to or greater than 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet of compressed gases, or generates any quantity of hazardous waste. This includes welding gases, emergency generator fuel, paints, etc.

Additionally, the business occupant must submit an HMBP within 30 days of starting operations.

G. Petroleum Storage. A Spill Prevention, Control, and Countermeasure (SPCC) Plan is required to be prepared and implemented for facilities with any one of the following:

i. Aggregate aboveground petroleum storage capacities of 1,320 gallons or more stored in aboveground storage containers, tanks, oil-filled equipment, or

ii. One or more tank(s) in an underground area (TIUGA) with petroleum storage capacities of 55 gallons or greater. More information on TIUGAs can be found here: https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/tank-in-an-underground-area-tiuga/

The SPCC plan must be prepared prior to beginning operations and you must submit facility information to Toxics Management Division (TMD) through the California Environmental Reporting System: http://cers.calepa.ca.gov/. The SPCC plan will be reviewed during the site inspection and shall not be submitted in CERS or to the TMD.

Compliance with *COA: Toxics* and the regulations described above (including OSHA and Cal/OSHA regulations, CCR Title 8, and USDOT, RCRA, and State regulations) would ensure that the proposed project would not create a significant hazard to the public or the environment associated with the

routine transport, use, or disposal of hazardous materials by ensuring that these materials are properly handled during construction of the proposed project.

Occupation of the proposed commercial and residential uses is expected to utilize relatively small amounts of hazardous materials (e.g., chemicals associated with fuel for landscape maintenance equipment, solvents, cleaning products, pesticides/fertilizers, and other similar chemicals). These materials are substantially similar to household chemicals and solvents already in general and wide use throughout the city and in the vicinity of the project site. Compliance with all applicable federal, State, and local regulations would ensure the project would not create a significant hazard to the public or environment from the routine transportation, use, and disposal of hazardous materials during operation of the proposed project.

b) Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

The public and/or the environment could be affected by the release of hazardous materials from the proposed project into the environment by: (1) exposing workers and/or the public to potentially contaminated soil and groundwater during construction and/or operation of the project, or (2) exposing workers and/or the public to hazardous building materials (e.g., polychlorinated biphenyls [PCBs], lead paint, asbestos) during demolition of the existing commercial structures. However, development projects that require a use permit are required to comply with *COA: Toxics,* which addresses each of these potential impacts (see Section 4.9.a, above).

On-Site Hazardous Building Materials. According to the Phase I ESA, the project site appeared to be undeveloped land in 1894. By 1911, the project site was developed with five dwellings to the north and east, two storefronts to the southwest, and an office building to the south. The existing structure was initially built in 1906 and was remodeled several times. By 1929, the project site was redeveloped as a drugstore to the southwest, four storefronts to the west, two multi-family dwellings to the north, and a dry-cleaning facility with an associated office to the east. In addition, the structure suffered a number of fires during its history, the last of which (in 1981) destroyed almost the entire building. Only the portion of the building fronting Shattuck Avenue was repaired/reconstructed. Due to the age of the building on the project site, asbestos-containing materials (ACMs) and/or lead-based paints (LBP) may be present in the buildings.[38] Demolition activities could cause the release of asbestos and lead into the environment if ACMs and LBPs are present in the buildings.

The City's *COA: Toxics(E)*, as outlined above, requires that prior to issuance of a building permit, a hazardous materials survey for building materials and plans on hazardous materials and hazardous waste removal and disposal is required and must be prepared by qualified professionals. The survey shall include, but not be limited to, the identification of all materials to be disturbed for LBPs, PCB-containing equipment, and devices containing caulking, hydraulic fluids, refrigerants, treated wood, and mercury (including fluorescent light bulbs and mercury switches), asbestos, and other

[38] ACC Environmental Consultants. 2024. *Phase I Environmental Site Assessment Report, 1685 Shattuck Avenue/2109 Virginia Street, ACC Project Number: 10230-001.00.* February 9.

hazardous materials and chemicals. The survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply with State hazardous waste generator requirements (22 CCR 66260 et seq.). The survey becomes a condition of any building or demolition permit for the proposed project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to the Toxics Management Division (TMD) within 30 days of the completion of the demolition. If asbestos is identified, Air District Regulation 11-2-401.3 notification must be made, and the Air District Job Number (or "J Number") must be made available to the City of Berkeley Permit Service Center. Compliance with the requirements described above and outlined in *COA: Toxics(E)* would ensure that potential impacts related to hazardous building materials would not occur.

Hazardous Soil and Groundwater Conditions. Based on the findings of the most recent environmental investigations, the project site has a history of subsurface contamination. The project site is also listed on the Envirostore website/list and Geotracker database as a leaking underground storage tank (LUST) cleanup site, and is identified as being located in an EMA, which are areas in the city known or suspected to have groundwater contamination.[39] The project site was occupied by an on-site dry cleaner from 1920 to 1970, and a 5,000-gallon underground tank utilized to store Stoddard solvent was removed in July 1987. Although the project site was remediated under the oversight of the DTSC in 1987 and assessed by the San Francisco Bay Regional Water Quality Control Board (RWQCB) in 1989, the unit of measurement used to establish the residential soil vapor intrusion initial threshold changed and rendered benzene and chloroform concentrations above residential Environmental Screening Levels (ESLs). A Phase I ESA was subsequently prepared.

The Phase I ESA identified a Controlled Recognized Environmental Condition (CREC) associated with the project site related to the Stoddard solvent release, and that a vapor intrusion condition (VEC) at the project site could not be ruled out, particularly with regard to redevelopment of the project site with residential uses. As such, a Phase II ESA was subsequently prepared.

The Phase II ESA included nine exploratory soil borings and five soil vapor borings in the vicinity of the Stoddard solvent underground tank in order to obtain soils, soil vapor, and groundwater samples. The samples were then analyzed and compared to ESLs for commercial uses.[40] The Phase II ESA determined that the soil vapor at the project site is currently impacted by Stoddard solvent, benzene, and perchloroethylene (PCE), which was attributed to the project site's former dry-cleaning use. However, only the benzene concentrations exceeded the San Francisco Bay RWQCB's ESLs for vapor intrusion at commercial properties. In addition, total petroleum hydrocarbons (TPH), benzene, and chloroform concentrations in the soil vapor generally exceed residential ESLs but not commercial ESLs. Because the highest detected benzene concentration in the soil vapor slightly exceeds the corresponding commercial ESL for benzene, the Phase II ESA identified benzene as the primary chemical of concern. The Phase II ESA also determined that current groundwater and soil impacts associated with the former use of the project site are negligible. Overall, the Phase II ESA concluded that the subsurface conditions at the project site are consistent with the former use of

39 Berkeley, City of. n.d. *Community GIS Portal.* Website: https://berkeley.maps.arcgis.com/apps/webappviewer/index.html?id=2c7dfafbb1f64e159f4fdf28a52f51c6&showLayers=Berkeley%20Parcels; Environment (accessed March 2025).

40 Based on the proposed building design, commercial screening levels for soil vapor are applicable.

the project site and with subsurface conditions described in the case closure letters granted by the DTSC in 1987 and the San Francisco Bay RWQCB in 1999. Because no land use restrictions or continuing obligations were required by DTSC and the San Francisco Bay RWQCB, the Phase II ESA concluded that no further assessment or regulatory oversight is necessary. Further, the Phase II ESA indicated that proposed building design, which locates parking and commercial uses on the ground floor and would be constructed on a mat slab, is sufficient to mitigate residual soil vapor impacts. In addition, the proposed project would include a chemically-resistant vapor membrane product designed to mitigate the chemicals of concern at the project site, including a permeable gravel layer beneath the membrane and foundation slab. As such, potential vapor intrusion concerns would be effectively addressed by the proposed project's design, and no impact would occur.

As discussed above, the project site is located in an EMA, which are areas in the city known or suspected to have groundwater contamination.[41] *COA: Toxics(D)* requires that an SGMP be prepared for all residential or mixed-use projects with four or more units that (1) are located within the EMA, and (2) propose any excavations deeper than 5 feet below grade. The proposed project is a mixed-use development within the EMA and would require excavation around approximately 5 feet below grade for construction of utilities and foundations; therefore, preparation of an SGMP would be required for the proposed project. The TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP would be conditions of approval of the requested Use Permits. Preparation and implementation of an SGMP in accordance with the requirements of *COA: Toxics(D)* would ensure that potential impacts associated with disturbance and excavation of potentially contaminated soil and groundwater at the project site would not occur.

Preparation and implementation of an SGMP for excavation and potential dewatering activities (as required by the TMD and described above) would ensure that the proposed project would not result in impacts to the public or the environment related to reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

c) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Berkwood Hedge Middle School (a public school located at 1798 Scenic Avenue), Bayhill High School (a public school located at 1940 Virginia Street), and the New School of Berkeley (a preschool located at 1606 Bonita Avenue) are all less than 0.25 mile from the project site. However, compliance with federal, State, and local regulations for the management of hazardous materials, as discussed in Sections 4.9.a and 4.9.b, above, would ensure that potential impacts to nearby schools associated with hazardous materials emissions and use at the project site would not occur.

[41] Berkeley, City of. n.d. *Community GIS Portal.* Website: https://berkeley.maps.arcgis.com/apps/webappviewer/index.html?id=2c7dfafbb1f64e159f4fdf28a52f51c6&showLayers=Berkeley%20Parcels; Environment (accessed March 2025).

d) Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

The provisions of Government Code Section 65962.5 require the DTSC, the State Water Resources Control Board (SWRCB), the California Department of Health Services, and CalRecycle (formerly the California Integrated Waste Management Board) to submit information pertaining to sites associated with solid waste disposal, hazardous waste disposal, LUST sites, and/or hazardous materials releases to the Secretary of Cal/EPA.

The project site is listed on the SWRCB's Geotracker database as a LUST cleanup site.[42] The project site is therefore included on lists of hazardous materials release sites compiled pursuant to Government Code Section 65962.5. As discussed in Sections 4.9.a and 4.9.b above, the project site has been the subject of several environmental investigations and remediation activities performed under the oversight of regulatory agencies. Preparation and implementation of an SGMP for excavation and potential dewatering activities (i.e., *COA:Toxics[D]*) and the chemically-resistant vapor membrane product designed to mitigate the chemicals of concern at the project site (including a permeable gravel layer beneath the membrane and foundation slab, which has been incorporated into the proposed project's design) would ensure that impacts to construction workers, the surrounding public, future site occupants, and the environment related to past releases of hazardous materials into the environment would not occur.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

The project site is located over 10 miles north of the Oakland International Airport. The project site is not located within a public airport land use plan or within 2 miles of a public use airport. The proposed project is not within the vicinity of a private airstrip. As such, the proposed project would not result in a safety hazard to people working or residing in the area due to the proximity of an airport.

f) Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

The proposed project would be consistent with the policies outlined in the City of Berkeley General Plan's Disaster Preparedness and Safety Element and would not obstruct emergency evacuation routes. Shattuck Avenue and Virginia Street are the designated emergency access and evacuation routes in the project area.[43] Because the proposed project would not include any modifications to the existing roadways in the vicinity of the project site, implementation of the proposed project would not result in any impacts related to emergency access or an adopted emergency response

42 State Water Resources Control Board (SWRCB). 1999. *Berkeley Village (T0600100187).* Website: https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0600100187 (accessed March 2025).

43 Berkeley, City of. 2001. Op. cit.

plan. As such, the proposed project would have no impact on implementation of an adopted emergency response plan or emergency evacuation plan.

g) Would the project expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

The project site is in an urban area and is not within or adjacent to a wildland fire hazard area. As such, the proposed project would not expose people or structures to a significant loss, injury, or death involving wildland fires.

4.9.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to hazards and hazardous materials. Impacts related to hazards and hazardous materials would remain less than significant, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.10 HYDROLOGY AND WATER QUALITY

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?	☐	☐	☐	☒
b. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☐	☒
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
i. Result in substantial erosion or siltation on- or offsite;	☐	☐	☐	☒
ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	☐	☐	☐	☒
iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☐	☒
iv. Impede or redirect flood flows?	☐	☐	☐	☒
d. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒
e. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒

4.10.1 Housing Element EIR Analysis

Section 4.9 of the Housing Element EIR analyzed potential impacts related to hydrology and water quality. The Housing Element EIR determined that all impacts related to hydrology and water quality would be less than significant, and no mitigation was prescribed. The Housing Element EIR indicated that future development facilitated by the Housing Element would involve ground-disturbing activities and the use of heavy machinery that could release materials (including sediments and fuels) that could adversely affect water quality during construction. The operations of future development could also result in discharges to storm drains that could adversely affect water quality. However, the Housing Element EIR determined that compliance with required permits and existing regulations, including applicable National Pollutant Discharge Elimination System (NPDES) permits and the implementation of BMPs contained therein, would ensure that water quality impacts would be less than significant. The Housing Element EIR also determined that implementation of the Housing Element would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table through implementation of low impact development measures and on-site infiltration required by the C.3 provisions of the San Francisco

Bay RWQCB's Municipal Regional Stormwater (MRP) NPDES Permit, and compliance with the BMC would increase the potential for groundwater recharge.

The Housing Element EIR also found that with required compliance with existing regulations, including applicable NPDES permits, future development facilitated by the Housing Element would not substantially alter the existing drainage pattern of future development sites, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site. In addition, with required compliance with existing regulation the Housing Element EIR determined that future development would not substantially increase the rate or amount of surface runoff in a manner which would result in flooding or exceed the capacity of stormwater drainage systems. In addition, although future development would place housing and other structures within Federal Emergency Management Agency (FEMA) designated Flood Hazard Areas and tsunami zones, the Housing Element EIR determined that compliance with the City's General Plan, BMC, and the California Health and Safety Code would reduce potential effects associated with flood events to less than significant.

4.10.2 Project Impacts

The analysis in this section is based in part on the *City of Berkeley C.3 Stormwater Requirements Checklist, Municipal Regional Stormwater Permit (MRP 3), Stormwater Controls for Development Project Checklist* prepared for the proposed project (Stormwater Requirements Checklist).[44] This report is provided as Appendix D.

a) Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?

Regional Drainage. The project site is located within an urban and built-up area of Berkeley, and no major hydrologic features are in the vicinity of the project site. The project site is located within the Strawberry Creek Watershed, which includes Strawberry Creek and several unnamed tributaries. Although portions of Strawberry Creek have been replaced by underground pipelines and culverts as part of the City's storm drainage system, Strawberry Creek remains one of the few waterways in the urbanized East Bay that retains its natural character along most of its course.[45] The Strawberry Creek Watershed drains to the University Avenue storm drain network, which discharges into San Francisco Bay at the terminus of University Avenue.[46] The nearest existing storm drain pipes and inlets to the project site are located along Shattuck Avenue and Virginia Street.

Regulatory Framework. The SWRCB and nine RWQCBs regulate water quality of surface water and groundwater bodies throughout California. In Berkeley, the San Francisco Bay RWQCB is responsible for implementation of the Water Quality Control Plan (Basin Plan). The Basin Plan establishes beneficial water uses for waterways and water bodies in the region. Section 303(d) of the federal CWA requires that states identify water bodies including bays, rivers, streams, creeks, and coastal

44 Trachtenberg Architecture. *City of Berkeley C.3 Stormwater Requirements Checklist, Municipal Regional Stormwater Permit (MRP 3), Stormwater Controls for Development Project Checklist*.

45 Berkeley, City of. 2022a. *City of Berkeley 2023-2031 Housing Element Update Environmental Impact Report, SCH No. 2022010331*. August.

46 Berkeley, City of. 2011. *2011 Watershed Management Plan*. October.

areas that do not meet water quality standards and the pollutants that are causing the impairment. Total Maximum Daily Loads (TMDLs) describe the maximum amount of a pollutant that a water body can receive while still meeting established water quality standards. A TMDL establishes limits for pollutant discharges into impaired water bodies. Central San Francisco Bay is listed as an impaired water body for several pollutants, including chlordane, dichlorodiphenyltrichloroethane (DDT), dieldrin, dioxin compounds (including 2, 3, 7, 8-tetrachloro-dibenzodioxin [2, 3, 7, 8-TCDD]), furan compounds, invasive species, trash, mercury, PCBs, and selenium.[47]

Runoff water quality is regulated by the NPDES program (established through the federal CWA). The NPDES program objective is to control and reduce pollutant discharges to surface water bodies. Compliance with NPDES permits is mandated by State and federal statutes and regulations. Locally, the NPDES program is administered by the San Francisco Bay RWQCB. NPDES requirements that would apply to both the construction phase and the operations phase of the project are described below.

Construction. The proposed project includes demolition of the existing on-site structure and surface pavements and construction of the mixed-use residential building. Pollutants of concern during construction include sediments, trash, petroleum products, concrete waste (dry and wet), sanitary waste, and chemicals. Each of these pollutants on its own or in combination with other pollutants can have a detrimental effect on water quality. During construction activities, excavated soil would be exposed, and there would be an increased potential for soil erosion and sedimentation compared to existing conditions. In addition, chemicals, liquid products, petroleum products (e.g., paints, solvents, and fuels), and concrete-related waste may be spilled or leaked and have the potential to be transported via stormwater runoff into receiving waters (i.e., Central San Francisco Bay).

Many areas in the city are known or suspected to have soil or groundwater contamination and are known as EMAs. The project site is located within an EMA.[48] In addition, the proposed project would include the demolition of a structure subject to the TMD Building Demolition requirements due to the potential for ACMs and LBP to be present in the existing commercial building. As part of the TMD's standard conditions for a site in the EMA and as required by City's *COA: Toxics(E)*, a hazardous materials survey would be prepared for the proposed project prior to demolition activities.

During construction, the entire 0.51-acre project site would be disturbed. Because construction of the proposed project would disturb less than 1 acre of soil, the proposed project is not subject to the requirements of the SWRCB's NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2022-0057-DWQ, NPDES No. CAS000002) (Construction General Permit). However, the proposed project would be required to

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47 State Water Resources Control Board (SWRCB). 2024. *2024 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report)*. December 13. Website: https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.waterboards.ca.gov%2Fwater_issues%2Fprograms%2Ftmdl%2F2023_2024state_ir_reports%2Fapx-a-2024-303d-list-final.xlsx&wdOrigin=BROWSELINK (accessed March 2025).

48 Berkeley, City of. n.d. *Community GIS Portal.* Website: https://berkeley.maps.arcgis. com/apps/webappviewer/index.html?id=2c7dfafbb1f64e159f4fdf28a52f51c6&showLayers=Berkeley%20Parcels;Environment (accessed March 2025).

comply with the City's COAs outlined below, including *COA: Stormwater Requirements* and *COAs: Public Works*.

> ***COA: Stormwater Requirements.*** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
>
> A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
>
> B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
>
> C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
>
> D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
>
> E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
>
> F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
>
> G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
>
> H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

I. All loading areas must be designated to minimize "run-on" or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.

J. Restaurants, where deemed appropriate, must be designed with a contained area for cleaning mats, equipment and containers. This contained wash area shall be covered or designed to prevent run-on or run-off from the area. The area shall not discharge to the storm drains; wash waters should drain to the sanitary sewer, or collected for ultimate disposal to the sanitary sewer. Employees shall be instructed and signs posted indicating that all washing activities shall be conducted in this area. Sanitary connections are subject to the review, approval and conditions of the waste water treatment plant receiving the discharge.

K. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

L. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.

COA: Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.

COA: Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

COA: Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.

COA: Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

In addition, the proposed project would implement construction BMPs including, but not be limited to, Erosion Control and Sediment Control BMPs designed to minimize erosion and retain sediment on site and Good Housekeeping BMPs to prevent spills, leaks, and discharge of construction debris and waste into receiving waters. Construction BMPs applicable to the proposed project are detailed in the

Stormwater Requirements Checklist completed for the proposed project.[49] In addition, provision C.6 of the San Francisco Bay RWQCB's MRP[50] requires the City to implement a construction site inspection and control program at all construction sites, with follow-up and enforcement to prevent construction site discharges of pollutants and impacts on beneficial uses of receiving waters. Inspections must confirm implementation of appropriate and effective erosion and other construction pollutant controls by construction site operators/developers, and reporting must demonstrate the effectiveness of this inspection and problem solution. Compliance with COAs, as outlined above, including the incorporation of construction BMPs to target and reduce pollutants of concern in stormwater runoff, would ensure that construction impacts related to violation of waste discharge requirements and water quality standards and degradation of water quality would not occur.

According to the Phase 1 ESA[51] prepared for the proposed project, the depth to groundwater at the project site is approximately 17 feet bgs. Construction of the proposed project is anticipated to require excavation to a maximum depth of 6 feet for construction of utilities, drainage facilities, and parking facilities. Based on the depth to groundwater at the project site and the maximum depth of excavation, groundwater dewatering is not anticipated to be required during construction. If groundwater is encountered during excavation and groundwater dewatering is required, the improper management and discharge of dewatering effluent into the storm drainage system or receiving waters could adversely affect water quality because contaminants and sediment may be present in the dewatering effluent.

For development projects within the EMA where dewatering is anticipated, the City's TMD has adopted specific requirements. Since dewatering activities can draw in contamination from outside areas, monitoring of the groundwater discharges may be required. The TMD may require dewatering and monitoring plans to ensure the discharge of clean water and the protection of the community from vapors or other health hazards. Additionally, where there is sufficient information indicating soil contamination is present, the TMD could require testing of excavation spoils and documentation of proper disposal. The specific requirements for the proposed project would be specified by the City as standard conditions of approval, as outlined in *COA: Toxics* (refer to Section 4.9, Hazards and Hazardous Materials). Additionally, as part the TMD's standard conditions for a site in the EMA, an SGMP would be prepared for the proposed project that would establish the appropriate management practices for handling, treatment, and disposal of contaminated groundwater if encountered during construction. Compliance with City requirements and implementation of an SGMP would be required as part of the conditions of approval for the proposed project and would ensure that contaminated groundwater is not discharged to surface water. Therefore, groundwater dewatering impacts related to violation of waste discharge requirements and water quality standards and degradation of water quality would not occur.

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49 Trachtenberg Architecture. *City of Berkeley C.3 Stormwater Requirements Checklist, Municipal Regional Stormwater Permit (MRP 3), Stormwater Controls for Development Project Checklist*.

50 San Francisco Bay Regional Water Quality Control Board (RWQCB). 2022. San Francisco Bay Region Municipal Regional Stormwater NPDES Permit, Order No. R2-2022-0018, NPDES Permit No. CAS612008. May 11.

51 ACC Environmental Consultants. 2024. *Phase I Environmental Site Assessment Report, 1685 Shattuck Avenue/2109 Virginia Street, ACC Project Number: 10230-001.00.* February 9.

Infiltration of stormwater has the potential to affect groundwater quality in areas of shallow groundwater. As stated previously, the depth to groundwater at the project site is approximately 17 feet bgs. Therefore, due to the relatively shallow groundwater table, stormwater may infiltrate during project construction, potentially affecting groundwater quality given the direct path for pollutants to reach the groundwater table. Proposed construction BMPs, as required by *COA: Stormwater Requirements*, would reduce infiltration of pollutants to groundwater during construction. Therefore, project construction would not substantially degrade groundwater quality.

Operation. The proposed project would result in the development of a new eight-story, mixed-use residential building containing a total of 110 dwelling units and approximately 690 square feet of commercial space on an infill site. According to the Stormwater Requirements Checklist prepared for the proposed project, the proposed project would replace all existing impervious surface area, resulting in no net change in the total impervious surface area at the project site. In addition, the proposed uses would intensify uses on the project site compared to existing conditions, which would increase the potential for pollutants of concern to be generated on the project site and discharged to surface waters during storm events. Increased vehicle trips to and from the project site could result in a greater potential for leaks of fuels and lubricants, tire wear particulates, brake dust, and fallout from exhaust emissions to convey petroleum hydrocarbons, heavy metals, and sediment off site during storm events. The proposed landscaping could contain residual pesticides and nutrients used for landscape maintenance. The intensification of land uses could result in increased trash generation over existing conditions.

Project operation and maintenance would be subject to the San Francisco Bay RWQCB's MRP, Order No. R2-2022-0018, as amended by Order No. R2-2023-0019, NPDES Permit No. CAS612008. Provision C.3 of the MRP sets forth appropriate and site-specific source control, site design, and stormwater treatment measures for new and redevelopment projects to address both soluble and insoluble stormwater runoff pollutant discharges and prevent increases in runoff flows from new projects. According to the Stormwater Requirements Checklist, the proposed project is considered a regulated project because it is a redevelopment project that would create and/or replace more than 5,000 square feet of impervious surface (collectively over the entire project site). Regulated projects are required to implement LID source control, site design, and stormwater treatment BMPs. Source control BMPs are preventative measures that are implemented to prevent the introduction of pollutants into stormwater. Site design BMPs are stormwater management strategies that emphasize conservation and use of existing site features to reduce the amount of runoff and pollutant loading generated from a project site. Source control BMPs and site design BMPs applicable to the proposed project are detailed in the Stormwater Requirements Checklist completed for the proposed project, which is provided as Appendix D. Stormwater treatment BMPs are structural BMPs designed to treat and reduce pollutants in stormwater runoff prior to releasing it to receiving waters. Pursuant to Provision C.3 of the MRP, stormwater from the project site would be directed to the proposed vegetated areas and would be treated by flow-through planters (biotreatment) before being discharged to the existing stormwater infrastructure in the surrounding area, similar to existing conditions.

As previously discussed, infiltration of stormwater could affect groundwater quality in areas of shallow groundwater. The proposed project would be required to implement operational BMPs

(including source control, site design, and Low Impact Development BMPs) to treat stormwater before it could reach groundwater. These proposed BMPs would treat stormwater runoff on site, and would reduce the volume of stormwater and the infiltration of pollutants into groundwater during operation. Furthermore, when stormwater is infiltrated, soil and plants absorb and filter pollutants and reduce the potential for pollutants of concern to reach groundwater. Therefore, infiltration of stormwater at the project site during operation would not substantially degrade groundwater quality.

In conclusion, compliance with the requirements of the MRP and *COA: Stormwater Requirements*, including incorporation of operational BMPs to target pollutants of concern, would ensure that impacts related to violation of waste discharge requirements and water quality standards and degradation of water quality would not occur.

b) Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

The City of Berkeley is located within the Santa Clara Valley Groundwater Basin, East Bay Plain Subbasin, which encompasses approximately 122 square miles in Alameda and Contra Costa counties. The East Bay Plain Subbasin generally extends north to south from the San Pablo Bay to the Niles Cone Groundwater Basin near Hayward. A substantial amount of artificial fill (thicknesses ranging from 1 to 50 feet) has been placed within the basin, with the thickest deposits found nearer San Francisco Bay. Historical groundwater levels in the East Bay Plain Subbasin have varied between 10 to 140 feet below mean sea level; however, levels have been rising continuously since the 1950s.[52]

As previously discussed, according to the Phase 1 ESA[53] prepared for the proposed project, the depth to groundwater at the project site is approximately 17 feet bgs. Construction of the proposed project is anticipated to require excavation to a maximum depth of 6 feet for construction of utilities, drainage facilities, and parking facilities. Based on the depth to groundwater at the project site and the maximum depth of excavation, groundwater dewatering is not anticipated to be required during construction. If groundwater is encountered during excavation and groundwater dewatering is required, dewatering would be temporary and would not result in long-term lowering of the groundwater levels.

In addition, as provided above, the proposed project would replace all existing impervious surface area, resulting in no net change in the total impervious surface area at the project site. Therefore, implementation of the proposed project would not result in a change in the potential for infiltration to occur at the project site from existing conditions. Further, any change in infiltration at the project

52 California Department of Water Resources (DWR). 2004. *California's Groundwater Bulletin 118 – Santa Clara Valley Groundwater Basin, East Bay Plain Subbasin*. February 27. Website: water.ca.gov/Programs/Groundwater-Management/Bulletin-118 (accessed March 2025).

53 ACC Environmental Consultants. 2024. *Phase I Environmental Site Assessment Report, 1685 Shattuck Avenue/2109 Virginia Street, ACC Project Number: 10230-001.00.* February 9.

site would be minimal compared to the size of the groundwater basin and would not be anticipated to result in a net decrease in groundwater and aquifer levels.

Water supply to the proposed project would be provided by the EBMUD water system, which is supplied from the Mokelumne River.[54] Because EBMUD does not use groundwater from the East Bay Plain Subbasin for municipal water supply, water use during operation of the proposed project would not affect groundwater. Additionally, on-site groundwater extraction during operation would not occur. Therefore, no depletion of the underlying aquifer would occur during the operational phase of the proposed project. For the reasons listed above, impacts related to the decrease of groundwater supplies or interference with groundwater recharge would not occur.

c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: (i) result in substantial erosion or siltation on- or off-site; (ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site; (iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or (iv) impede or redirect flood flows?

Erosion or Siltation. The proposed project would not alter the course of a stream or a river. Site preparation and grading/excavation activities may slightly and temporarily alter on-site drainage; however, the existing drainage patterns would generally be maintained and would not be substantially altered or modified. During construction, excavated soil would be exposed, and there would be an increased potential for soil erosion and sedimentation compared to existing conditions. Compliance with *COA: Stormwater Requirements* and implementation of Erosion Control and Sediment Control BMPs would reduce impacts related to erosion and siltation.

The proposed project would replace all existing impervious surface area, resulting in no net change in the total impervious surface area at the project site. The impervious surfaces would not be prone to on-site erosion or siltation because no soil would be included in these areas. The remaining portion of the site would consist of pervious surface area, which would contain landscaping that would minimize on-site erosion and siltation by stabilizing the soil. Therefore, on-site erosion and siltation impacts would be minimal. Additionally, compliance with MRP requirements and standard conditions of approval require applicants to establish and maintain drainage patterns so as to not adversely affect adjacent properties and rights-of-way. For these reasons, potential on- and off-site erosion and siltation impacts would not occur.

Flooding. As indicated above, the proposed project would not alter the course of a stream or river. However, the project would increase the amount of impervious surface area on the project site, which, without compliance with regulatory requirements, has the potential to increase the volume and rate of stormwater runoff discharged from the project site. The proposed project would convey stormwater runoff to proposed vegetated areas on the project site and would be treated by flow-through planters (biotreatment) before connecting off site to the City's existing off-site storm drain

[54] East Bay Municipal Utility District. 2021. Water Supply. Website: www.ebmud.com/water/about-your-water/water-supply (accessed March 2025).

system within Shattuck Avenue and Virginia Street. The City of Berkeley Public Works Department would review the drainage plans to ensure they comply with City standards and to verify that the project would not increase downstream flooding.

Storm Drain Capacity. As described above, stormwater runoff from the project site would discharge to existing storm drain infrastructure in the vicinity of the project site. Coordination with the Berkeley Public Works Department in review of the project drainage plans and compliance with existing requirements would ensure that impacts related to exceedance of storm drain capacity would not occur.

As described above in Section 4.10.a, the proposed project would comply with all applicable NPDES regulations and City COAs, including the MRP. Construction and operational BMPs would be implemented to reduce pollutants of concern in stormwater runoff from the project site. Additionally, groundwater dewatering, if required, would comply with the requirements of the City's TMD to ensure that dewatering activities do not introduce pollutants into surface waters. Compliance with existing regulations would ensure that potential impacts related to additional sources of polluted runoff would not occur.

Flood Flows. According to FEMA Flood Insurance Rate Map (FIRM) No. 06001C0019G,[55] the project site is within Zone X, Areas of Minimal Flood Hazard, and is not located within a 100-year floodplain.

Project construction would comply with the requirements of *COA: Stormwater Requirements* and would include the implementation of construction BMPs, including site design and source control measures to control the rate and amount of on-site surface runoff and to direct flows to ensure that stormwater runoff from the construction site does not result in on- or off-site flooding. Compliance with *COA: Stormwater Requirements* would ensure that construction impacts related to a substantial increase in the rate or amount of surface runoff that would result in flooding and impede or redirect flood waters would not occur.

As previously discussed, development of the proposed project would not result in a net increase in impervious surface area at the project site, which would not alter the rate and volume of stormwater runoff at the project site from existing conditions. In addition, as discussed above, the project site is not mapped within a 100-year floodplain and therefore would not impede or redirect flood flows. Additionally, compliance with the MRP would ensure that operational activities would not result in a substantial increase in the rate or amount of surface runoff or impede or redirect flood flows in a manner that would result in on- or off-site flooding, and impacts would not occur.

d) In flood hazard, tsunami, or seiche zones, would the project risk release of pollutants due to project inundation?

As discussed above, the project site is not within a 100-year flood zone; therefore, there is no risk of pollutants from the project site due to project inundation.

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55 Federal Emergency Management Agency (FEMA). 2009. Flood Insurance Rate Map (FIRM) No. 06001C0019G. August 3. Website: https://msc.fema.gov/portal/search?AddressQuery=2942%20college%20avenue%2C%20berkeley (accessed March 2025).

The project site is approximately 2.2 miles east of San Francisco Bay and approximately 14 miles east of the Pacific Ocean. Based on the distance from the San Francisco Bay and Pacific Ocean, the project site would not be susceptible to inundation from a tsunami.

Seiches are oscillations in enclosed bodies of water that are caused by a number of factors, most often wind or seismic activity. The nearest major water feature is Aquatic Park, which is located approximately 2 miles southwest of the project site. Given the distance of the nearest large standing body of water from the project site, there is a minimal risk of a release of pollutants from the project site due to seiche-related flooding.

Because the project site is not located within a 100-year flood zone and is located a substantial distance from the San Francisco Bay, Pacific Ocean, and nearest body of water, implementation of the proposed project would not result in a flood hazard, tsunami, or seiche risking release of pollutants due to project site inundation.

e) Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

The project site is within the jurisdiction of the San Francisco Bay RWQCB. The RWQCB adopted a Basin Plan[56] that designates beneficial uses for all surface and groundwater within its jurisdiction and establishes the water quality objectives and standards necessary to protect those beneficial uses. As discussed in detail above in Section 4.10.a, the proposed project would comply with existing NPDES requirements and would implement construction and operational BMPs to reduce pollutants of concern in stormwater runoff. Additionally, during construction, any dewatered groundwater would comply with the requirements of the TMD. Compliance with these regulatory requirements would ensure that the proposed project would not degrade or alter water quality, cause the receiving waters to exceed the water quality objectives, or impair the beneficial use of receiving waters. As such, the proposed project would not result in water quality impacts that would conflict with the RWQCB Basin Plan. Construction and operational impacts related to a conflict with the Basin Plan would not occur.

The SGMA, which was enacted in September 2014, requires governments and water agencies of high- and medium-priority basins to halt overdraft of groundwater basins. The SGMA requires the formation of local groundwater sustainability agencies, which are required to adopt Groundwater Sustainability Plans to manage the sustainability of the groundwater basins. The project site is located within the Santa Clara Valley Groundwater Basin, East Bay Plain Subbasin, which is managed by EBMUD. The East Bay Plain Subbasin is identified by the California Department of Water

56 San Francisco Bay Regional Water Quality Control Board (RWQCB). 2023. Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, amendments adopted up through March 7, 2023.

Resources (DWR) as a medium priority basin[57] and is therefore subject to the requirements of SGMA, and has prepared a Groundwater Sustainability Plan (GSP).[58]

As previously discussed, required compliance with existing regulations (including the NPDES permit requirements, the MRP, and City COAs) would ensure the protection of groundwater and surface water quality during construction and operation of the project and that the proposed project would not result in impacts to surface water and groundwater quality that could result in conflicts with the GSP for the East Bay Plain Subbasin.

In addition, as described above, operation of the proposed project would not involve the use of groundwater for water supply, and groundwater dewatering activities and alteration of impervious surfaces under the project would result in no impacts related to groundwater recharge or groundwater supplies. Therefore, the proposed project would not conflict with or obstruct implementation of the Basin Plan or the GSP for the East Bay Plain Subbasin.

4.10.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to hydrology and water quality. Impacts related to hydrology and water quality would remain less than significant, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

[57] California Department of Water Resources (DWR). n.d. *SGMA Basin Prioritization Dashboard*. Website: gis.water.ca.gov/app/bp-dashboard/final (accessed March 2025).

[58] East Bay Municipal Utility District GSA and City of Hayward GSA. 2022. East Bay Plan Subbasin, Groundwater Sustainability Plan. January.

4.11 LAND USE AND PLANNING

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Physically divide an established community?	☐	☐	☐	☒
b. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒

4.11.1 Housing Element EIR Analysis

Section 4.10 of the Housing Element EIR analyzed potential impacts related to land use and planning. The Housing Element EIR determined that all impacts related to land use and planning would either be less than significant, or no impact would occur. No mitigation was prescribed. The Housing Element EIR determined that because the Housing Element includes policies and programs to encourage housing development on underutilized and vacant sites and along established commercial corridors and neighborhoods, development facilitated by the Housing Element would not physically divide an established community. In addition, the Housing Element EIR determined that implementation of the Housing Element would be consistent with the goals and policies of Plan Bay Area 2050, the City's General Plan, and the BMC.

4.11.2 Project Impacts

a) Would the project physically divide an established community?

The project site is located in an urbanized area of the city and is generally surrounded by existing development, including single- and multi-family residential and commercial uses. Virginia Street bounds the project site to the south, followed by the University Park Apartments complex, and Shattuck Avenue bounds the project site to the west. Redevelopment of the project site with the proposed mixed-use residential building would represent a general continuation of the type, scale, and intensity of development within the vicinity of the project site. In addition, the proposed project would not include any modifications to the existing roadways in the vicinity of the project site. As such, the proposed project would not physically divide an established community.

b) Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

The project site has a General Plan designation of Neighborhood Commercial and is located within three zoning districts. Approximately 19,788 square feet of the project site is in the North Shattuck Commercial (C-NS) zone, approximately 1,970 square feet is in the Multiple-Family Residential (R-4) zone, and approximately 584 square feet is in the Restricted Multiple-Family Residential (R-2A) zone. The project site has also been identified as an Opportunity Site for residential development in the City's Housing Element.

The proposed project would be consistent with applicable General Plan policies and the Neighborhood Commercial General Plan land use designation for the project site, which provides for pedestrian-oriented, neighborhood-serving commercial development, and multi-family residential structures similar to the proposed project. Development standards for the C-E zoning district are specified in the BMC. The purpose of the C-NS zone is to encourage the maintenance and establishment of retail and service activities that provide goods and services to serve the residents of the adjacent and outlying neighborhoods, provide locations for other activities compatible with these commercial activities, promote compatibility between such commercial areas and adjacent residential neighborhoods, and encourage an adequate commercial and residential mix along Shattuck Avenue. The purpose of the R-4 zone is to make available housing for persons who desire both convenience of location and a reasonable amount of usable open space. The purpose of the R-2A zone is to make available housing for persons who desire apartment-type accommodations with a maximum of open space. The proposed project would be consistent with the purposes of these zoning districts and, pursuant to the BMC, would be consistent with the development standards of these zoning districts with approval of the following permits:

- Administrative Use Permit, pursuant to BMC 23.322.070(D)(1), for exceeding the parking maximum
- Administrative Use Permit, pursuant to BMC Section 23.326.070 to demolish a non-residential building
- Use Permit, pursuant to BMC 23.326.070(A), for demolition of a non-residential main building
- Use Permit, pursuant to BMC 23.204.020(A), for construction of a multi-family building
- Use Permit, pursuant to BMC 23.204.304(A), for construction of 2,000 square feet of new floor area

These permits would allow an increase in building height, lot coverage, and building footprint, as well as setback waivers in order to accommodate the density bonus units. The City's Zoning Adjustments Board would consider granting the requested Administrative Use Permits, Use Permits, and other permits as it reviews the proposed project. With approval of the above permits, the proposed project would be consistent with the BMC.

Although the proposed project would develop the project site with a greater residential density than detailed in the C-NS, R-4, and R-2A zoning districts, the proposed project would be consistent with the criteria of the State Density Bonus Law by providing nine affordable to very low-income units (15 percent) and nine affordable to moderate income units (15 percent), as defined by Section 50105 of the Health and Safety Code.

In addition, because the proposed project would develop residential uses on the project site, the proposed project would be consistent with the City's Housing Element, which identifies the project site as an Opportunity Site.

The proposed project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an

environmental effect, and the proposed project would have no impact, either individually or cumulatively, related to land use and planning.

4.11.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to land use and planning. Impacts related to land use and planning would remain less than significant, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.12 MINERAL RESOURCES

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

4.12.1 Housing Element EIR Analysis

Section 1.6 of the Housing Element EIR discussed issues determined to have a less than significant impact due to the unique conditions of the city and therefore were not analyzed in further detail in the Housing Element EIR, including mineral resources. The Housing Element EIR states that the city does not have any significant mineral resources or active mining sites within its boundaries, and that implementation of the Housing Element only applies to an urban area that is not compatible with, identified for, or used for mineral extraction. Therefore, the Housing Element EIR determined that development facilitated by the Housing Element would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the State or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan or other land use plan.

4.12.2 Project Impacts

The project site is located within an urban area on an infill site. There are no known mineral resources within or in the vicinity of the project site.[59] As such, the proposed project would not result in the loss of availability of a known mineral resource of value to the region or residents of the State or any locally important mineral resource recovery site, and no impact, either individually or cumulatively, related to the loss of mineral resources would occur.

4.12.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to mineral resources. Impacts on mineral resources would remain less than significant as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

[59] Berkeley, City of. 2001a. *City of Berkeley General Plan*.

4.13 NOISE

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project result in:				
a. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☒	☐	☐	☒
b. Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒
c. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

4.13.1 Housing Element EIR Analysis

Section 4.11 of the Housing Element EIR analyzed potential impacts related to noise. The Housing Element EIR determined that potential impacts related to operation noise, vibration, and airport noise would be less than significant; however, impacts related to construction noise were determined to be significant and unavoidable. No feasible mitigation was identified or prescribed. The Housing Element EIR also identified a cumulatively considerable impact related to construction noise.

The Housing Element EIR determined that although future housing development accommodated by the Housing Element could include mechanical equipment (i.e., heating, ventilation, and air conditioning [HVAC]), delivery and trash trucks, and other noise-generating activities, these activities would be similar to the existing noise environment. In addition, the Housing Element EIR determined that the increase in mobile noise would not result in a perceptible (3 A-weighted decibels [dBA] or greater) increase, and on-site activities would be required to comply with applicable noise standards in the BMC. Further, the Housing Element EIR determined that future development accommodated by the Housing Element would not involve operational activities that would result in substantial vibration levels (e.g., use of heavy equipment or machinery) and construction activities would be required to implement City COAs that address vibration. The Housing Element EIR also indicated that future development would not be located in the vicinity of an airport and would therefore not expose people residing or working in the project area to excessive noise levels.

However, the Housing Element EIR determined that while construction associated with future development facilitated by the Housing Element would be required to comply with the allowed daytime construction hours as set forth in the BMC and therefore would not occur during nighttime hours when people are more sensitive to noise, larger developments could involve construction with lengthy durations, substantial soil movement, use of large, heavy-duty equipment, and/or pile

driving near noise-sensitive land uses that would exceed the applicable Federal Transit Authority (FTA) daytime noise limits. Although implementation of City COAs for construction noise would reduce construction noise levels, the Housing Element EIR concluded that implementation of City COAs may not reduce such noise levels to below significance thresholds for every project. Therefore, impacts generated by temporary construction noise were determined to be significant and unavoidable.

4.13.2 Project Impacts

Noise is usually defined as unwanted sound and consists of any sound that may produce physiological or psychological damage and/or interfere with communication, work, rest, recreation, or sleep. Several noise measurement scales exist that are used to describe noise in a particular location. A decibel (dB) is a unit of measurement that indicates the relative intensity of a sound. Sound levels measured in decibels are calculated on a logarithmic basis. An increase of 10 dB represents a 10-fold increase in acoustic energy, while 20 dB is 100 times more intense, and 30 dB is 1,000 times more intense. Each 10 dB increase in sound level is perceived as approximately a doubling of loudness; similarly, each 10 dB decrease in sound level is perceived as half as loud. Sound intensity is normally measured through the A-weighted decibel sound level. This scale gives greater weight to the frequencies of sound to which the human ear is most sensitive. The A-weighted sound level is the basis for 24-hour sound measurements that better represent human sensitivity to sound at night.

As noise spreads from a source, it loses energy so that the farther away the noise receiver is from the noise source, the lower the perceived noise level would be. Geometric spreading causes the sound level to attenuate or be reduced, resulting in a 6 dB reduction in the noise level for each doubling of distance from a single point source of noise to the noise sensitive receptor of concern.

There are many ways to rate noise for various time periods, but an appropriate rating of ambient noise affecting humans also accounts for the annoying effects of sound. Equivalent continuous sound level (L_{eq}) is the total sound energy of time-varying noise over a sample period. However, the predominant rating scales for human communities in the State of California are the L_{eq}, the Community Noise Equivalent Level (CNEL), and the day-night average noise level (L_{dn}) based on dBA. CNEL is the time-varying noise over a 24-hour period, with a 5 dBA weighting factor applied to the hourly L_{eq} for noises occurring from 7:00 p.m. to 10:00 p.m. (defined as relaxation hours) and a 10 dBA weighting factor applied to noise occurring from 10:00 p.m. to 7:00 a.m. (defined as sleeping hours). L_{dn} is similar to the CNEL scale, but without the adjustment for events occurring during the evening relaxation hours. CNEL and L_{dn} are within 1 dBA of each other and are normally exchangeable. The noise adjustments are added to the noise events occurring during the more sensitive hours.

A project would have a significant noise effect if it would substantially increase the ambient noise levels for adjoining areas or conflict with adopted environmental plans and goals of applicable regulatory agencies, including, as appropriate, the City of Berkeley.

Certain land uses are considered more sensitive to noise than others. Examples of these land uses include residential areas, educational facilities, hospitals, childcare facilities, and senior housing. The

project site is surrounded by a mix of uses within an urban area of the city. The project site is located within the Elmwood neighborhood within the city, which is characterized by a mix of commercial and residential uses. The project site is less than 10 feet from the closest noise-sensitive receptors (residential uses) located west of the project boundary.

The City of Berkeley General Plan addresses excessive noise in the Environmental Management Element.[60] Major noise sources in Berkeley include transportation, industrial plant noise, and activities associated with neighborhoods. The General Plan includes a map of the existing noise levels throughout the City. According to the General Plan, the project site is exposed to noise levels reaching 70 dBA L_{dn}. The General Plan also provides policies and actions to protect the community from excessive noise levels. Policies and actions applicable to the proposed project include the following:

- **Policy EM-43: Noise Reduction.** Reduce significant noise levels and minimize sources of noise.
- **Policy EM-44: Noise Prevention and Elimination.** Protect public health and welfare by eliminating existing noise problems where feasible and by preventing significant future degradation of the acoustic environment.
- **Policy EM-45: Traffic Noise.** Work with local and regional agencies to reduce local and regional traffic, which is the single largest source of unacceptable noise in the city.
- **Policy EM-46: Noise Mitigation.** Require operational limitations and all feasible noise buffering for new uses that generate significant noise impacts near residential, institutional, or recreational uses.
- **Policy EM-47: Land Use Compatibility.** Ensure that noise-sensitive uses, including, but not limited to, residents, child-care centers, hospitals, and nursing homes, are protected from detrimental noise levels.
    - **Action EM-47-A:** Noise-sensitive development proposals should be reviewed with respect to the Land Use Compatibility Guidelines below (see Table 4.13.A).

If the noise level is within the “normally acceptable” level, noise exposure would be acceptable for the intended land use. Development may occur without requiring an evaluation of the noise environment unless the use could generate noise impacts on adjacent uses.

If the noise level is within the “conditionally acceptable” level, noise exposure would be conditionally acceptable; a specified land use may be permitted only after a detailed analysis of the noise environment and the project characteristics is conducted to determine whether noise insulation or protection features are required. Such noise insulation features may include measures to protect noise-sensitive outdoor activity areas (e.g., at residences, schools, or parks) or may include building sound insulation treatments such as sound-rated windows to protect interior spaces in sensitive receptors.

60 Berkeley, City of. 2001a. *City of Berkeley General Plan*.

Table 4.13.A: General Plan Noise and Land Use Compatibility Guidelines

Land Use Category	Exterior Noise Exposure (L_{dn})					
	55	60	65	70	75	80
Residential, Hotels, and Motels						
Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
Schools, Libraries, Museums, Hospitals, Personal Care, Meeting Halls, Churches						
Office Buildings, Business Commercial and Professional						
Auditoriums, Concert Halls, Amphitheaters						

NORMALLY ACCEPTABLE: Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.
CONDITIONALLY ACCEPTABLE: Specific land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features have been incorporated.
UNACCEPTABLE: New construction or development should generally not be undertaken unless all feasible noise mitigation options have been analyzed and appropriate mitigations incorporated into the project to reduce exposure of people to unacceptable noise levels.

Source: General Plan (City of Berkeley 2001b).

If the noise level is within the "normally unacceptable" level, analysis and mitigation are required. Development should generally not be undertaken unless adequate noise mitigation options have been analyzed and appropriate mitigations incorporated into the project to reduce the exposure of people to unacceptable noise levels.

If the noise level is within the "clearly unacceptable" level, new construction or development should not be undertaken unless all feasible noise mitigation options have been analyzed and appropriate mitigations incorporated into the project to reduce exposure of people to unacceptable noise levels.

The City has also established standard COAs for all development projects, which are provided in Section 7.0 of this document and are identified below, as applicable.

BMC Title 13: Public Peace, Morals and Welfare, Chapter 13.40 (Community Noise) addresses noise impacts. The ordinance establishes exterior and interior noise standards at receiving land uses and construction activity noise regulations as included below in Table 4.13.B.

The City's exterior and interior noise limits are shown in Table 4.13.B. The hourly noise level standards vary based on the receiving land use type and the time period. In order to assess intermittent or maximum noise levels, the time-weighted noise level additions presented in BMC Section 13.40.050 and described in further detail below, should be applied.

The maximum noise levels vary based on the receiving land use type and the time period. The ordinance also limits noise generated by construction. The ordinance restricts construction activities to weekdays between the hours of 7:00 a.m. and 7:00 p.m., and on weekdays and holidays between 9:00 a.m. and 8:00 p.m., except for emergency work.

Table 4.13.B: Exterior and Interior Noise Limits, BMC Section 13.40.050

Zoning District[1]	Time Period	Noise Level (dBA)
Exterior Noise Limits		
R-1, R-2, R-1A, R-2A, and ES-R	7:00 AM–10:00 PM 10:00 PM–7:00 AM	55 45
R-3 and above	7:00 AM–10:00 PM 10:00 PM–7:00 AM	60 55
Commercial	7:00 AM–10:00 PM 10:00 PM–7:00 AM	65 60
Industry	Anytime	70
Interior Noise Limits		
All	7:00 AM–10:00 PM 10:00 PM–7:00 AM	45 40

Source: Municipal Code Tables 13.40-1 and 13.40-2 (City of Berkeley 2014).

[1] R-1 = Single-Family Residential
R-2 = Restricted Two-Family Residential
R-1A = Limited Two-Family Residential
R-2A = Restricted Multiple-Family Residential
ES-R = Environmental Safety-Residential
R-3 = Multiple-Family Residential

dBA = A-weighted decibels

The following noise standards are outlined in BMC Chapter 13.40.050:

A. Maximum permissible sound levels shall be determined by the zoning district of the property subject to the noise, not the property from which the noise originates.

1. The noise standards for the various categories of land use in Table 6 *[of BMC Chapter 13.40.050 and shown in Table 4.13.B of the Initial Study Checklist*] shall, unless otherwise specifically indicated in other codes, apply to all such property within a designated zone.

2. No person shall operate or cause to be operated any source of sound at any location within the incorporated City or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the sound level when measured on any other property to exceed:

a. The noise standard for that land use as specified in Table 6 [*Table 4.13.B of the Initial Study*] for a cumulative period of more than 30 minutes in any hour; or

b. The noise standard for that land use as specified in Table 6 [*Table 4.13.B of the Initial Study*] plus 5 dBA for a cumulative period of more than 15 minutes in any hour; or

c. The noise standard for that land use as specified in Table 6 [*Table 4.13.B of the Initial Study*] plus 10 dBA for a cumulative period of more than 5 minutes in any hour; or

d. The noise standard for that land use as specified in Table 6 [*Table 4.13.B of the Initial Study*] plus 15 dBA for a cumulative period of more than 1 minute in any hour; or

e. The noise standard for that land use as specified in Table 6 [*Table 4.13.B of the Initial Study*] plus 20 dBA for any period of time.

The following interior noise standards are outlined in BMC Section 13.40.060:

1) No person shall operate or cause to be operated within a multi-family dwelling unit any source of sound or allow the creation of any noise which causes the sound level when measured inside a neighboring dwelling unit to exceed:

   a. The noise standard as specified in Table 6 [*Table 4.13.B of the Initial Study*] for a cumulative period of more than 5 minutes in any hour; or

   b. The noise standard as specified in Table 6 [*Table 4.13.B of the Initial Study*] plus 5 dBA for a cumulative period of more than one minute in any hour; or

   c. The noise standard as specified in Table 6 [*Table 4.13.B of the Initial Study*] plus 10 dBA for any period of time.

Section 13.40.070 of the BMC restricts construction activities to weekdays between the hours of 7:00 a.m. and 7:00 p.m. and on weekends and holidays between 9:00 a.m. and 8:00 p.m., except for emergency work. Construction activities are divided into two categories: mobile equipment and stationary equipment. Mobile equipment, as defined by BMC Section 13.40.070, includes sound levels for the nonscheduled, intermittent, short-term operation for less than 10 days of jackhammers, drills, saws, sander grinder, and similar tools. Stationary equipment, according to BMC Section 13.40.070, would be repetitively scheduled and in relatively long-term operation for longer than 10 days. Equipment used during construction of the proposed project would be considered stationary because construction would last longer than 10 days. Where technically and economically feasible, construction activities shall be conducted in such a manner that maximum sound levels at affected properties will not exceed those listed in Table 4.13.C below.

Table 4.13.C: Maximum Stationary Equipment Construction Noise Levels (dBA), Berkeley Municipal Code Section 13.40.070

	R-1, R-2 Residential	R-3 and above Multi-Family Residential	Commercial/ Industrial
Weekdays 7:00 AM to 7:00 PM	60	65	70
Weekends 9:00 AM to 8:00 PM and legal holidays	50	55	60

Source: Municipal Code Table 13.40-4 (City of Berkeley 2014).
R-1 = Single-Family Residential
R-2 = Restricted Two-Family Residential
R-3 = Multiple-Family Residential

a) Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

The following describes how the short-term construction and long-term operational noise impacts of the proposed project would not exceed established thresholds, according to the standards set forth above.

Short-Term (Construction) Noise Impacts. The closest sensitive receptors are the single-family residences adjacent to the eastern boundary of the project site (approximately 40 feet). Project construction would result in short-term noise that could affect these receptors. Maximum construction noise would be short-term, generally intermittent depending on the construction phase, and variable depending on receiver distance from the active construction zone. The duration of noise impacts generally would be from 1 day to several days depending on the phase of construction. The entire construction duration is expected to occur over approximately 21 months. The level and types of noise that would occur during construction are described below.

Short-term noise would occur during demolition, site preparation, grading, building construction, paving, and architectural coating activities. Table 4.13.D lists typical construction equipment noise levels (L_{max} or maximum instantaneous sound level) recommended for noise impact assessments, based on a distance of 50 feet between the equipment and a noise receptor (obtained from the Federal Highway Administration [FHWA] Roadway Construction Noise Model). Construction-related short-term noise levels would be higher than existing ambient noise levels currently in the project area but would no longer occur once construction of the project is completed.

Table 4.13.D: Typical Construction Equipment Noise Levels

Equipment Description	Acoustical Usage Factor (%)	Maximum Noise Level (L_{max}) at 50 Feet[1]
Backhoes	40	80
Compactor (ground)	20	80
Compressor	40	80
Cranes	16	85
Dozers	40	85
Dump Trucks	40	84
Excavators	40	85
Flat Bed Trucks	40	84
Forklift	20	85
Front-end Loaders	40	80
Graders	40	85
Impact Pile Drivers	20	95
Jackhammers	20	85
Pick-up Truck	40	55
Pneumatic Tools	50	85
Pumps	50	77
Rock Drills	20	85
Rollers	20	85
Scrapers	40	85
Tractors	40	84
Welder	40	73

Source: Roadway Construction Noise Model (FHWA 2006).
Note: Noise levels reported in this table are rounded to the nearest whole number.
[1] Maximum noise levels were developed based on Spec 721.560 from the Central Artery/Tunnel (CA/T) program to be consistent with the City of Boston's Noise Code for the "Big Dig" project.
L_{max} = maximum instantaneous sound level

Two types of short-term noise could occur during construction of the proposed project. The first type involves construction crew commutes and the transport of construction equipment and

materials to the site, which would incrementally increase noise levels on roads leading to the site. As shown in Table 4.13.D, there would be a relatively high single-event noise exposure potential at a maximum level of 84 dBA L_{max} with trucks passing at 50 feet.

The second type of short-term noise is related to noise generated during excavation, grading, and construction on the project site. Construction is performed in discrete steps, or phases, each with its own mix of equipment and, consequently, its own noise characteristics. These various sequential phases would change the character of the noise generated on site. Therefore, the noise levels vary as construction progresses. Despite the variety in the type and size of construction equipment, similarities in the dominant noise sources and patterns of operation allow construction-related noise ranges to be categorized by work phase.

Table 4.13.D lists maximum noise levels recommended for noise impact assessments for typical construction equipment, based on a distance of 50 feet between the equipment and a noise receptor. Typical maximum noise levels range up to 87 dBA L_{max} of 85 dBA L_{eq} at 50 feet during the noisiest construction phases. The site preparation phase, including excavation and grading of the site, tends to generate the highest noise levels because earthmoving machinery is the noisiest construction equipment. Earthmoving equipment includes excavating machinery such as backfillers, bulldozers, draglines, and front loaders. Earthmoving and compacting equipment includes compactors, scrapers, and graders. Typical operating cycles for these types of construction equipment may involve 1 or 2 minutes of full-power operation followed by 3 or 4 minutes at lower power settings.

As identified above, the project site is approximately 40 feet from the closest noise-sensitive receptors (residential uses) located east of the project site boundary. The 40-foot distance would increase the noise level by a minimal amount compared to the noise level measured at 50 feet from the construction activity. Therefore, the closest off-site residences may be subject to short-term construction noise levels of approximately 85 dBA L_{eq} when construction is occurring at the eastern project site boundary.

According to the City's Noise Ordinance (BMC Section 13.40.070), noise from construction activities is permitted to exceed the established maximum allowable noise performance standards, provided the activities occur during the permissible hours for construction and all technically and economically feasible noise reduction measures are incorporated. Construction impacts at residential land uses, although permitted and exempted during the construction hours specified by the City, would exceed the suggested maximum noise levels for stationary sources as established by the City.

Implementation of *COA: Construction Noise Reduction Program* would reduce construction noise impacts on the off-site nearby sensitive receptors and would require the project sponsor to implement all technically and economically feasible measures to reduce construction noise, consistent with the requirements of BMC Section 13.40.070.

> COA: Construction Noise Reduction Program.The applicant shall develop a site-specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning

Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:

- Construction equipment should be well maintained and used judiciously to be as quiet as practical.
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
- Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
- Prohibit unnecessary idling of internal combustion engines.
- If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
- Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
- Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
- Route construction related traffic along major roadways and away from sensitive receptors where feasible.

COA: Construction Noise Management – Public Notice Required.At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within 500 feet of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.

COA: Construction Phases.The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an onsite meeting with these individuals as necessary to

ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.

COA: Construction Hours. Construction activity shall be limited to between the hours of 7:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and 4:00 p.m. on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.

COA: Construction Hours – Exceptions. It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The project shall not be allowed more than 15 extended working days.

COA: Project Construction Website. The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant:

- Contact information (i.e., "hotline" phone number, and email address) for the project construction manager.
- Calendar and schedule of daily/weekly/monthly construction activities.
- The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.

Implementation of the City's standard COAs would reduce construction noise impacts to the extent feasible, as required by BMC Section 13.40.070. With implementation of the City's standard COAs, construction noise impacts would be reduced and no impact would occur.

Operational Noise Impacts. The proposed project would result in no impacts related to both traffic and stationary noise sources, as discussed below.

- Traffic Noise Impacts: Off-site traffic noise impacts would result in a significant impact if traffic noise levels increase by 4 dBA or more over ambient noise levels without the project. As discussed in Section 4.16, Transportation, the proposed project would generate a net increase of 436 daily trips. According to the City's General Plan, the current traffic volume of Shattuck Avenue over a 24-hour period is between 22,300 and 36,400 vehicles. A net increase of 436 daily trips would increase traffic noise by less than 1 dBA. This is below 4 dBA; therefore, there would be no impact.

- Stationary Source Noise Impacts: Stationary noise sources associated with the proposed project could include HVAC mechanical equipment and typical motor vehicle/parking area activities. As described above, the City establishes the acceptable daytime and nighttime maximum noise levels at receiving land uses. Daytime is considered to be between the hours of 7:00 a.m. and

10:00 p.m., and nighttime hours are between 10:00 p.m. and 7:00 a.m. BMC Section 13.40 establishes interior and exterior noise level standards (as measured at receiving sensitive land uses) not to be exceeded for more than 30 minutes any hour on commercial land uses as 60 dBA during nighttime hours and 65 dBA during daytime hours, and on residential land uses as 45 dBA during nighttime hours and 55 dBA during daytime hours. It is not expected that the proposed project would substantially increase noise levels over existing conditions and there would be no impact.

Based on the analysis above, the proposed project would not result in the generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

b) Would the project result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Vibrating objects in contact with the ground radiate vibration waves through various soil and rock strata to the foundations of nearby buildings. As the vibration propagates from the foundation throughout the remainder of the building, the vibration of floors and walls may cause perceptible vibration from the rattling of windows or a rumbling noise. The rumbling sound caused by the vibration of room surfaces is called groundborne noise. When assessing annoyance from groundborne noise, vibration is typically expressed as root-mean-square (RMS) velocity in units of decibels of 1 micro-inch per second. To distinguish vibration velocity levels from noise levels, the unit is written as "VdB." Human perception to vibration in indoor environments starts at levels as low as 67 VdB and sometimes lower. Annoyance due to vibration in residential settings starts at 70 VdB. Groundborne vibration is almost never annoying to people who are outdoors. Although the motion of the ground may be perceived, without the effects associated with the shaking of the building, the motion does not provoke the same adverse human reaction.

In extreme cases, excessive groundborne vibration has the potential to cause structural damage to buildings. Common sources of groundborne vibration include trains and construction activities such as blasting, pile driving, and operating heavy earthmoving equipment.

Construction and operation of the proposed project could expose sensitive structures and residential receptors to excessive groundborne vibration, as discussed below.

Construction Vibration. Construction activities that would occur at the project site have the potential to generate low levels of groundborne vibration or groundborne noise levels. The project would require demolition of the existing structures on the project site, as well as site clearing and grading activities. These activities would occur approximately 40 feet from existing sensitive residential uses. No impact pile driving would occur as part of the proposed project.

For all other equipment associated with the proposed construction activities, vibration impacts would approach 0.089 inch per second at a distance of 25 feet. This level would not exceed the 0.12 inch per second threshold at which there is virtually no risk resulting in architectural damage to buildings extremely susceptible to vibration damage. It would be structurally safe from

the construction activity and equipment operation for these adjacent buildings, and no structural damages would occur as a result of on-site construction. In addition, the following COA requires an analysis of potential damage due to construction prior to, or concurrent with, a demolition building permit.

> ***COA: Damage Due to Construction Vibration.*** The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). The assessment shall take into account project specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing conditions study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. This study shall:
>
> - Establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls; and
> - Include written descriptions and photographs.

With implementation of *COA: Damage Due to Construction Vibration*, construction of the proposed project would not result in substantial groundborne vibration on properties adjacent to the project site.

Operational Vibration. No permanent noise sources that would expose persons to excessive groundborne vibration or noise levels would be located within the project site. In addition, long-term operational activities associated with the proposed project would not involve the use of any equipment or processes that would result in potentially significant levels of ground vibration.

Based on the analysis above, the proposed project would not result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

The airport nearest to the project site is the Oakland International Airport (over 10 miles southwest of the project site). The nearest private airport, Buchanan Field Airport, is located over 14 miles northeast of the site. Although aircraft-related noise is occasionally audible on the project site, the project site does not lie within an airport land use plan area or within the 60 dBA L_{dn} noise contours of any of these public airports or private airfields. The proposed project would not expose people

residing or working in the project area to excessive noise levels due to the proximity of a public airport.

4.13.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to noise. Impacts related to operational noise would remain less than significant, and impacts related to construction noise would remain significant and unavoidable as identified in the Housing Element EIR. Because the proposed project would result in less than significant noise impacts, the proposed project would not contribute to, exacerbate, or increase the significant unavoidable construction noise impacts identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.14 POPULATION AND HOUSING

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

4.14.1 Housing Element EIR Analysis

Section 4.12 of the Housing Element EIR analyzed potential impacts related to population and housing. The Housing Element EIR determined that all impacts related to population and housing would be less than significant, and no mitigation was prescribed. The Housing Element EIR analyzed the full buildout of 19,098 residential units in the city through 2031, which would result in a population increase of 47,443 residents compared to the existing population. However, the Housing Element EIR concluded that the growth resulting from implementation of the Housing Element is anticipated and would not constitute substantial unplanned population growth. In addition, the Housing Element EIR determined that implementation of the Housing Element would not result in the displacement of substantial numbers of people or housing because future development under the Housing Element would facilitate the development of new housing in accordance with State and local housing requirements, while preserving existing residential neighborhoods.

4.14.2 Project Impacts

a) Would the project induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

The project site is currently developed with a two-story commercial building and does not contain any residential units. The proposed project would result in the development of an eight-story, mixed-use residential building containing approximately 690 square feet of commercial space and a total of 110 dwelling units on the project site. As such, implementation of the proposed project would result in an increase in employees and residents at the project site.

Based on the average employment density for retail uses of 250 square feet per worker,[61,62] the proposed approximately 690 square feet of commercial space would result in approximately three new employees. Based on a 2.37 persons per household estimate for the City of Berkeley obtained from the United States Census Bureau, development of the 110 new residential units is estimated to result in a total population of up to approximately 261 residents on the project site.[63]

Because the Housing Element EIR identified the project site as an Opportunity Site for residential development, the population increase at the project site has already been considered and analyzed in the Housing Element EIR. As of July 1, 2023, the population in the city was estimated at 118,962.[64] Therefore, implementation of the proposed project represents approximately 0.2 percent of the City's total population.[65] In addition, the Housing Element EIR determined that buildout under the House Element would result in an increase in approximately 47,443 residents. Therefore, implementation of the proposed project represents approximately 0.5 percent of the population increase anticipated by the Housing Element EIR. Overall, implementation of the proposed project would not directly induce substantial population growth in the area, and the project is anticipated to serve the City's need for more housing units.

The proposed project is located on an infill site in a mixed-use area and therefore is an appropriate location for new housing. The project does not include construction of additional public infrastructure (e.g., wastewater treatment facilities); therefore, implementation of the proposed project would not indirectly induce substantial population growth in the area.

The three future employees associated with the proposed commercial space represent a minimal increase and are expected to come from the surrounding area. Therefore, the proposed project would not directly or indirectly induce substantial population growth on the site or in the surrounding area through the increase in employment on the site.

As such, the proposed project would not induce substantial population growth in an area, either directly or indirectly, beyond what was anticipated in the Housing Element and no impact would occur.

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61 The number of employees associated with the proposed project was determined based on data available from *Envision 2040, 4-Year Review, Market Overview and Employment Lands Analysis* prepared for the City of San Jose and dated January 28, 2016. Based on the available data, an employment density factor for retail land uses is between 250 and 650 square feet per employee. In order to provide a conservative analysis, the employment density factor of 250 square feet per employee was used to estimate employment generated from the proposed project.

62 Strategic Economics. 2016. *Envision 2040, 4-Year Review, Market Overview and Employment Lands Analysis.* January 28.

63 United States Census Bureau. City of Berkeley, QuickFacts, Persons per household, 2018-2022. Website: https://www.census.gov/quickfacts/fact/table/berkeleycitycalifornia/PST045222 (accessed March 2025). 2.37 persons per household * 110 units = 260.7 (rounded to 261).

64 Ibid.

65 261 residents / 118,962 total population = 0.00219.

b) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

The project site is currently developed with a two-story commercial building and does not contain any residential units. As such, demolition of existing structures and construction of the proposed project would not displace any people or housing, and there would be no impact.

4.14.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to population and housing. Impacts related to population and housing would remain less than significant, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.15 PUBLIC SERVICES AND RECREATION

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i. Fire protection?	☐	☐	☐	☒
ii. Police protection?	☐	☐	☐	☒
iii. Schools?	☐	☐	☐	☒
iv. Parks?	☐	☐	☐	☒
v. Other public facilities?	☐	☐	☐	☒
b. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
c. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	☐	☐	☐	☒

4.15.1 Housing Element EIR Analysis

Section 4.13 of the Housing Element EIR analyzed potential impacts related to public services and recreation. The Housing Element EIR determined that all impacts related to public services and recreation would be less than significant, and no mitigation was prescribed. The Housing Element determined that future development facilitated by the Housing Element would increase demand on fire protection services, police protection services, schools, and parks and recreational facilities. However, compliance with General Plan policies related to fire and police service facilities, compliance with Government Code 65995 (b), which requires funding for the provision or expansion of new school facilities to offset impacts from new residential development, and the donation of parkland pursuant to the Quimby Act would reduce impacts to less than significant.

4.15.2 Project Impacts

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: (i) fire protection; (ii) police protection; (iii) schools; (iv) parks; or (v) other public facilities?

Development of the proposed project would result in an increase in the population on the project site (approximately 261 new residents and three new employees as discussed in Section 4.14,

Population and Housing), which would increase the demand on emergency fire services, police protection services, schools, parks, and other public facilities. However, because the increase in population at the project site would be consistent with the population growth anticipated as part of the City's Housing Element and future residents/employees are expected to come from the surrounding Berkeley area, the proposed project itself would not result in the need for new or physically altered governmental facilities or a substantial adverse physical impact associated with the provision of additional public services.

In addition, the proposed project would be required to comply with all applicable codes for fire safety and emergency access, including the Uniform Fire Code and applicable sections of the California Health and Safety Code, California Administrative Codes, Title 19, Public Safety and Title 24, Building Standards, and additional review by the Berkeley Fire Department to ensure that appropriate measures are implemented to reduce hazardous conditions at the site and provide for adequate emergency access. Further, the proposed project would be required to pay the Berkeley Unified School District's required school impact fees for new commercial and residential development prior to issuance of a certificate of occupancy, the funds from which would be directed towards maintaining adequate service levels.

b) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

As discussed above, development of the proposed project would result in an increase in the population on the project site (approximately 261 new residents and three new employees as discussed in Section 4.14, Population and Housing), which would increase the demand on existing parks in the vicinity of the project site. However, because the increase in population at the project site would be consistent with the population growth anticipated as part of the City's Housing Element and future residents/employees are expected to come from the surrounding Berkeley area, the proposed project itself would not result in substantial physical deterioration of existing parks.

c) Would the project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?

The proposed project does not include the construction of new recreational facilities. In addition, as discussed above, because the increase in population at the project site would be consistent with the population growth anticipated as part of the City's Housing Element and future residents/employees are expected to come from the surrounding Berkeley area, the proposed project itself would not require the construction or expansion of existing recreational facilities in the city.

4.15.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to public services and recreation. Impacts related to public services and recreation would remain less than significant as identified in the Housing Element EIR. No further

environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.16 TRANSPORTATION

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	☐	☒
b. Conflict or be inconsistent with CEQA Guidelines §15064.3, subdivision (b)?	☐	☐	☐	☒
c. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
d. Result in inadequate emergency access?	☐	☐	☐	☒

4.16.1 Housing Element EIR Analysis

Section 4.14 of the Housing Element EIR analyzed potential impacts related to transportation. The Housing Element EIR determined that all impacts related to transportation would be less than significant, and no mitigation was prescribed. The Housing Element EIR determined that the Housing Element would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities because individual projects facilitated by the Housing Element would be designed to be consistent with applicable programs, plans, and policies related to the circulation system, including the City's General Plan, Bicycle Master Plan, Complete Streets Policy, and Pedestrian Plan. In addition, the Housing Element determined that future development under the Housing Element would not conflict or be inconsistent with *State CEQA Guidelines* Section 15064.3, subdivision (b) because implementation of the Housing Element would result in an overall decrease in VMT per capita in comparison to the baseline condition.

The Housing Element EIR also determined that future development facilitated by the Housing Element would not substantially increase hazards because of a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment) and would not result in inadequate emergency access because circulation components and geometric design features of individual projects facilitated by the Housing Element would be reviewed by the City's Engineering Division and would be designed to be in accordance with all applicable City standards and the building plan check process to minimize design hazards.

4.16.2 Project Impacts

a) Would the project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

The following includes an evaluation of the proposed project's potential to conflict with applicable programs, plans, ordinances, and policies addressing the circulation system, including the City's

Transportation Strategic Plan.[66] The section begins with a description of the proposed project's trip generating potential, compared to existing conditions, followed by an analysis of potential impacts to transit, bicycle, pedestrian, and roadway facilities.

Trip Generation. Trip generation is the process of estimating the number of vehicles that would likely access the project site. Trip generation data for the proposed project was estimated using the data and methodology published by the Institute of Transportation Engineers (ITE) in the Trip Generation Manual, 11th Edition for Multifamily Housing (Mid-Rise) and Strip Retail Plaza.

Table 4.16.A summarizes the trip generation for the proposed project based on the ITE methodology. As shown in Table 4.16.A, it is estimated that the proposed project would generate a net increase of approximately 310 daily trips, including 26 AM peak-hour and 6 PM peak-hour trips.

Table 4.16.A: Project Trip Generation

Land Use	Size	Unit	Daily	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
Trip Rates[1]									
Multi-family Housing		du	4.75	0.12	0.20	0.32	0.19	0.10	0.29
Strip Retail Plaza		tsf	54.45	1.42	0.94	2.36	3.30	3.29	6.59
Project Trip Generation									
Multi-family Housing	110	du	523	13	22	35	21	11	32
Strip Retail Plaza	0.690	tsf	38	1	1	2	2	2	4
		Total	**561**	**14**	**23**	**37**	**23**	**13**	**36**
Existing Trip Generation									
Strip Retail Plaza	4.604	tsf	251	7	4	11	15	15	30
Net Trips (Project – Existing)			**310**	**7**	**19**	**26**	**8**	**(2)**	**6**

Source: Compiled by LSA (2025).
[1] Trip rates from the Institute of Transportation Engineers *Trip Generation* Manual, 11th Edition (ITE 2021).
Land Use 220 – Multifamily Housing (Mid-Rise) – Between 4 and 10 Levels – Close to Rail Transit
Land Use 822 – Strip Retail Plaza (<40k) – Less than 40,000 square feet of gross leasable area
du = dwelling unit
tsf = thousand square feet

Transit Facilities. The proposed project would have a significant impact related to transit facilities if it would conflict with the goals and policies related to transit use in the Berkeley Strategic Transportation Plan, which was adopted in 2016.[67] In particular, the proposed project would result in a conflict if it would discourage people from using transit or decrease transit efficiency.

Transit in the project vicinity includes the extensive bus transit service provided by AC Transit. The proposed project is located within close proximity to a variety of transit services, which would encourage the use of these services. The project site is located within 0.5 mile of several intersecting major bus routes, including Lines 7, 18, and FS. Line 7 provides bus service from the El Cerrito del Norte BART Transit Center to Downtown Berkeley, Line 18 provides bus service from University Village in Albany to the Lake Merritt BART Transit Center, and Line FS provides bus service from

66 Berkeley, City of. 2016a. *Berkeley Strategic Transportation Plan.* June.
67 Ibid.

Solano Avenue and Colusa Street to the Salesforce Transit Center in San Francisco.[68] These lines provide service at a frequency of less than 15 minutes during the morning and afternoon peak commute periods. In addition, the Downtown Berkeley BART station is located approximately 0.45 mile south of the project site. Implementation of the proposed project is expected to increase the use of transit services in the project area. However, future residents and employees at the project site are expected to come from the surrounding Berkeley area and likely already utilize transit service. Therefore, this minimal increase would not have a substantial effect on the efficiency of the AC Transit bus service.

Bicycle Facilities. The proposed project would have a significant impact to bicycle facilities if it conflicted with the goals and policies related to bicycle use in the Berkeley Strategic Transportation Plan. In particular, the proposed project would result in a conflict if it would impair the implementation of any planned bicycle boulevards, result in street design that would be unsafe for bicyclists, or discourage bicycle use in the vicinity of the project site.

Bicycle access to the proposed project is provided through the City's bicycle network. The City's Bicycle Plan identifies Shattuck Avenue as a planned cycletrack (Class 4 bike path) and Virginia Street as a bicycle boulevard. The proposed project would provide a total of 97 secure bicycle parking spaces for the proposed residential uses, 59 of which would be in a covered bike storage area in the northeast corner of the project site. The proposed project would not modify any surrounding roadways and would not prevent the implementation of the planned cycletrack along Shattuck Avenue or other bicycle boulevards in the city. Therefore, the proposed project would have a less than significant impact related to bicycle facilities.

Pedestrian Facilities. The proposed project would have a significant impact to pedestrian facilities if it would conflict with the goals and policies related to bicycle use in the Berkeley Strategic Transportation Plan. In particular, the proposed project would result in a conflict if it would discourage walking in commercial districts, result in street design that would be unsafe for pedestrians, or discourage walking in the vicinity of the project site.

The project site is served by existing sidewalks along Shattuck Avenue and Virginia Street. Pedestrians would access the project site from both Shattuck Avenue and Virginia Street, and the anticipated new pedestrian trips generated by the proposed project would be accommodated on the existing facilities serving the project site. In addition, the existing pedestrian facilities would be maintained, and the proposed curb ramp and crossing would be constructed pursuant to City standards.[69] Therefore, the proposed project would have a less than significant impact related to pedestrian safety or facilities.

Roadways. Pursuant to SB 743, described in Section 4.16.b, LOS or other measures of automobile delay can no longer be used to identify significant impacts under CEQA. Therefore, the following summary of the proposed project's effects on roadway operations is provided for informational purposes only.

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68 Alameda-Contra Costa County Transit. 2024. *Maps & Schedules.* Website: https://www.actransit.org/maps-schedules (accessed March 2025).

69 Berkeley, City of. 2024. City of Berkeley Standard Details, Streets and Sidewalks. May 10.

Regional vehicular access to the project site is provided by I-80 and I-580 via University Avenue. Local access is provided primarily via Shattuck Avenue and Virginia Street. Shattuck Avenue is designated as a Major Street[70] in the City's General Plan. There are no proposed changes to existing public roadways or transportation-related infrastructure. Therefore, and due to the relatively small nature of the proposed project and the minimal increase in trips to and from the project site with implementation of the proposed project, the proposed project is not anticipated to result in significant impacts on surrounding roadway facilities.

Based on the analysis above, the proposed project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities.

b) Would the project conflict or be inconsistent with CEQA Guidelines §15064.3, subdivision (b)?

On September 27, 2013, California Governor Jerry Brown signed SB 743 into law and started a process that changed the way transportation impact analysis is conducted as part of CEQA compliance. These changes included elimination of automobile delay, LOS, and other similar measures of vehicular capacity or traffic congestion as a basis for determining significant impacts under CEQA. According to SB 743, these changes are intended to "more appropriately balance the needs of congestion management with Statewide goals related to infill development, promotion of public health through active transportation, and reduction of greenhouse gas emissions."

In December 2018, the Governor's Office of Planning and Research, now called the Office of Land Use and Climate Innovation (LCI), completed an update to the *State CEQA Guidelines* to implement the requirements of SB 743. The *State CEQA Guidelines* state that VMT must be the metric used to determine significant transportation impacts and require all lead agencies in California to use VMT-based thresholds of significance in CEQA documents published after July 1, 2020.

The OPR Guidelines recommend developing screening criteria for development projects that meet certain criteria that can readily lead to the conclusion that they would not cause a significant impact on VMT. The OPR Guidelines also recommend evaluating VMT impacts using an efficiency-based version of the metric, such as VMT per resident for residential developments and/or VMT per worker for office or other employment-based developments. The City of Berkeley uses the metric of home-work VMT per worker for evaluating the impacts of employment-based uses such as the proposed project. The home-work VMT per worker measures all of the driving commute trips between homes and workplaces and divides that total distance by the number of workers at the site. Based on the City of Berkeley's guidelines, an employment-generating project's VMT impact is considered less than significant if its home-work VMT per worker is at least 15 percent below the regional average home-work VMT per worker.

VMT Assessment. According to the City of Berkeley Transportation VMT Criteria and Thresholds,[71] projects in a TPA (within a 0.5 mile walkshed of major transit stops or within a 0.25 mile walkshed

[70] Major Streets serve the movement of automobiles, trucks, buses, pedestrians, and bicycles across the city, connecting to the regional transportation network, and to other jurisdictions.

[71] Berkeley, City of. 2020. *City of Berkeley Transportation VMT Criteria and Thresholds*. June 29.

around high-quality transit corridors), small projects (equating to 20 units of residential use or up to 10,000 square feet of non-residential use), and projects in low VMT areas are screened out from a VMT analysis and are presumed to have a less than significant transportation impact.

As shown on the Household VMT Per Capita and Home-Work VMT Per Worker maps in the City of Berkeley Transportation VMT Criteria and Thresholds, the project site is located within a TPA and in a low VMT area (VMT per resident is at least 15 percent below the Bay Area average). As such, the proposed project meets the City's VMT screening criteria. Based on its location and size, the proposed project is presumed to have no VMT impact.

c) Would the project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

There are no proposed changes to existing public roadways or transportation-related infrastructure, nor are there any proposed roads internal to the project site. As such, the proposed project would have no impact on hazards due to a design feature or incompatible use.

d) Would the project result in inadequate emergency access?

There are no proposed changes to existing public roadways or transportation-related infrastructure, and project construction would not require the closure of roads or redirection of traffic. In addition, during project construction, emergency access would be maintained. As such, the proposed project would have no impact on emergency access.

4.16.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to transportation. Impacts related to transportation would remain less than significant, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.17 TRIBAL CULTURAL RESOURCES

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)? Or	☐	☐	☐	☒
ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☐	☒

4.17.1 Housing Element EIR Analysis

Section 4.15 of the Housing Element EIR analyzed potential impacts related to tribal cultural resources. The Housing Element EIR determined that all impacts related to tribal cultural resources would be less than significant with implementation of prescribed mitigation. The Housing Element EIR indicated that future development facilitated by the Housing Element could adversely impact tribal cultural resources due to ground-disturbing activity during construction. As such, the Housing Element EIR prescribed Mitigation Measure TCR-1, which requires tribal cultural monitors to monitor work done in areas of tribal concern for future projects that are determined through tribal consultation to potentially affect tribal cultural resources in order to reduce impacts to less than significant.

4.17.2 Project Impacts

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)? Or

ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe

Assembly Bill (AB) 52, which was signed into law in 2014, established specific requirements for tribal consultation on projects that may impact tribal cultural resources. AB 52 applies to projects if the Lead Agency prepares an EIR or a Negative/Mitigated Negative Declaration (ND/MND) or if the project has the potential to affect tribal cultural resources. The City participated in tribal consultation pursuant to AB 52 as part of the Housing Element EIR, and as such, no further tribal consultation is required for the proposed project and Mitigation Measure TCR-1, which prescribes measures for monitoring if requested through the consultation process, is not applicable.

As described in Section 4.5, Cultural Resources, no archeological resources have been identified at the project site. As such, implementation of the proposed project is not anticipated to impact tribal cultural resources. However, if significant archeological deposits were unearthed during project construction, a substantial adverse change in the significance of a historical resource would occur from its demolition, destruction, relocation, or alteration such that the significance of the resource would be materially impaired (*State CEQA Guidelines* Section 15064.5(b)(1)). However, the proposed project would be required to comply with *COA: Archeological Resources* and *COA: Human Remains*, as detailed in Section 4.5, Cultural Resources, that addresses potential impacts to archeological resources and human remains. In addition, the proposed project would be required to comply with *COA: Halt Work/Unanticipated Discovery of Tribal Cultural Resources*, which would address potential impacts to tribal cultural resources.

> ***COA: Halt Work/Unanticipated Discovery of Tribal Cultural Resources.*** In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.

With implementation of the City's standard COAs identified in Section 4.5, Cultural Resources, as well as *COA: Halt Work/Unanticipated Discovery of Tribal Cultural Resources*, impacts to archeological deposits and human remains that may qualify as tribal cultural resources would not occur.

4.17.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the

project site related to tribal cultural resources. Impacts related to tribal cultural resources would remain less than significant as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.18 UTILITIES AND SERVICE SYSTEMS

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
Would the project:				
a. Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☐	☒
b. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☐	☒
c. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
d. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☐	☒
e. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒

4.18.1 Housing Element EIR Analysis

Section 4.16 of the Housing Element EIR analyzed potential impacts related to utilities and service systems. The Housing Element EIR determined that all impacts to utilities and service systems would be less than significant, and no mitigation was prescribed. The Housing Element EIR indicated that future development under the Housing Element would require utility service and connections for water supply, wastewater conveyance, and stormwater conveyance, as well as telecommunications, electricity, and natural gas, and determined that existing utility systems for water, wastewater, stormwater, electric power, natural gas, and telecommunications facilities in the city have sufficient capacity to serve future development. Further, the Housing Element EIR determined that relocation or construction of new or expanded facilities resulting in significant environmental impacts would not occur, and adequate wastewater capacity exists to serve the project's projected demand in addition to the provider's existing commitments.

The Housing Element EIR also determined that although future development under the Housing Element would result in an increase in water demand, the increase in demand could be served by EBMUD with implementation of demand management measures required by EBMUD. Further, development facilitated by the Housing Element was determined to not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure. In addition, the Housing Element EIR determined that implementation of the Housing Element would not impair the attainment of solid waste reduction goals and would comply with federal, State, and local statutes and regulations related to solid waste.

4.18.2 Project Impacts

a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Because the Housing Element EIR identified the project site as an Opportunity Site for residential development, development at the project site and the associated increase in demand on utility infrastructure at the project site has already been considered and analyzed in the Housing Element EIR. The proposed project would connect to existing water delivery and sanitary sewer systems within the vicinity of the project site, and it is anticipated that the existing infrastructure would have sufficient capacity to support project water and wastewater flows. In addition, as a condition of project approval, the project sponsor would be required to coordinate with EBMUD, the Berkeley Fire Department, and the City's Public Works Department to assess water and wastewater flow and ensure the proposed project would comply with the applicable requirements.

As discussed in Section 4.10, Hydrology and Water Quality, the proposed project would replace all existing impervious surface area, resulting in no net change in the total impervious surface area at the project site. In addition, pursuant to Provision C.3 of the MRP, stormwater from the project site would be directed to the proposed vegetated areas and would be treated by flow-through planters (biotreatment) before being discharged to the existing stormwater infrastructure in the surrounding area, similar to existing conditions. Because the discharge of stormwater to the existing stormwater infrastructure in the surrounding area would not be greater than pre-project conditions, as required by Provision C.3 of the MRP, no new or expanded stormwater infrastructure would be required.

The project site is currently served by electrical and telecommunications facilities. Therefore, because the proposed project would consist of infill development on a previously developed site that is currently served by utilities, the expansion of electrical or telecommunications facilities would not be required. In addition, the proposed building would be designed to be all electric, and therefore would not include the use of any traditional gas systems or facilities.

Based on the analysis above, the proposed project would not require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.

b) Would the project have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

Because the Housing Element EIR identified the project site as an Opportunity Site for residential development, development at the project site and the associated increase in water demand at the project site has already been considered and analyzed in the Housing Element EIR. Water service at the project site and in the project area is provided by EBMUD. According to the 2020 Urban Water Management Plan, EBMUD obtains approximately 90 percent of its water from the Mokelumne River watershed and transports it through pipe aqueducts to temporary storage reservoirs in the

East Bay hills. EBMUD has water rights and facilities to divert up to a daily maximum of 325 million gallons per day (mgd) from the Mokelumne River.[72] Average daily water demand within the entire EBMUD service area is projected to be 245 mgd in 2025, 254 mgd in 2030, 277 mgd in 2040, and 297 mgd in 2050.[73]

The proposed project would develop the project site with a new eight-story, mixed-use residential building consisting of approximately 690 square feet of commercial space and 110 residential units. As discussed in Section 4.14, Population and Housing, the proposed project would result in approximately 261 new residents and three employees at the project site. According to the United States Environmental Protection Agency (EPA), a single person uses approximately 82 gallons per day (gpd) of water at home,[74] and retail uses use approximately 5 gallons of water per square foot per year.[75] Therefore, implementation of the proposed project is anticipated to require approximately 21,411 gpd of water (approximately 21,402 gpd associated with the residential uses and 9 gpd associated with the commercial uses). This accounts for less than 0.1 percent of EBMUD's projected service-wide daily water demand for 2025. Furthermore, EBMUD's projected water demand accounts for projected growth within the region as identified by ABAG. Because the proposed project would be consistent with the General Plan and Zoning designations for the project site, water demand associated with the project site has been accommodated in EBMUD's supply and demand projections. Therefore, EBMUD would not require new or expanded water entitlements to serve the proposed project.

EBMUD completed development of a revised Water Supply Management Program (WSMP) 2040 Plan in April of 2012, which is the District's plan for providing water to its customers for a span of 30 years.[76] According to the WSMP 2040 Plan, EBMUD's water supplies are estimated to be sufficient during the planning period (2010–2040) in normal and single dry years. Therefore, EBMUD would have adequate water supply to provide water service to the proposed project.

The WSMP 2040 Plan emphasizes maximum conservation and recycling strategies, with a total of 50 mgd of future supply to be provided from those two component categories. However, looking toward 2040, EBMUD's current supply is insufficient to meet customer needs during multi-year droughts despite EBMUD's aggressive water conservation and recycled water programs.[77] According to the WSMP 2040 Plan, the combination of rationing, conservation, and raw and recycled water will satisfy increased customer demand through 2040.[78] Supplemental supply will also be needed to keep rationing at a lower level and to meet the need for water in drought years.

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72 East Bay Municipal Utility District (EBMUD). 2021a. *2020 Urban Water Management Plan*. June.

73 East Bay Municipal Utility District (EBMUD). 2021b. *2020 Urban Water Management Plan*, Table 3-1: Average Annual Water Demand Forecast 2050 Demand Projections (MGD). June.

74 United States Environmental Protection Agency (USEPA). n.d. *WaterSense, Statistics and Facts.* Website: https://www.epa.gov/watersense/statistics-and-facts (accessed March 2025)

75 United States Environmental Protection Agency (USEPA). 2023b. *WaterSense, Energy Star Portfolio Manager, U.S. Water Use Intensity by Property Type Technical Reference.* June.

76 East Bay Municipal Utility District (EBMUD). 2012. *Water Supply Management Program 2040 Plan*. April.

77 East Bay Municipal Utility District (EBMUD). 2012. Op. cit.

78 East Bay Municipal Utility District (EBMUD). 2016. Op. cit.

Future users of the project site (and all EBMUD customers) would be required to comply with Policy EM-26 in the City of Berkeley General Plan that promotes water conservation through City programs and requirements, including cooperation with EBMUD to make recycled water available for irrigation and other uses. Policy EM-26 of the City's General Plan, as described below, provides direction for incorporating water conservation measures into the project design.

> **Policy EM-26:** Water Conservation. Promote water conservation through City programs and requirements.
>
> a. **Action EM-26 A:** Encourage drought-tolerant landscaping and low-flow irrigation systems.
>
> b. **Action EM-26 B:** Consider participation in the East Bay Municipal Utility District's East Bay-shore Recycled Water Project to make recycled water available for irrigation and other non-potable uses.

Compliance with Policy EM-26 by incorporating water conservation measures such as drought-tolerant landscaping into the proposed project's design would ensure efficient use of water at the project site and minimize the project's potential water demand.

EBMUD also imposes a system capacity charge on new developments to fund system maintenance and the development of new water sources. The project sponsor would be required to pay this fee and undertake water conservation measures to conserve water (e.g., the installation of low-flow toilets). In addition, the project sponsor would also be required to comply with the following condition of approval related to water efficient landscaping:

> ***COA: Water Efficient Landscaping*** *(prior to the issuance of any building [construction] permit)*. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate for Berkeley is 41.8.

As required by the City, the project sponsor would also be required to provide a Bay-Friendly Basics Landscape Checklist that includes detailed notes of any measures that would not be fully met by the project (if any).[79] Landscape improvements are required to be consistent with the current versions of the State's Water Efficient Landscape Ordinance and Section 31 of EBMUD's Water Service Regulations (Water Efficiency Requirements), which require that applicable water-efficiency measures be installed on water-using equipment at the project sponsor's expense. The project sponsor would also be required to coordinate with EBMUD and the Berkeley Fire Department to assess fire flow requirements and comply with them as part of the project. With compliance with policies contained in the City's General Plan, COAs, and other applicable City requirements, impacts associated with project demand and water supply would not occur.

[79] Berkeley, City of. 2016b. *Stormwater Requirements Overview*. June 6.

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Because the Housing Element EIR identified the project site as an Opportunity Site for residential development, development at the project site and the associated increase in demand on wastewater service at the project site has already been considered and analyzed in the Housing Element EIR. In the city, sanitary sewage flows through the City's collection system to the EBMUD's North Interceptor, which then directly flows to EBMUD's Main Wastewater Treatment Plant (MWWTP) in the City of Oakland for treatment and disposal. The City's collection system consists of lower laterals and sewer mains. Buildings connect to the City's collection system through the upper laterals, which are privately owned and maintained. Within the city, there are approximately 260 miles of sanitary sewer mains, with an estimated 28,000 lateral connections. The sewer mains vary from 1 to 100 years old, and vary in size from 6 to 48 inches in diameter.[80] The City, EBMUD, and the MWWTP serve the project site and the surrounding area.

The City operates the sanitary sewer infrastructure located in the surrounding streets and sidewalks. Facilities typically range in size from 8 inches to 18 inches in diameter. The proposed project would connect to existing sanitary sewer systems within the vicinity of the project site and would be required to conduct sewer capacity analysis to determine if the existing sewer infrastructure would be able to accommodate wastewater flows from the project and identify impacts to flow capacity, pipeline alignments, need for easements, and chemical and physical character of wastewater. If the sewer capacity analysis determines that there is insufficient capacity, the project developer will be required to improve the infrastructure in order to accommodate increased wastewater flows. In addition, the project sponsor would be required to coordinate with EBMUD, the Berkeley Fire Department, and the City's Public Works Department to assess water and wastewater flow and ensure the proposed project would comply with the applicable requirements.

The City's sewer system is connected to trunk lines that convey flows to the MWWTP. The MWWTP has a primary treatment capacity of 320 mgd and a secondary treatment capacity of 168 mgd.[81] Storage basins provide plant capacity for a short-term hydraulic peak of 415 mgd. The average annual daily flow into the MWWTP is approximately 63 mgd, representing approximately 37.5 percent of the plant's secondary treatment capacity. Treated effluent is disinfected, dechlorinated, and discharged through a deep-water outfall 1 mile off the East Bay shoreline into San Francisco Bay.

In compliance with the July 28, 2014, Consent Decree, the City has implemented a long-term mandated Sanitary Sewer Capital Improvement Program to eliminate Sanitary Sewer Overflows and reduce stormwater Infiltration and Inflow (I/I) into the sanitary sewer system. Under this program, the City utilizes a comprehensive asset management approach based on complex and evolving hydrologic and hydraulic modeling and condition assessments to repair, replace, or upgrade the

80 East Bay Municipal Utility District (EBMUD). 2021a. *2020 Urban Water Management Plan*. June.

81 East Bay Municipal Utility District (EBMUD). 2016. Wastewater Treatment. Website: https://www.ebmud.com/wastewater/collection-treatment/wastewater-treatment (accessed June 13, 2024).

City's portion of the sanitary sewer system, ultimately to aid EBMUD in eliminating discharges from their Wet Weather Facilities (which provide additional treatment capacity during storm events) by the end of 2035.

The proposed project would generate wastewater to be treated by the EBMUD treatment facilities. EBMUD is required to meet applicable RWQCB treatment requirements in compliance with NPDES requirements. In addition, the proposed project must not use any of EBMUD's wet weather treatment capacity, and the property owners will be responsible for maintaining their private sewer lateral and site plumbing to ensure no inflow/infiltration enters the sewer system pursuant to BMC Sections 17.24.030(A)(2), 17.24.030(A)(3), and 17.06.020. In the absence of an official wastewater generation estimate, wastewater generated by full buildout associated with the zoning and General Plan amendments is assumed to be 90 percent of water demand, or 22,966 gpd (refer to Section 4.19.b, above), which comprises less than 1 percent of the remaining capacity of the MWWTP. Therefore, the proposed project would not generate wastewater exceeding the wastewater treatment requirements of the RWQCB.

Wastewater discharges that may occur at the project site would be required to comply with the terms of the applicable MRP and may be subject to monitoring by EBMUD to ensure that the development's sewage discharge does not impair the ability of the MWWTP to meet wastewater treatment objectives and requirements. As such, no impacts to wastewater treatment requirements would occur.

d) Would the project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

The City operates its own refuse collection system. The City provides curbside recycling and refuse collection services to the project site. There are two permitted landfills in Alameda County with the capacity to accommodate solid waste generated in Berkeley: Altamont Landfill and the Vasco Road Sanitary Landfill. The combined permitted capacity of waste for these two landfills is 95 million cubic yards, which the proposed project would not exceed. Solid waste from the site would be transported to the Berkeley Transfer Station, located at 1021 Second Street, and then on to the Altamont Landfill and Resource Recovery Facility, located near the Altamont Pass, northeast of Livermore. The proposed project would be served by a landfill with sufficient capacity to accommodate the project's waste disposal needs.

The project site is currently developed with a two-story commercial building. Implementation of the proposed project would include the demolition of the existing structure, thereby generating demolition waste. The proposed project would be subject to the Waste Diversion and Universal Waste disposal requirements of BMC Chapter 19.37, and all demolition and construction waste would be recycled consistent with State and City requirements. The State requires a 65 percent diversion (recycling and reuse) of construction waste, and the City requires 100 percent of concrete, asphalt, and land clearing debris to be diverted from landfills. The project sponsor would be required to prepare and submit to the City a Construction Demolition Recycling Plan prior to issuance of a Demolition Permit for the proposed project. The purpose of the Construction

Demolition Recycling Plan is to divert as much debris as possible from the waste stream consistent with, and in addition to, State and City requirements.

Prior to approval of large development projects, the City's Solid Waste Management Division staff reviews proposed plans for the adequate design of trash and recycling facilities. Alameda County Waste Management Authority Ordinance 2008-01 requires businesses in Alameda County that generate 4 or more cubic yards of garbage per week to separate all plant debris from garbage and recyclable materials. Additionally, development projects that require a use permit are required to comply with the following COA that addresses these potential impacts:

> ***COA: Recycling and Organics Collection.*** Applicant shall provide recycling and organics collection areas for occupants, clearly marked on plans, which comply with the Alameda County Organics Reduction and Recycling Ordinance (2021-02). Contact the Zero Waste Division's Recycling Program Manager, Julia A. Heath, at jheath@berkeleyca.gov.

The proposed project would also be required to provide trash enclosure space (inside or outside for large dumpsters) and trash, compost, fiber recycling, and container recycling collection bins that would be co-located in tenant-facing trash rooms.

According to the EPA, a single person generates approximately 4.9 pounds of solid waste per day (residential),[82] and commercial uses generate approximately 10.53 pounds of solid waste per employee per day.[83] As discussed in Section 4.14, Population and Housing, implementation of the proposed project would result in approximately 261 residents and three new employees at the project site. Therefore, the proposed project would generate approximately 1,578 pounds of solid waste per day (approximately 1,524 pounds per day associated with the residential uses and 52.6 pounds per day associated with the commercial uses). This represents a negligible increase in solid waste generated in the city and would not exceed the combined permitted capacity of waste for the two permitted landfills in Alameda County.

As such, the proposed project would not generate solid waste in excess of local standards.

e) Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

Refer to Section 4.18.d, above. The proposed project would comply with all federal, State, and local solid waste statutes and/or regulations related to project solid waste.

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82 United States Environmental Protection Agency (USEPA). 2023a. *National Overview: Facts and Figures about Materials, Waste and Recycling.* Website: https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/national-overview-facts-and-figures-materials (accessed August 30, 2024).

83 California Department of Resources Recycling and Recovery (CalRecycle). 2019. *Estimated Solid Waste Generation Rates.* Website: https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates (accessed August 30, 2024).

4.18.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to utilities and service systems. Impacts on utilities and service systems would remain less than significant, as identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

4.19 WILDFIRE

	Significant Impact Identified in Housing Element EIR	Project Contributes to Identified Housing Element EIR Impact	New or More Severe Significant Impact Peculiar to the Project	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a. Substantially impair an adopted emergency response plan or emergency evacuation plan?	☒	☐	☐	☒
b. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☒	☐	☐	☒
c. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☒	☐	☐	☒
d. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☒	☐	☐	☒

4.19.1 Housing Element EIR Analysis

Section 4.17 of the Housing Element EIR analyzed potential impacts related to wildfire. The Housing Element EIR determined that all impacts related to wildfire would be significant and unavoidable, even with implementation of identified mitigation. The Housing Element EIR determined that because future development facilitated by the proposed project would occur in hillside areas located near a State Responsibility Area (SRA) and in a Very High Fire Hazard Severity Zone (VHFHSZ), impacts related to emergency response and evacuation that would expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire, and expose people or structures to significant risks due to the terrain and slope in the Berkeley hills would be significant and unavoidable even with adherence to existing regulations and fire safety provisions in the BMC, including the Fire Code. The Housing Element EIR also prescribed Mitigation Measure W-1, which requires new or upgraded power drops located in the VHFHSZ to be installed underground if additional maintenance or construction of such infrastructure would occur at the Opportunity Sites within Residential zoning districts R, R-2, and R-2a, which are located near an SRA and in a VHFHSZ.

4.19.2 Project Impacts

The project site is on an infill site surrounded by development in an urban area of Berkeley. The site is not within a VHFHSZ or an SRA for fire service[84] and, as described in Section 4.9, Hazards and

[84] California Department of Forestry and Fire Protection (CAL FIRE). 2023. Fire Hazard Severity Zones in State Responsibility Area. September 29. Effective April 1, 2024. Website: https://calfire-forestry.maps.arcgis.com/apps/webappviewer/index.html?id=988d431a42b242b29d89597ab693d008 (accessed June 21, 2024).

Hazardous Materials, would not impair the implementation of, or physically interfere with, an adopted emergency response plan. The proposed project would not exacerbate wildfire risks and therefore would not expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire. In addition, the proposed project would not require the installation or maintenance of associated infrastructure and would not expose people or structures to significant risks as a result of post-fire slope instability or drainage and runoff changes. As such, no impact either individually or cumulatively related to wildfire would occur. In addition, because the proposed project is not located within the R, R-2, and R-2a zoning districts, located near an SRA, and is not within a VHFHSZ, Housing Element EIR Mitigation Measure W-1 would not be applicable to the proposed project.

4.19.3 Conclusion

Given the above analysis, development of the proposed project would not change the conclusions of the Housing Element EIR, and there would be **no impact** peculiar to the proposed project or the project site related to wildfire. Impacts related to wildfire would remain significant and unavoidable, as identified in the Housing Element EIR. Because the proposed project would result in no impacts related to wildfire, the proposed project would not contribute to, exacerbate, or increase the significant unavoidable impacts identified in the Housing Element EIR. No further environmental analysis related to this topic is required pursuant to Sections 15183 and 15162 of the *State CEQA Guidelines*.

5.0 CEQA GUIDELINES SECTION 15183 ANALYSIS

5.1 CEQA GUIDELINES SECTION 15183 (PROJECTS CONSISTENT WITH A COMMUNITY PLAN, GENERAL PLAN, OR ZONING)

The discussion in this section confirms that the proposed project has been evaluated for significant impacts pursuant to the California Environmental Quality Act (CEQA) and no new information of substantial importance meeting the criteria listed in *State CEQA Guidelines* Section 15183 has been identified. Under *State CEQA Guidelines* Section 15183, the determination is that the proposed project's impacts have been considered in the 2023-2031 Housing Element Update Draft Environmental Impact Report (Housing Element EIR) that was reviewed and certified by the City of Berkeley (City), and that the Housing Element EIR provides a sufficient and adequate analysis of the environmental impacts of the proposed project.

A. The project would be consistent with the land uses, densities, and other zoning and development standards set forth in the Housing Element EIR.

The City's General Plan designates the project site as Neighborhood Commercial and is located within three zoning districts. Approximately 19,788 square feet of the project site is in the North Shattuck Commercial (C-NS) zone, approximately 1,970 square feet is in the Multiple-Family Residential (R-4) zone, and approximately 584 square feet is in the Restricted Multiple-Family Residential (R-2A) zone. The project site has also been identified as an Opportunity Site for residential development in the City's Housing Element.

As discussed in Section 4.11, Land Use and Planning, the proposed project would be consistent with applicable General Plan policies and the Neighborhood Commercial General Plan land use designation for the project site, and would be consistent with the purposes of the C-NS, R-4, and R-2A zoning districts. In addition, the proposed project would be consistent with the development standards of these zoning districts with approval of various Administrative Use and Use Permits pursuant to the Berkeley Municipal Code (BMC), which would be considered by the City's Zoning Adjustments Board. These permits would allow an increase in building height, lot coverage, and building footprint, as well as setback waivers in order to accommodate the density bonus units.

Although the proposed project would develop the project site with a greater residential density than detailed in the C-NS, R-4, and R-2A zoning districts, the proposed project would be consistent with the criteria of the State Density Bonus Law by providing nine affordable to very low-income units (15 percent) and nine affordable to moderate income units (15 percent) as defined by Section 50105 of the Health and Safety Code. As such, pursuant to the State Density Bonus Law, the proposed project would be consistent with the land uses, densities, and other zoning and development standards for the project site.

The Housing Element EIR analyzed impacts at a programmatic level and does not consist of specific projects. The overall use and intent of the proposed project would be consistent with the vision and intent of the Housing Element, which was evaluated in the Housing Element EIR. The proposed project would not require major revisions to the Housing Element EIR, and the

proposed project would not result in any new impacts that would require additional mitigation measures beyond those required in the Housing Element EIR.

B. There are no peculiar impacts associated with the project or the project site.

Pursuant to *State CEQA Guidelines* Section 15183(b)(1), this section presents a summary of the examination included in Section 4.0, demonstrating that the project would not result in environmental effects that are peculiar to the project or the project site. If no additional mitigation measures are required to reduce project-specific impacts to a less than significant level other than those required in the prior EIR, then a *State CEQA Guidelines* Section 15183 exemption applies.

Construction and operational impacts of the proposed project would be the same as or similar to those impacts identified in the Housing Element EIR for all resource topics discussed in Section 4.0. For resource topics with significant and unavoidable impact conclusions in the Housing Element EIR (e.g., historical resources, noise, and wildfire), the proposed project would result in reduced impact conclusions. The proposed project would be required to implement mitigation measures from the Housing Element EIR including Mitigation Measures AIR-3, CUL-2, and GEO-1.

The proposed project would not result in any new impacts that would require additional mitigation measures beyond those required by the Housing Element EIR. Therefore, the proposed project would not change the conclusions of the Housing Element EIR, and there would be no impacts peculiar to the project or the project site.

C. The proposed project would not result in any environmental effects that were not in a prior EIR.

Pursuant to *State CEQA Guidelines* Section 15183(b)(2), this section presents a summary of the examination included in Section 4.0, demonstrating that the proposed project would not result in any environmental effects that were not analyzed as significant effects in the Housing Element EIR.

The Housing Element EIR determined that growth and development under the Housing Element would result in either no impact, less than significant impacts, or impacts that could be reduced to less than significant with implementation of prescribed mitigation for all issue areas except for impacts related to historical resources, construction noise, and wildfire. As discussed in Section 4.0, the proposed project would not contribute any different or more severe impacts related to any of these issue areas than those identified in the Housing Element EIR.

D. The proposed project would not result in any new environmental effects due to potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR.

Pursuant to *State CEQA Guidelines* Section 15183(b)(3), this section presents a summary of the examination included in Section 4.0, demonstrating that the project would not result in any environmental effects that are potentially significant off-site impacts and cumulative impacts that were not discussed in the Housing Element EIR.

The proposed project would not increase significant off-site or cumulative impacts. The proposed project would not contribute significantly to public utility demand, traffic, air quality, greenhouse gas (GHG) emissions, given that the appropriate mitigation measures discussed in the Housing Element EIR and outlined in Section 7.0 would be implemented during construction and operation of the proposed project. In addition, as identified in Section 4.0, the proposed project would not contribute any more severe impacts for any environmental resource category than those analyzed in the Housing Element EIR.

E. The proposed project would not result in any new environmental effects as a result of substantial new information which was not known at the time the Housing Element EIR was certified, which would result in more severe adverse impacts than discussed in the Housing Element EIR.

Pursuant to *State CEQA Guidelines* Section 15183(b)(4), this section demonstrates that the proposed project would not result in any new environmental effects as a result of substantial new information that was not known at the time the Housing Element EIR was certified.

The Housing Element EIR was certified on January 18, 2025. Updated planning documents, including ordinances, that were adopted by the City after Housing Element EIR certification do not provide substantial new information that was not known at the time the EIR was certified. Additionally, the proposed project would comply with all updated regulations, such as building codes, zoning amendments, and any other updates to the zoning code, as required by the City. Since no substantial new information not known at the time of the Housing Element EIR is available, no updated analyses or other studies are required for the proposed project.

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6.0 CEQA GUIDELINES SECTION 15162 ANALYSIS

6.1 CEQA GUIDELINES SECTION 15162 (SUBSEQUENT OR SUPPLEMENTAL EIR)

The discussion in this section confirms that the proposed project has been evaluated for significant impacts pursuant to the California Environmental Quality Act (CEQA) and no new information of substantial importance meeting the criteria listed in *State CEQA Guidelines* Section 15162 has been identified. Under *State CEQA Guidelines* Section 15162, the determination is that the proposed project's impacts have been considered in the 2023-2031 Housing Element Update Final Environmental Impact Report (Housing Element EIR) that was reviewed and certified by the City of Berkeley (City), and that the Housing Element EIR provides a sufficient and adequate analysis of the environmental impacts of the proposed project.

A. "Substantial Changes in the Project" Standard

Pursuant to *State CEQA Guidelines* Section 15162(a)(1), this section presents a discussion of whether the proposed project constitutes a substantial change in the project analyzed in the Housing Element EIR that would require major revisions to the Housing Element EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

As discussed in Section 4.11, Land Use and Planning, the proposed project would be consistent with applicable General Plan policies and the General Plan land use designation for the project site, and would be consistent with the purposes of the project site's zoning districts. In addition, the proposed project would be consistent with the development standards of those zoning districts with approval of various Administrative Use and Use Permits pursuant to the Berkeley Municipal Code (BMC), which would be considered by the City's Zoning Adjustments Board. These permits would allow an increase in building height, lot coverage, and building footprint, as well as setback waivers in order to accommodate the density bonus units. Although the proposed project would develop the project site with a greater residential density than detailed in the C-NS, R-4, and R-2A zoning districts, the proposed project would be consistent with the criteria of the State Density Bonus Law by providing 11 affordable to very low-income units (15 percent) and nine affordable to moderate income units (15 percent), as defined by Section 50105 of the Health and Safety Code. As such, pursuant to the State Density Bonus Law, the proposed project would be consistent with the land uses, densities, and other zoning and development standards for the project site.

The Housing Element EIR analyzed impacts at a programmatic level and does not consist of specific projects. The overall use and intent of the proposed project would be consistent with the vision and intent of the Housing Element, which was evaluated in the Housing Element EIR. The proposed project would not require major revisions to the Housing Element EIR, and the proposed project would not result in any new impacts that would require additional mitigation measures beyond those required in the Housing Element EIR.

B. "Substantial Changes in the Circumstances" Standard

Pursuant to *State CEQA Guidelines* Section 15162(a)(2), this section presents a discussion of whether changes to the project site or the vicinity (environmental setting) have occurred after certification of the Housing Element EIR that would result in new significant impacts or a substantial increase in the severity of a previously identified significant impact that were not evaluated and mitigated by the Housing Element EIR.

As shown on Figure 3-2, the project site is located in an urbanized area of the city and is generally surrounded by existing development, including single- and multi-family residential and commercial uses. This area of the city is substantially developed, and has been in this developed state since preparation of the Housing Element EIR in 2023. As such, no changes to the project site or the vicinity (environmental setting) have occurred since certification of the Housing Element EIR that would result in new significant impacts or a substantial increase in the severity of a previously identified significant impact that were not evaluated and mitigated by the Housing Element EIR. In addition, the project site was identified as an Opportunity Site in the City's Housing Element, which indicates that the City assumes the project site would be developed with residential uses.

In addition, one of the requirements of CEQA is the examination of whether a proposed project would conflict with existing plans and regulations, including the General Plan, zoning regulations, and other planning documents. Inconsistencies may suggest that a project would have environmental effects that have not been identified in advance and for which planning or analysis has not occurred. As discussed above, the proposed project would be consistent with the City's General Plan and zoning designations for the site pursuant to the State Density Bonus Law. No amendments to the General Plan or zoning designations would be required.

Based on the above, no substantial change in circumstances at the project site or in the surrounding area has occurred that would result in new significant impacts or substantially more severe impacts from what has been anticipated for the project site in the Housing Element EIR.

C. "New Information of Substantial Importance" Standard

Pursuant to *State CEQA Guidelines* Section 15162(a)(3), this section includes a discussion of whether there is new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Housing Element EIR was certified. New information of substantial importance includes: (1) one or more significant effects not discussed in the Housing Element EIR; (2) significant effects previously examined that are substantially more severe than shown in the Housing Element EIR; (3) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or (4) mitigation measures or alternatives that are considerably different from those analyzed in the Housing Element EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The Housing Element EIR was certified on January 18, 2025. Updated planning documents, including ordinances, that were adopted by the City after Housing Element EIR certification do not provide substantial new information that was not known at the time the EIR was certified. Additionally, the proposed project would comply with all updated regulations, such as building codes, zoning amendments, and any other updates to the zoning code, as required by the City. Since no substantial new information not known at the time of the Housing Element EIR is available, no updated analyses or other studies are required for the proposed project.

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7.0 APPLICABLE HOUSING ELEMENT EIR MITIGATION MEASURES AND REGULATORY COMPLIANCE MEASURES

Applicable 2023-2031 Housing Element Update Final Environmental Impact Report (Housing Element EIR) mitigation measures and City conditions of approvals are identified in Tables 7.A and 7.B, respectively.

Table 7.A: Applicable Housing Element EIR Mitigation Measures

Housing Element Mitigation Measure	Timing for Mitigation Measure	Responsible Party / Approving Agency
Air Quality		
AQ-3: TAC Exposure Reduction Building Measures. The following design features shall be incorporated for residential development located within 1,000 feet of I-580/80 or on a lot that fronts on a section of roadway with 10,000 vehicles per day or more in order to reduce exposure of proposed residences to TACs from vehicles and stationary combustion engines (i.e., generators): 1. If the proposed buildings would use operable windows or other sources of infiltration of ambient air, the development shall install a central HVAC system that includes high efficiency particulate filters (HEPA). These types of filters are capable of removing approximately 99.97 percent of the DPM emissions from air introduced into the HVAC system (U.S. EPA 2022). The system may also include a carbon filter to remove other chemical matter. Filtration systems must operate to maintain positive pressure within the building interior to prevent entrainment of outdoor air indoors. 2. If the development limits infiltration through non-operable windows, a suitable ventilation system shall include a ventilation system with filtration specifications equivalent to or better than the following: (1) American Society of Heating, Refrigerating and Air- Conditioning Engineers MERV-13 supply air filters, (2) greater than or equal to one air exchanges per hour of fresh outside filtered air, (3) greater than or equal to four air exchanges per hour recirculation, and (4) less than or equal to 0.25 air exchanges per hour in unfiltered infiltration. These types of filtration methods are capable of removing approximately 90 percent of the DPM emissions from air introduced into the HVAC system. 3. Windows and doors shall be fully weatherproofed with caulking and weather-stripping that is rated to last at least 20 years. Weatherproof should be maintained and replaced by the property owner, as necessary, to ensure functionality for the lifetime of the project. 4. Where appropriate, install passive (drop-in) electrostatic filtering systems, especially those with low air velocities (i.e., 1 mph). 5. Prepare an ongoing maintenance plan for the HVAC and filtration systems, consistent with manufacturers' recommendations. The applicant shall inform occupants regarding the proper use of any installed air filtration system replaced by the property owner, as necessary, to ensure functionality for the lifetime of the project.	Prior to the issuance of any building permit.	Applicant / City of Berkeley Planning and Development Department

Table 7.A: Applicable Housing Element EIR Mitigation Measures

Housing Element Mitigation Measure	Timing for Mitigation Measure	Responsible Party / Approving Agency
Cultural Resources		
CUL-2 Historical Resources Discretionary Review. For projects that are subject to discretionary review that occur during the Housing Element period where a historical-age building or structure that has not been previously evaluated is present, a historical resources assessment shall be performed by an architectural historian or historian who meets the Secretary of the Interior Professional Qualification Standards (PQS) in architectural history or history. The qualified architectural historian or historian shall conduct an intensive-level survey in accordance with the California Office of Historic Preservation guidelines to determine if the property qualifies for federal, state, or local historical resources designation. All age eligible properties shall be evaluated within their historic context and documented in a technical memorandum with Department of Parks and Recreation Series 523 Forms. Should a property be found to be a qualifying historical resource, the project shall be subject to the City's regulations for permit review, including by the Preservation Landmarks Commission pursuant to Chapter 3.24.260, and/or by the Zoning Adjustments Board pursuant to Chapter 23.326 of the City of Berkeley Municipal Code. Efforts shall be made to the extent feasible to ensure that impacts are mitigated. Application of mitigation shall generally be overseen by a qualified architectural historian or historic architect meeting the PQS, unless unnecessary in the circumstances (e.g., preservation in place). In conjunction with a development application that may affect the historical resource, the historical resources built environment assessment shall also identify and specify the treatment of character-defining features and construction activities. Efforts shall be made to the greatest extent feasible to ensure that the relocation, rehabilitation, or alteration of the resource is consistent with the Secretary of the Interior's Standards for the Treatments of Historic Properties (Standards). In accordance with CEQA, a project that has been determined to conform with the Standards generally would not cause a significant adverse direct or indirect impact to historical resources (14 CCR § 15126.4(b)(1)). Application of the Standards shall be overseen by a qualified architectural historian or historic architect meeting the PQS. In conjunction with any development application that may affect the historical resource, a report identifying and specifying the treatment of character-defining features and construction activities shall be provided to the City for review and concurrence. As applicable, the report shall demonstrate how the project complies with the Standards and be submitted to the City for review and approval prior to the issuance of permits. If significant historical resources are identified on a development site and compliance with the Standards and or avoidance is not possible, appropriate site-specific mitigation measures shall be established and undertaken. These may include documentation of the resource in a manner consistent with the standards of the Historic American Building Survey (HABS). Documentation should include full descriptive and historical narrative, measured drawings, and medium format photographs, all in archivally stable format.	Prior to the issuance of any building permit.	Qualified Architectural Historian / City of Berkeley Planning and Development Department

Table 7.A: Applicable Housing Element EIR Mitigation Measures

Housing Element Mitigation Measure	Timing for Mitigation Measure	Responsible Party / Approving Agency
Geology and Soils		
GEO-1 Protection of Paleontological Resources. If ground disturbance below the level of prior disturbance and into native soils is proposed to occur in areas mapped as Pleistocene alluvial fan and fluvial deposits (Qpaf), Orinda Formation (Tor), or Knoxville Formation (Kjk), then the City shall require the following to be implemented: **Retention of Qualified Professional Paleontologist.** Prior to initial ground disturbance, the project applicant shall retain a Qualified Professional Paleontologist, as defined by Society of Vertebrate Paleontology (SVP) (2010), to determine the project's potential to significantly impact paleontological resources according to SVP (2010) standards. If underlying formations are found to have a high potential for paleontological resources, the Qualified Professional Paleontologist shall create a Paleontological Mitigation and Monitoring Program, which will be approved by the City and contain the following elements: If underlying formations are found to have a high potential for paleontological resources, the Qualified Paleontologist shall create a Paleontological Mitigation and Monitoring Program, which will be approved by the City and contain the following elements: **Paleontological Worker Environmental Awareness Program (WEAP).** Prior to the start of construction, the Qualified Professional Paleontologist or their designee shall conduct a paleontological Worker Environmental Awareness Program (WEAP) training for construction personnel regarding the appearance of fossils and procedures for notifying paleontological staff should fossils be discovered by construction staff. **Paleontological Monitoring.** Full-time paleontological monitoring shall be conducted during ground disturbing construction activities (i.e., grading, trenching, foundation work) in sediments assigned a high paleontological sensitivity. Paleontological monitoring shall be conducted by a qualified Paleontological Resources Monitor, as defined by the SVP (2010). The duration and timing of the monitoring will be determined by the Qualified Professional Paleontologist based on the observation of the geologic setting from initial ground disturbance, and subject to the review and approval by the City. If the Qualified Professional Paleontologist determines that full-time monitoring is no longer warranted, based on the specific geologic conditions once the full depth of excavations has been reached, they may	Prior to the issuance of any building permit.	Qualified Paleontologist / City of Berkeley Planning and Development Department

Source: Housing Element (2023)

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
Aesthetics	**Exterior Lighting.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
Air Quality	**Public Works – Implement Air District-Recommended Measures During Construction**. For all proposed projects, Air District recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust: • All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. • All haul trucks transporting soil, sand, or other loose material off site shall be covered. • All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. • All vehicle speeds on unpaved roads shall be limited to 15 mph. • All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. • Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. • Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
	Air Quality – Diesel Particulate Matter Controls During Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with one of the following measures: a. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from Air District and Office of Environmental Health Hazard Assessment (OEHHA). The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or b. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications. In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following: • An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
	● A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.
Biological Resources	**Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 31), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the Migratory Bird Treaty Act and the California Fish and Game Code, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed, and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
Cultural Resources	**Archeological Resources.** (Ongoing throughout demolition, grading, and/or construction). Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archeological resources accidentally discovered during construction" should be instituted. Therefore: A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archeologist, historian or paleontologist to assess the significance of the find. B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards. C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations. D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the Project site while mitigation measures for cultural resources is carried out. E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
	Human Remains. (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt, and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
	arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
Geology and Soils	**Paleontological Resources.** (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
Greenhouse Gas Emissions	**Construction and Demolition Diversion.** Applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 including 100 percent diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65 percent diversion of other nonhazardous construction and demolition waste.
	Low-Carbon Concrete. The project shall verify compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25 percent.
Hazards and Hazardous Materials	**Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal: A. Phase I and Phase II Environmental Site Assessment (ESA) (per ASTM 1527). A recent Phase I ESA (less than 2 years old) shall be submitted to the Toxics Management Division for developments for: all new commercial, industrial and mixed-use developments and all improvement projects that require work 5 or more feet below grade, and all new residential buildings with more than four dwelling units located in the Environmental Management Area (or EMA). The EMA can be viewed at: City of Berkeley Community GIS Portal (arcgis.com) B. Depending on the findings in the Phase I, a Phase II or additional investigation may be necessary. Any available soils and groundwater analytical data available for projects listed in this section must also be submitted to TMD. C. Environmental Site Clearance. The applicant shall provide environmental screening clearance from either the San Francisco Bay Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC), or the Alameda County Department of Environmental Health's Local Oversight Program (LOP). Clearance from one of these regulatory agencies will ensure that the property meets development investigation and cleanup standards for the specific use proposed on the property. Environmental screening clearance shall be submitted to the City of Berkeley's Toxics Management Division prior to issuance of any building permits. D. Soil and Groundwater Management Plan. A site-specific Soil and Groundwater Management Plan (SGMP) shall be submitted to Toxics Management Division (TMD) for all non-residential projects, and residential or mixed-use projects with more than four dwelling units, that: (1) are in the Environmental Management Area (EMA), as shown on the most recent City of Berkeley EMA map, and (2) propose any excavations deeper than 5 feet below grade or if significant soils removal is anticipated. The SGMP shall be submitted to the TMD with the project's building permit application and shall be approved by TMD prior to issuance of the building permit. The SGMP shall comply with the hazardous materials and waste management standards

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
	required by BMC Section 15.12.100, the stormwater pollution prevention requirements of San Francisco Bay Regional Water Quality Control Board's Order No. R2-2009-0074, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66260 et seq.), and the East Bay Municipal Utility District's Ordinance 311, and shall include the following: i. procedures for soil and groundwater management including identification of pollutants and disposal methods; ii. procedures to manage odors, dust and other potential nuisance conditions expected during development; iii. notification to TMD within 24 hours of the discovery of any previously undiscovered contamination; and iv. the name and phone number of the individual responsible for implementing the SGMP and who will respond to community questions or complaints. TMD may require additional information or impose additional conditions as deemed necessary to protect human health and the environment. All requirements of the approved SGMP shall be deemed conditions of approval. E. Demolitions & Renovations – Building Materials Survey. A hazardous materials survey for building materials and plans on hazardous materials and hazardous waste removal and disposal is required and must be prepared by qualified professionals, and submitted to the Toxics Management Division (TMD) prior to issuance of the building permit. i. The survey shall include the identification of all materials to be disturbed for lead-based paints, PCB containing equipment and caulking, hydraulic fluids, refrigerants, treated wood, and mercury containing devices (including fluorescent light bulbs and mercury switches), asbestos and other hazardous materials and chemicals. ii. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center. Contractors must follow state regulations where there is asbestos-related work involving 100 square feet or more of asbestos containing material (8 Cal. Code Regs. §1529, §341.6 et seq.) iii. The report to the TMD shall include, in addition to the survey, plans on hazardous materials and hazardous waste removal and disposal that comply with State and Federal codes including California Code of Regulations (CCR) 66260 et seq. iv. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. Please note, the PCB Screening Form required by Public Works, Engineering, is a separate requirement and does not address the PCB identification requirement of the Toxics Management Division. F. Hazardous Materials Business Plan. A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 and California Health & Safety Code, Chapter 6.95 Div. 20, shall be submitted to the Toxics Management Division through the California Environmental Reporting System: http://cers.calepa.ca.gov/ for chemicals used or stored on site during construction that exceed reporting thresholds. The reporting is required if your facility stores or handles hazardous materials in aggregate quantities equal to or greater than 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet of compressed gases, or generates any quantity of hazardous waste. This includes welding gases, emergency generator fuel, paints, etc. Additionally, the business occupant must submit an HMBP within 30 days of starting operations. G. Petroleum Storage. A Spill Prevention, Control, and Countermeasure (SPCC) Plan is required

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
	to be prepared and implemented for facilities with any one of the following: i. Aggregate aboveground petroleum storage capacities of 1,320 gallons or more stored in aboveground storage containers, tanks, oil-filled equipment, or ii. One or more tank(s) in an underground area (TIUGA) with petroleum storage capacities of 55 gallons or greater. More information on TIUGAs can be found here: https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/tank-in-an-underground-area-tiuga/ The SPCC plan must be prepared prior to beginning operations and you must submit facility information to Toxics Management Division (TMD) through the California Environmental Reporting System: http://cers.calepa.ca.gov/. The SPCC plan will be reviewed during the site inspection and shall not be submitted in CERS or to the TMD.
Hydrology and Water Quality	**Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions. B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD. C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans. D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit. E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants. F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept. G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City. H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
	sanitary district with jurisdiction for receiving the discharge. I. All loading areas must be designated to minimize "run-on" or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup. J. Restaurants, where deemed appropriate, must be designed with a contained area for cleaning mats, equipment and containers. This contained wash area shall be covered or designed to prevent run-on or run-off from the area. The area shall not discharge to the storm drains; wash waters should drain to the sanitary sewer, or collected for ultimate disposal to the sanitary sewer. Employees shall be instructed and signs posted indicating that all washing activities shall be conducted in this area. Sanitary connections are subject to the review, approval and conditions of the waste water treatment plant receiving the discharge. K. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge. L. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
	Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
	Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
	Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
	Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
Noise	**Construction Noise Reduction Program**.The applicant shall develop a site-specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical: ● Construction equipment should be well maintained and used judiciously to be as quiet as practical. ● Equip all internal combustion engine-driven equipment with mufflers, which are in good

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
	condition and appropriate for the equipment. ● Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible. ● Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible. ● Prohibit unnecessary idling of internal combustion engines. ● If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile. ● Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise. ● Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected. ● Route construction related traffic along major roadways and away from sensitive receptors where feasible.
	Construction Noise Management – Public Notice Required.At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within 500 feet of the Project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the Project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.
	Construction Phases.The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an onsite meeting with these individuals as necessary to ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.
	Construction Hours.Construction activity shall be limited to between the hours of 7:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and 4:00 p.m. on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
	Construction Hours – Exceptions. It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the Project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The Project shall not be allowed more than 15 extended working days.
	Project Construction Website.The applicant shall establish a Project construction website with the following information clearly accessible and updated monthly or more frequently as changes

Table 7.B: Applicable City Conditions of Approval

Issue Area	City COA
	warrant: ● Contact information (i.e., "hotline" phone number, and email address) for the Project construction manager ● Calendar and schedule of daily/weekly/monthly construction activities ● The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.
	Damage Due to Construction Vibration.The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the Project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). The assessment shall take into account project specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. If the assessment finds that the Project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing conditions study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. This study shall: ● Establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls; and ● Include written descriptions and photographs.
Tribal Cultural Resources	**COA: Archeological Resources** and **COA: Human Remains**.
	Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
Utilities and Service Systems	**Water Efficient Landscaping** *(prior to the issuance of any building [construction] permit)*. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate for Berkeley is 41.8
	Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on plans, which comply with the Alameda County Organics Reduction and Recycling Ordinance (2021-02). Contact the Zero Waste Division's Recycling Program Manager, Julia A. Heath, at jheath@berkeleyca.gov.

Source: Compiled by LSA (2025).
COA = conditions of approval

8.0 REPORT PREPARERS

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Attachment 4

NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL

ZAB APPEAL: 2109 VIRGINIA STREET, USE PERMIT ZP2024-0066

The public may participate in this hearing by remote video or in-person.

Notice is hereby given by the City Council of the City of Berkeley that on **WEDNESDAY, JANUARY 27, 2026** at **6:00 P.M.** a public hearing will be conducted to consider an appeal against a decision by the Zoning Adjustment Board to approve **Zoning Permit #ZP2024-0066 to demolish a two-story, 4,604-square-foot non-residential building and surface parking lot, and construct an eight-story (89 feet and 4 inches) 112,969 square-foot mixed-use residential building containing 110 dwelling units (including 9 Very Low-Income and 9 Moderate Income Density Bonus qualifying units), 690 square feet of ground-floor commercial space, 109 off-street vehicle parking spaces and 64 bicycle parking spaces.**

The hearing will be held on January 27, 2026 at 6:00 p.m. in the School District Board Room, located at 1231 Addison Street, Berkeley CA 94702.

For further information, please contact Singeh Saliki, Senior Planner at (510) 981-7412

A copy of the agenda material for this hearing will be available on the City's website at https://berkeleyca.gov/ as of January 15, 2026. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@berkeleyca.gov in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at (510) 981-6900 or clerk@berkeleyca.gov for further information.

_____

Mark Numainville, City Clerk

Mailed by: January 13, 2026
Noticed Pursuant To: Noticed Pursuant to: Berkeley Municipal Code Section 23.404.040(B), Public Hearing Notice

Attachment 4

NOTICE CONCERNING YOUR LEGAL RIGHTS*: If you object to a decision by the City Council to approve or deny(Code Civ. Proc. 1094.6(b)) or approve (Gov. Code 65009(c)(5) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage prior to the public hearing.

Attachment

Administrative Record

This attachment is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley's Website
http://www.berkeleyca.gov