REVISED AGENDA

BERKELEY CITY COUNCIL MEETING

(REVISED TO ADD A TELECONFERENCE LOCATION)

Tuesday, September 24, 2024
6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, CA 94708

TELECONFERENCE LOCATION - 125 MICHIGAN AVE NE, WASHINGTON, DC 20017

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – IGOR TREGUB
DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – CECILIA LUNAPARRA
DISTRICT 8 – MARK HUMBERT

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. Live captioned broadcasts of Council meetings are available on B-TV (Channel 33) and via internet video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244. All Council meetings are recorded.

*To access the meeting remotely use this URL: https://cityofberkeley-info.zoomgov.com/j/1619309217. To request to speak, use the "raise hand" function in Zoom. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter **Meeting ID: 161 930 9217.** To provide public comment, Press *9 and wait to be recognized by the Chair. To submit a written communication for the public record, email council@berkeleyca.gov.*

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting, however, if you are feeling sick, please do not attend the meeting in person. The City Council may take action related to any subject listed on the Agenda.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. "Disrupting" means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

***Government Code Section 84308 (Levine Act)** - Parties to a proceeding involving a license, permit, or other entitlement for use are required to disclose if they made contributions over $250 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than $250 in contributions to a decisionmaker for the 12 months after the final decision is rendered on the proceeding. The above contribution disclosures and restrictions do not apply when the proceeding is competitively bid, or involves a personnel or labor contract. For more information, see Government Code Section 84308.*

Preliminary Matters

Roll Call:

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons attending the meeting in-person and wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Public Comment by Employee Unions (first regular meeting of the month): *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Recess Items

1. **Contract: B-Bros Construction Inc. for Temporary Stabilization of Stair Tower Windows at 2180 Milvia Street**
   From: City Manager
   Recommendation: Adopt a Resolution approving the City Manager's emergency authorization of a contract with B-Bros Construction Inc. to make necessary repairs to the windows in the secondary egress stairwells in 2180 Milvia Street in an amount not to exceed $400,000.
   Financial Implications: See report.
   Contact: Terrance Davis, Public Works, (510) 981-6300

Consent Calendar

2. **Amending BMC 7.52.060 to include "Wildfire Hardening" in the Real Property Transfer Tax Exceptions**
   From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor)
   Recommendation: Adopt second reading of Ordinance No. 7,934-N.S. amending Berkeley Municipal Code 7.52.060, Real Property Transfer Tax Exceptions, by adding Sub-section L, Wildfire Hardening, below Sub-section K, Seismic Upgrades.
   First Reading Vote: Ayes – Kesarwani, Taplin, Tregub, Hahn, Wengraf, Lunaparra, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.
   Financial Implications: None.
   Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

Consent Calendar

3. Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods and Related First Reading of Ordinance Amending Chapter 14.48 of the Berkeley Municipal Code
From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor)
Recommendation: Adopt second reading of Ordinance No. 7,935-N.S. adopting revisions to BMC Chapter 14.48 (Ordinance No. 7632) on miscellaneous use of streets and sidewalks to delete portions of 14.48.020, 14.48.120A and 14.48.120B in order to give the City Manager authority to make conforming changes to Administrative Regulation 10.2 to effectuate the above-stated encampment policy. Administrative Regulation 10.2 Regulating Temporary Non-Commercial Objects on Sidewalks and In Parklets Pursuant to BMC 14.48.120 is to be revised by the City Manager to enable enforcement of temporary non-commercial objects of less than nine-square-feet within less than 24 hours in a designated public area marked with signage to deter re-encampment.
First Reading Vote: Ayes – Kesarwani, Taplin, Bartlett, Tregub, Hahn, Wengraf, Humbert, Arreguin; Noes – Lunaparra; Abstain – None; Absent – None.
Financial Implications: None.
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

4. Establish 2025 City Council Meeting Schedule
From: City Manager
Recommendation: Adopt a Resolution establishing the City Council regular meeting schedule for 2025, with starting times of 6:00 p.m.
Financial Implications: None.
Contact: Mark Numainville, City Clerk, (510) 981-6900

5. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 24, 2024
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: See report.
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

6. Grant Application: Reconnecting Communities Pilot (RCP) Discretionary Grant Program for the Santa Fe Railroad Trackbed to Park Conversion Project
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or their designee to: submit a grant application in the amount of up to $5 million to the U.S. Department of Transportation for the Reconnecting Communities Pilot (RCP) Discretionary Grant Program (second round) for the Santa Fe Railroad Trackbed to Park Conversion Project; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.
Financial Implications: See report.
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

7. Civic Arts Commission Fund Request - Mitigation Fee Nexus Study, Public Art on Private Development Requirement
From: Civic Arts Commission
Recommendation: The Civic Arts Commission recommends that the City Council allocate $125,000 in the FY24/25 Budget to fund a nexus study on the existing Public Art on Private Development Requirement (Berkeley Municipal Code 23.316), which was established in 2017. The Civic Arts Commission would like to make changes to the requirement to ensure ongoing support for the arts and culture sector in Berkeley. In order to make any changes to the Public Art on Private Development Requirement, first a nexus study is required by the State of California's Mitigation Fee Act.
Financial Implications: See report.
Contact: Jennifer Lovvorn, Commission Secretary, (510) 981-7530

Council Consent Items

8. Contract No. 32000196 Amendment: Szabo & Associates for Communications Consulting Services
From: Mayor Arreguin (Author)
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 32000196 with Szabo & Associates for communications consulting services for the Mayor's Office, increasing the contract amount by $11,632.30 for a new total not to exceed $347,632.30.
Financial Implications: See report.
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Council Consent Calendar

9. Budget Referral: Independent Consultant to Conduct Analysis of Referring Restaurant Inspections to Alameda County
From: Councilmember Kesarwani (Author)
Recommendation: Refer to the November budget process $100,000 for the City Manager to engage an independent consultant to conduct an analysis that considers feasibility, costs, and benefits of referring food facility inspections to Alameda County, and submit a report with recommendations for Council consideration and potential action as soon as practicable.
The report should consider the following key areas:
- Environmental Health Division staffing, recruitment and retention;
- Costs and staffing resources to develop a new restaurant inspection database that complies with state rules; and
- Costs and staffing resources to develop a restaurant "grading" system, such as those used in Los Angeles County, New York City, or other jurisdictions.
Financial Implications: See report.
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

10. Resolution Clarifying the Intent of Measure Y (2024) – Increasing the Parks, Trees and Landscaping Maintenance Tax
From: Councilmember Humbert (Author), Councilmember Taplin (Author), Councilmember Wengraf (Author)
Recommendation: In order to ensure that voters are fully informed and to inform future discussions of potential expenditures, it is recommended that the Berkeley City Council adopt the following language to clarify (but not change) the intent of Measure Y: The intent of Measure Y is to generate additional funds by increasing the Parks Tax for park and landscape maintenance in the Waterfront including Cesar Chavez (Berkeley's largest park), improvements to Berkeley's urban forest and street tree plantings, and essential park and landscaping related capital projects.
Financial Implications: See report.
Contact: Mark Humbert, Councilmember, District 8, (510) 981-7180

Action Calendar

The public may comment on each item listed on the agenda for action. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again during one of the Action Calendar public comment periods on the item. Public comment will occur for each Action item (excluding public hearings, appeals, and/or quasi-judicial matters) in one of two comment periods, either 1) before the Action Calendar is discussed; or 2) when the item is taken up by the Council.

A member of the public may only speak at one of the two public comment periods for any single Action item.

The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Scheduled Public Comment Period

During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – Old Business

11. City Council Rules of Procedure and Order Revisions *(Continued from September 10, 2024)*
From: City Manager
Recommendation: Adopt a Resolution revising the City Council Rules of Procedure and Order to clarify and reorganize existing language, make technical corrections related to account for hybrid meetings; incorporate temporary provisions from Appendix C into the main body of the document; add revisions recommended by the Open Government Commission and approved by Council; Add new language and update existing language related to the legislative process recommended by the Agenda & Rules Committee; and rescinding any preceding amendatory resolutions.
Financial Implications: See report.
Contact: Mark Numainville, City Clerk, (510) 981-6900

Information Reports

12. LPO NOD: 2000 Kala Bagai Way, LMSAP2024-0002
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

13. LPO NOD: 2227 Parker Street, #LMIN2024-0001
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

14. LPO NOD: 8 Greenwood Common, #LMSAP2024-0001
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS*: If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance 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 use permit or variance, 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.*

Archived indexed video streams are available at:
https://berkeleyca.gov/your-government/city-council/city-council-agendas.
Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the 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 to the City Clerk Department at 2180 Milvia Street. 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 Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at https://berkeleyca.gov/.

Agendas and agenda reports may be accessed via the Internet at:
https://berkeleyca.gov/your-government/city-council/city-council-agendas
and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@berkeleyca.gov

Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, Tarea Hall Pittman South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:
This meeting is being held in a wheelchair accessible location.
To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900 or by email at clerk@berkeleyca.gov.

~~~~~~
~~~~~~

I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on September 19, 2024.



Mark Numainville, City Clerk

Communications

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

Item 7: Civic Arts Commission Fund Request - Mitigation Fee Nexus Study, Public Art on Private Development Requirement

1. Cameron Woo

Demolition of UA Theater

2. Melanie Lawrence
3. Save the UA Berkeley
4. Anne Weinberger
5. Seven similarly worded form letters

Cal Sailing Club and J-Dock at Berkeley Marina

6. David Fraser
7. Amy Pereira
8. Karen Huie
9. David Fawcett
10. Paul Herzmark
11. Andrew Buck
12. Nelson Carpentier
13. Nick Goyhenetche
14. Aradhna Mayalall
15. James Fair
16. Jeff Lewis
17. William Gavelis
18. Neeraj DeLima
19. Grant Padmos

Supporting Berkeley Libraries

20. Cathy Brown

Large Building Fossil Fuel Emissions Tax

21. Anand Patel

Containers Missed Pickup
22. Peter Kuhn

TOPA
23. Marcia Edelen
24. Summer Brenner

Ice Cream Truck Generator
25. Dara Pond
26. Adrian McGilly

West Berkeley Concerns
27. Paul Limb

Zoning Ordinance and Zoning Changes
28. Gabriela Kipnis
29. Paula Skene
30. Susie Zukor
31. Andrea Yankowski
32. Susan Collier Thomakos
33. Jim Greenberg

Article Regarding Wildfires
34. Barbara Gilbert

Concerns Regarding 2070 Martin Luther King Jr Way
35. Bryce Kalousek-Maritano

Survey About Local Issues
36. Dona Bretherick

Loud Noises
37. Erwan Illian

Settlement for Civil Case
38. Jesse McCaffrey

Oakland A's Relocation and Current Events
39. Josh Atwood (5)

Links to Articles
40. Vivian Warkentin (2)
41. Erwan Illian
42. Russbumper (5)

Middle East Conflict and Peace & Justice Commission

43. Angela Jernigan
44. Itamar Landau
45. Wendy Greenfield
46. Dorah Rosen
47. Rick Sterling
48. Jennifer S Fechner (3)
49. Sheila Jordan
50. Yuko Matsumoto
51. J Rosenfeld
52. Dorothea Dorenz (2)
53. Joel Biatch
54. Mordechai.netanel
55. Erwan Illian (6)
56. russbumper (16)
57. 399 similarly worded form letters “Let Berkeley’s Peace and Justice Commission Work”
58. 4,800 similarly worded form letters “Vote No on Ceasefire Resolution”

Supplemental Communications and Reports

Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.

- **Supplemental Communications and Reports 1**
  Available by 5:00 p.m. five days prior to the meeting.

- **Supplemental Communications and Reports 2**
  Available by 5:00 p.m. the day before the meeting.

- **Supplemental Communications and Reports 3**
  Available by 5:00 p.m. two days following the meeting.

AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, September 24, 2024
6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, CA 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – IGOR TREGUB
DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – CECILIA LUNAPARRA
DISTRICT 8 – MARK HUMBERT

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. Live captioned broadcasts of Council meetings are available on B-TV (Channel 33) and via internet video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244. All Council meetings are recorded.

*To access the meeting remotely use this URL: https://cityofberkeley-info.zoomgov.com/j/1619309217. To request to speak, use the "raise hand" function in Zoom. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter **Meeting ID: 161 930 9217.** To provide public comment, Press *9 and wait to be recognized by the Chair. To submit a written communication for the public record, email council@berkeleyca.gov.*

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting, however, if you are feeling sick, please do not attend the meeting in person. The City Council may take action related to any subject listed on the Agenda.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. "Disrupting" means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

***Government Code Section 84308 (Levine Act)** - Parties to a proceeding involving a license, permit, or other entitlement for use are required to disclose if they made contributions over $250 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than $250 in contributions to a decisionmaker for the 12 months after the final decision is rendered on the proceeding. The above contribution disclosures and restrictions do not apply when the proceeding is competitively bid, or involves a personnel or labor contract. For more information, see Government Code Section 84308.*

Preliminary Matters

Roll Call:

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons attending the meeting in-person and wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Public Comment by Employee Unions (first regular meeting of the month): *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Recess Items

1. Contract: B-Bros Construction Inc. for Temporary Stabilization of Stair Tower Windows at 2180 Milvia Street
From: City Manager
Recommendation: Adopt a Resolution approving the City Manager's emergency authorization of a contract with B-Bros Construction Inc. to make necessary repairs to the windows in the secondary egress stairwells in 2180 Milvia Street in an amount not to exceed $400,000.
Financial Implications: See report.
Contact: Terrance Davis, Public Works, (510) 981-6300

Consent Calendar

2. Amending BMC 7.52.060 to include "Wildfire Hardening" in the Real Property Transfer Tax Exceptions
From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt second reading of Ordinance No. 7,934-N.S. amending Berkeley Municipal Code 7.52.060, Real Property Transfer Tax Exceptions, by adding Sub-section L, Wildfire Hardening, below Sub-section K, Seismic Upgrades.
First Reading Vote: Ayes – Kesarwani, Taplin, Tregub, Hahn, Wengraf, Lunaparra, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.
Financial Implications: None.
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

Consent Calendar

3. Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods and Related First Reading of Ordinance Amending Chapter 14.48 of the Berkeley Municipal Code
From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor)
Recommendation: Adopt second reading of Ordinance No. 7,935-N.S. adopting revisions to BMC Chapter 14.48 (Ordinance No. 7632) on miscellaneous use of streets and sidewalks to delete portions of 14.48.020, 14.48.120A and 14.48.120B in order to give the City Manager authority to make conforming changes to Administrative Regulation 10.2 to effectuate the above-stated encampment policy. Administrative Regulation 10.2 Regulating Temporary Non-Commercial Objects on Sidewalks and In Parklets Pursuant to BMC 14.48.120 is to be revised by the City Manager to enable enforcement of temporary non-commercial objects of less than nine-square-feet within less than 24 hours in a designated public area marked with signage to deter re-encampment.
First Reading Vote: Ayes – Kesarwani, Taplin, Bartlett, Tregub, Hahn, Wengraf, Humbert, Arreguin; Noes – Lunaparra; Abstain – None; Absent – None.
Financial Implications: None.
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

4. Establish 2025 City Council Meeting Schedule
From: City Manager
Recommendation: Adopt a Resolution establishing the City Council regular meeting schedule for 2025, with starting times of 6:00 p.m.
Financial Implications: None.
Contact: Mark Numainville, City Clerk, (510) 981-6900

5. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 24, 2024
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: See report.
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

6. Grant Application: Reconnecting Communities Pilot (RCP) Discretionary Grant Program for the Santa Fe Railroad Trackbed to Park Conversion Project
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or their designee to: submit a grant application in the amount of up to $5 million to the U.S. Department of Transportation for the Reconnecting Communities Pilot (RCP) Discretionary Grant Program (second round) for the Santa Fe Railroad Trackbed to Park Conversion Project; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.
Financial Implications: See report.
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

7. Civic Arts Commission Fund Request - Mitigation Fee Nexus Study, Public Art on Private Development Requirement
From: Civic Arts Commission
Recommendation: The Civic Arts Commission recommends that the City Council allocate $125,000 in the FY24/25 Budget to fund a nexus study on the existing Public Art on Private Development Requirement (Berkeley Municipal Code 23.316), which was established in 2017. The Civic Arts Commission would like to make changes to the requirement to ensure ongoing support for the arts and culture sector in Berkeley. In order to make any changes to the Public Art on Private Development Requirement, first a nexus study is required by the State of California's Mitigation Fee Act.
Financial Implications: See report.
Contact: Jennifer Lovvorn, Commission Secretary, (510) 981-7530

Council Consent Items

8. Contract No. 32000196 Amendment: Szabo & Associates for Communications Consulting Services
From: Mayor Arreguin (Author)
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 32000196 with Szabo & Associates for communications consulting services for the Mayor's Office, increasing the contract amount by $11,632.30 for a new total not to exceed $347,632.30.
Financial Implications: See report.
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Council Consent Calendar

9. Budget Referral: Independent Consultant to Conduct Analysis of Referring Restaurant Inspections to Alameda County
From: Councilmember Kesarwani (Author)
Recommendation: Refer to the November budget process $100,000 for the City Manager to engage an independent consultant to conduct an analysis that considers feasibility, costs, and benefits of referring food facility inspections to Alameda County, and submit a report with recommendations for Council consideration and potential action as soon as practicable.
The report should consider the following key areas:
- Environmental Health Division staffing, recruitment and retention;
- Costs and staffing resources to develop a new restaurant inspection database that complies with state rules; and
- Costs and staffing resources to develop a restaurant "grading" system, such as those used in Los Angeles County, New York City, or other jurisdictions.
Financial Implications: See report.
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

10. Resolution Clarifying the Intent of Measure Y (2024) – Increasing the Parks, Trees and Landscaping Maintenance Tax
From: Councilmember Humbert (Author), Councilmember Taplin (Author), Councilmember Wengraf (Author)
Recommendation: In order to ensure that voters are fully informed and to inform future discussions of potential expenditures, it is recommended that the Berkeley City Council adopt the following language to clarify (but not change) the intent of Measure Y: The intent of Measure Y is to generate additional funds by increasing the Parks Tax for park and landscape maintenance in the Waterfront including Cesar Chavez (Berkeley's largest park), improvements to Berkeley's urban forest and street tree plantings, and essential park and landscaping related capital projects.
Financial Implications: See report.
Contact: Mark Humbert, Councilmember, District 8, (510) 981-7180

Action Calendar

The public may comment on each item listed on the agenda for action. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again during one of the Action Calendar public comment periods on the item. Public comment will occur for each Action item (excluding public hearings, appeals, and/or quasi-judicial matters) in one of two comment periods, either 1) before the Action Calendar is discussed; or 2) when the item is taken up by the Council.

A member of the public may only speak at one of the two public comment periods for any single Action item.

The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Scheduled Public Comment Period

During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – Old Business

11. City Council Rules of Procedure and Order Revisions *(Continued from September 10, 2024)*
From: City Manager
Recommendation: Adopt a Resolution revising the City Council Rules of Procedure and Order to clarify and reorganize existing language, make technical corrections related to account for hybrid meetings; incorporate temporary provisions from Appendix C into the main body of the document; add revisions recommended by the Open Government Commission and approved by Council; Add new language and update existing language related to the legislative process recommended by the Agenda & Rules Committee; and rescinding any preceding amendatory resolutions.
Financial Implications: See report.
Contact: Mark Numainville, City Clerk, (510) 981-6900

Information Reports

12. LPO NOD: 2000 Kala Bagai Way, LMSAP2024-0002
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

13. LPO NOD: 2227 Parker Street, #LMIN2024-0001
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

14. LPO NOD: 8 Greenwood Common, #LMSAP2024-0001
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS*: If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance 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 use permit or variance, 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.*

Archived indexed video streams are available at:
https://berkeleyca.gov/your-government/city-council/city-council-agendas.
Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the 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 to the City Clerk Department at 2180 Milvia Street. 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 Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at https://berkeleyca.gov/.

Agendas and agenda reports may be accessed via the Internet at:
https://berkeleyca.gov/your-government/city-council/city-council-agendas
and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@berkeleyca.gov

Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, Tarea Hall Pittman South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:
This meeting is being held in a wheelchair accessible location.
To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900 or by email at clerk@berkeleyca.gov.

~~~~~~
~~~~~~

I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on September 12, 2024.



Mark Numainville, City Clerk

Communications

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

Item 7: Civic Arts Commission Fund Request - Mitigation Fee Nexus Study, Public Art on Private Development Requirement

1. Cameron Woo

Demolition of UA Theater

2. Melanie Lawrence
3. Save the UA Berkeley
4. Anne Weinberger
5. Seven similarly worded form letters

Cal Sailing Club and J-Dock at Berkeley Marina

6. David Fraser
7. Amy Pereira
8. Karen Huie
9. David Fawcett
10. Paul Herzmark
11. Andrew Buck
12. Nelson Carpentier
13. Nick Goyhenetche
14. Aradhna Mayalall
15. James Fair
16. Jeff Lewis
17. William Gavelis
18. Neeraj DeLima
19. Grant Padmos

Supporting Berkeley Libraries

20. Cathy Brown

Large Building Fossil Fuel Emissions Tax

21. Anand Patel

Containers Missed Pickup
22. Peter Kuhn

TOPA
23. Marcia Edelen
24. Summer Brenner

Ice Cream Truck Generator
25. Dara Pond
26. Adrian McGilly

West Berkeley Concerns
27. Paul Limb

Zoning Ordinance and Zoning Changes
28. Gabriela Kipnis
29. Paula Skene
30. Susie Zukor
31. Andrea Yankowski
32. Susan Collier Thomakos
33. Jim Greenberg

Article Regarding Wildfires
34. Barbara Gilbert

Concerns Regarding 2070 Martin Luther King Jr Way
35. Bryce Kalousek-Maritano

Survey About Local Issues
36. Dona Bretherick

Loud Noises
37. Erwan Illian

Settlement for Civil Case
38. Jesse McCaffrey

Oakland A's Relocation and Current Events
39. Josh Atwood (5)

Links to Articles
40. Vivian Warkentin (2)
41. Erwan Illian
42. Russbumper (5)

Middle East Conflict and Peace & Justice Commission

43. Angela Jernigan
44. Itamar Landau
45. Wendy Greenfield
46. Dorah Rosen
47. Rick Sterling
48. Jennifer S Fechner (3)
49. Sheila Jordan
50. Yuko Matsumoto
51. J Rosenfeld
52. Dorothea Dorenz (2)
53. Joel Biatch
54. Mordechai.netanel
55. Erwan Illian (6)
56. russbumper (16)
57. 399 similarly worded form letters “Let Berkeley’s Peace and Justice Commission Work”
58. 4,800 similarly worded form letters “Vote No on Ceasefire Resolution”

Supplemental Communications and Reports

Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.

- **Supplemental Communications and Reports 1**
  Available by 5:00 p.m. five days prior to the meeting.

- **Supplemental Communications and Reports 2**
  Available by 5:00 p.m. the day before the meeting.

- **Supplemental Communications and Reports 3**
  Available by 5:00 p.m. two days following the meeting.

01

Office of the City Manager

RECESS ITEM
CONSENT CALENDAR
September 24, 2024

To: Honorable Mayor and Members of the City Council

From: LaTanya Bellow, Interim City Manager

Submitted by: Terrance Davis, Director, Department of Public Works

Subject: Contract: B-Bros Construction Inc. for Temporary Stabilization of Stair Tower Windows at 2180 Milvia Street

RECOMMENDATION

Adopt a Resolution approving the City Manager's emergency authorization of a contract with B-Bros Construction Inc. to make necessary repairs to the windows in the secondary egress stairwells in 2180 Milvia Street in an amount not to exceed $400,000.

NEGATIVE EFFECT IF ACTION IS DELAYED UNTIL AFTER COUNCIL RECESS

On or about July 11, 2024, Public Works staff was alerted to potential hazards caused by windows in the secondary egress stairwells in 2180 Milvia Street. Glass from the windows could fall from building, with people and property at risk of being hit by glass.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available out of the baseline FY 25 Facilities CIP Deferred Maintenance/Emergency Projects budget from the Capital Improvement Fund 501. Not making the windows and the area below and around them safe could make the City of Berkeley liable for any death, injury, damage or other harm caused by falling glass.

CURRENT SITUATION AND ITS EFFECTS

On or about July 11, 2024, Public Works staff was alerted to potential hazards caused by windows in the secondary egress stairwells in 2180 Milvia Street. After an inspection with Public Works and Build Safety Staff on Thursday morning, July 11, City staff developed the following action plan to help mitigate any potential safety issues.

- **Site**: 2180 Milvia Street, secondary egress stairwell towers near the parking lot
- **Hazard**: Glass from windows could fall outside the building
- **Risk**: Passersby outside the building could be at risk of falling glass; City Staff can still safely work inside the building, and members of the public can still go inside; this level of risk does not require the shutdown of 2180 Milvia Street

Public Works has contract B-Bros Construction Inc. to furnish labor and materials in accordance with the City's plan and specifications for necessary repairs to the windows in the secondary egress stairway at 2180 Milvia Street.

Public Works staff will continue to provide updates as the work makes progress.

BACKGROUND

In July, Public Works worked through emergency design procedures with the Planning Department to install fencing and safety nets to secure and mitigate the hazard. This allowed staff to continue their engineering investigation and determine the appropriate steps to repair this landmark building.

Immediate course of action in July –

1. Public Works and other City Staff:
    a. Installed temporary safety barriers, caution tape and channelizers to keep public and employees clear of the zones; and,
    b. Accelerated emergency mitigation design work and obtain mitigation plan permit approval from Planning.
2. Public Works contracted to temporarily install:
    a. Scaffolding for the mitigation while the design is being finalized;
    b. Fencing to make the area under the windows safe; and,
    c. Netting to contain glass in the event that it does fall, preventing it from falling to the ground and possibly injuring people and causing damage.

Public Communication – City Staff and visitors to the 2180 Milvia Street building have been instructed to use the secondary stairwell only as an emergency egress. Staff put up:

- Notices that state the secondary stairwell is for emergency egress only; and,
- Signage to guide people in the event of an emergency evacuation.

This hazard does not affect the primary stairwell inside the building (past lobby, near the rear elevators).

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The risk of windows falling off of 2180 Milvia Street created an extremely dangerous condition that the City must urgently address.

ALTERNATIVE ACTIONS CONSIDERED

None. Not making the windows and the area below and around them safe would put life and limb at grave risk.

CONTACT PERSON

Wahid Amiri, Deputy Director, Public Works (510) 981-6396
Uriel Gonzalez, Assistant Public Works Engineer, Public Works (510) 981-6627

Attachment:
1: Resolution

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

CONTRACT: B-BROS CONSTRUCTION INC FOR TEMPORARY STABILIZATION OF STAIR TOWER WINDOWS AT 2180 MILVIA STREET

WHEREAS, on or about July 11, 2024, Public Works staff was alerted to potential hazards caused by windows in the secondary egress stairwells in 2180 Milvia Street; and

WHEREAS, glass from the windows could fall outside the building; and

WHEREAS, people and property outside the building could be at risk of being hit by it.

WHEREAS, funding is available from the baseline FY 25 Facilities CIP Deferred Maintenance/Emergency Projects budget from the Capital Improvement Fund 501; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager's August 2024 emergency contract with B-Bros Construction Inc. is approved to make necessary repairs to the windows in the secondary egress stairwells in 2180 Milvia Street, including executing any amendments, extensions or other change orders until completion of the project in an amount not to exceed $400,000.

02

ORDINANCE NO. 7,934-N.S.

AMENDING SECTIONS 7.52.060 OF THE BERKELEY MUNICIPAL CODE

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code 7.52.060, Real Property Transfer Tax Exceptions, is amended to add Sub-section L. and read as follows:

BMC 7.52.60 Sub-section L

L. 1. Up to one-third of the tax imposed by this chapter shall be rebated, on a dollar for dollar basis, for all expenses incurred on or after January 1, 2025 to "wildfire harden" either any structure which is used exclusively for residential purposes, or any mixed-use structure which contains two or more dwelling units. Multiple rebate applications may be submitted for a partial rebate of the tax paid. However, the total rebate for any combination of seismic retrofit and/or wildfire hardening shall not exceed the maximum of one-third (1/3) of the tax paid per property.

2. The term "wildfire harden" within the meaning of this chapter means work which is the process of increasing resistance to wildfire by replacing combustible materials with ignition resistant and/or non-combustible materials and other scientifically proven actions. The work must be permanent and not vegetation management or gardening adaptations that require continued maintenance. To be eligible for a rebate, the parcel level mitigations set forth in the California Department of Insurance “Safer from Wildfires” Framework REG-2020-00015 adopting California Code of Regulations Title 10, Chapter 5, Subchapter 4.8, Article 4, Section 2644.9 must be satisfactorily completed as determined by the Building Official (when a permit is required) and a Berkeley Fire Department Defensible Space Inspection. These include:

(a) All improvements must be permanent and comply with design, material and construction methods as described in the California Building Code, Chapter 7A. and BMC 19.28.030.

(b) Structures with a wood shake roof must be replaced with a Class A fire rated roof before qualifying for the transfer tax rebate.

(c) Clearing combustible materials including fences and gates, and all movable combustible objects, from the area within five (5) feet of the building being evaluated (Replace with only noncombustible materials.).

(d) At least six (6) inches of noncombustible vertical clearance at the bottom of the exterior surface of the building, measured from the ground up.

(e) Fire-Resistant Vents and Gutter Covers of 1/16 to 1/8 inch noncombustible, corrosion-resistant metal mesh or OSFM Category 8165 approved ember resistant vents.

(f) Multi-paned windows, including dual pane windows, or functional shutters, which when closed, cover the entire window and do not have openings.

(g) Enclosed eaves.

(h) Remove combustible materials and debris from under decks and installation of non-combustible siding or ember resistant mesh of 1/8" or finer around deck perimeter.

(i) Removal or absence of combustible structures, including sheds and other outbuildings, from the area within thirty (30) feet of the building being evaluated or, in the event that the applicant does not control the entirety of the area extending thirty feet from the building being evaluated, removal of combustible structures from as much of such area as is under the control of the applicant.

(j) Block spaces between roof covering and sheathing with noncombustible materials (bird stops).

(k) The property upon which the building being evaluated is situated complies with Section 4291 of the Public Resources Code, when applicable, and any applicable local ordinances, governing defensible space.

(l) Any other work found by the Building Official or Fire Marshal (or their designee) to substantially increase the capability of those structures, specified in subsection L.1, to withstand destruction or damage in the event of a wildfire.

3. The work to wildfire harden as provided herein shall be completed either up to one-year prior to the transfer of property or as provided in subsection L.5.

4. If the work to wildfire harden structures and property provided for herein is to be performed after the transfer of property which is subject to the tax imposed by this chapter, upon completion of such work and certification by the building official as to the amount of the expenses of such work the City Manager or their designee may refund such expenses not to exceed one-third of the tax imposed to the parties to the sale in accordance with the terms of such sale. Any remaining tax shall be retained by the City.

5. From the date of the recordation of the transfer document, the applicant shall have one year to complete all wildfire hardening work and submit a wildfire hardening verification application to the Codes and Inspection Division of the City of Berkeley. If

the work is not completed at the end of one year, that portion which has been completed may be credited as a rebate to the applicant upon submission of a Home Hardening verification application and substantiating documentation, as required by the codes and inspections division of the City of Berkeley, showing the dollar amount of work completed up to that date.

6. Within the one-year period established by paragraph 5, an applicant may request, and the City Manager may approve, an extension of up to one year. The City Manager or their designee may grant such an extension only for good cause. The decision of the City Manager or their designee shall be entirely within their discretion and shall be final.

(a) "Good cause" includes (i) the inability of the applicant, after a prompt and diligent search to find and retain the services of an architect, engineer, contractor or other service provider whose services are necessary for the Home Hardening work; (ii) unforeseen and unforeseeable circumstances such as a significant change in the scope of the Wildfire Hardening work due to circumstances in the field which could not reasonably have been known earlier; and (iii) serious illness or other extraordinary and unforeseeable circumstances that prevented the timely commencement or completion of the Wildfire Hardening work.

(b) "Good cause" does not include (i) ignorance of the applicable City ordinances or regulations concerning the Wildfire Hardening rebate provided in this chapter or state or local laws relating to the standards with which wildfire hardening work must comply; or (ii) any delays which were within the control or responsibility of the applicant.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on September 10, 2024, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Hahn, Humbert, Kesarwani, Lunaparra, Taplin, Tregub, Wengraf, and Arreguin.

Noes: None.

Absent: Bartlett.

03

ORDINANCE NO. 7,935-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 14.48; MISCELLANEOUS USE OF STREETS AND SIDEWALKS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Chapter 14.48 is amended as follows:

Chapter 14.48
MISCELLANEOUS USE OF STREETS AND SIDEWALKS

Sections:

14.48.010 One-way streets.
14.48.020 Obstructions on streets and sidewalks.
14.48.030 Objects in transit.
14.48.040 Construction materials and barricades.
14.48.050 Trees and shrubs.
14.48.060 Poles, hydrants, signs, etc.
14.48.070 Bicycle racks.
14.48.080 Bus benches and bus shelters.
14.48.090 Mail boxes and armed forces recruiting signs.
14.48.100 Newspaper racks and newspapers.
14.48.110 Authorized retail displays.
14.48.120 Temporary Noncommercial Objects.
14.48.130 Decorative noncommercial installations.
14.48.140 Public telephones.
14.48.150 Sidewalk seating, benches and planters.
14.48.160 Removal of obstructions on streets and sidewalks.
14.48.170 Use of streets and sidewalks by vendors.
14.48.180 Trap doors in sidewalks.
14.48.190 Parklets.

14.48.010 One-way streets.

The City Traffic Engineer is authorized and directed to suitably indicate by appropriate signs those streets or portion of streets designated by resolution of the Council as one-way streets.

14.48.020 Obstructions on streets and sidewalks.

It is unlawful for any person to place or cause to be placed anywhere upon any Sidewalk, Parklet or roadway, any object which obstructs, restricts, or prevents the use of any portion of such Sidewalk, Parklet or roadway, except as set forth in this Chapter or in a regulation promulgated by the City Manager.

For purposes of this Chapter, Sidewalk is defined as provided in BMC Section 1.04.010(18) as that portion of a street between the curbline and the adjacent property line intended for the use of pedestrians. Parklet is defined as provided in BMC Section 14.48.190(B)(4).

14.48.030 Objects in transit.

Goods, wares, merchandise, containers, furniture, suitcases and other similar objects in the immediate custody and control of individuals readily able to move or remove such objects may be allowed on the outer one-third of the sidewalk for up to one hour while in the actual course of receipt, delivery, transport, transit or removal.

14.48.040 Construction materials and barricades.

Materials used in the construction or repair of any building or structure, together with the necessary pedestrian walkways, barricades and warning signs, when required permits have been obtained from the City.

14.48.050 Trees and shrubs.

Trees, shrubs and flowers with the necessary barricades when planted or maintained by the City, or by private parties when expressly allowed by Council action or by the City Manager.

14.48.060 Poles, hydrants, signs, etc.

Poles, fire and police boxes, lamp posts, parking, street directional or warning signs, parking meters, drinking fountains, poster kiosks, hydrants, flag poles or standards, decorations for public events, sidewalk clocks, refuse cans, book return receptacles, barriers and any other similar installation; provided, however, that any such installation belongs to the City or is authorized by Council action.

14.48.070 Bicycle racks.

Bicycle racks of a type and at locations approved by and under such conditions as may be imposed by the City Manager.

14.48.080 Bus benches and bus shelters.

Bus benches and bus shelters at such locations and in accordance with such rules and regulations as may be prescribed by the City Manager.

14.48.090 Mail boxes and armed forces recruiting signs.

Mail boxes and armed forces recruiting signs that are placed in such locations that they do not interfere with the normal use of the sidewalk by pedestrians.

14.48.100 Newspaper racks and newspapers.

Newspaper racks which are installed and maintained in accordance with Chapter 16.40 or Chapter 16.44 of the Berkeley Municipal Code.

14.48.110 Authorized retail displays.

Objects such as, but not limited to, tables, chairs, umbrellas and canopies that are permitted pursuant to Chapter 9.48.

14.48.120 Temporary Noncommercial Objects.

A. Temporary Noncommercial Objects ("TNC Objects") are personal belongings:

1. In the immediate custody and control of a person or persons at substantially all times;

2. Not offered for sale or exchange or involved in the solicitation of money for immediate payment;

3. Not otherwise prohibited and of a size, weight and quantity that can be easily moved by the owner.

4. *Not furniture.* Furniture is only allowed pursuant to BMC Chapter 9.48 or pursuant to BMC § 14.48.030 Objects in Transit.

The City Manager may adopt regulations specifying what TNC Objects may be permitted under this Section and where such TNC Objects may be permitted, as well as procedures and limitations to implement this Section. Any such regulation shall contain provisions and shall be applied in such a manner as to ensure that it does not deprive any person of rights protected by the state or federal constitutions, including freedom of expression, and any size limitation contained therein shall not apply to dogs, or to limited cushioning material being used to sit on such as, but not limited to, blankets, cushions or mats.

B. The City Manager shall ensure that regulations adopted pursuant to this Section are publicized in a manner substantially equivalent to the manner in which ordinances are published, and that materials summarizing such regulations are available for dissemination in Commercial and Manufacturing zones. The City may also post fixed signage in Commercial and Manufacturing zones informing the public of such regulations.

C. No person may be cited for a violation of this Section or the regulations adopted pursuant to it unless that person has first been warned that their conduct is in violation hereof, is allowed a reasonable opportunity to comply but refuses to do so.

D. Violations of this Section or City Manager regulations adopted pursuant to this Section shall be charged as infractions, and not as misdemeanors.

14.48.130 Decorative noncommercial installations.

Decorative noncommercial installations subject to the following regulations and requirements:

A. At least six feet of improved sidewalk area measured at right angles to the curb shall be kept open and unobstructed.

B. Such decorative noncommercial installations shall be placed and maintained in the portion of the sidewalk area farthest from the curb; provided, however, that subject to all other conditions herein specified, such installations may be placed and maintained in the portion of the sidewalk area adjacent to the curb if such installations will not interfere with access to or from any parked vehicle and are:

1. Not closer than twenty-five feet to any curb return or fire hydrant;

2. Not located adjacent to any commercial or passenger loading zone;

3. Not closer to the curb than eighteen inches;

4. Not affixed to any City or utility company-owned poles or appurtenances;

5. Not mounted in or affixed to the sidewalk;

6. Not inconsistent with safety, development in the area, or other decorative noncommercial installations.

C. No decorative noncommercial installation shall be placed or maintained in the sidewalk area without a permit therefor. Application for such permit shall be made to the office of the City Manager, who may require as part of the application such information as may be deemed necessary to determine compliance with this Section and other applicable laws and regulations, including but not limited to a scaled site plan, signature of the fronting property owner and permittee, and agreement to indemnify the City as specified in Subsection D. The application shall be referred to the Public Works Department and the Civic Art Commission for review to determine that it is in the public interest to grant the permit, and that the granting thereof will not be detrimental to the public health, safety or general welfare. The permit shall not be granted without the approval of both the Public Works Department and the Civic Art Commission. If such approval is given and the City Manager concurs, the permit shall be granted subject to the conditions hereinabove set forth, and such additional conditions as may reasonably be imposed. Such permit shall be subject to revocation by the City Manager without cause; the decorative noncommercial installation for which the permit has been given shall be removed within ten days after notice.

D. Anyone granted a permit for a decorative noncommercial installation shall agree to indemnify and hold harmless the City, its officers and employees of and from any and all claims, damages or suits that may arise or in any way be occasioned by the granting of

the permit or the maintenance of the decorative noncommercial installation permitted thereby.

1. The permittee shall carry liability insurance in the amount of $500,000.

E. For purposes of this Chapter, "Decorative Noncommercial Installations" shall include but are not limited to artwork, planters, and other objects that are placed within the public right-of-way by a private party for the purpose of decoration in a residential, commercial, or industrial district, not for the purpose of advertising, commerce or other economic benefit.

F. Decorative Noncommercial Installations that are not permitted under this Section are prohibited encroachments under 16.18 and shall constitute a public nuisance subject to the remedies in Chapter 1.26.

G. The City Council may by resolution establish fees for the implementation and administration of this Section.

14.48.140 Public telephones.

Telephones for public use of a type and at locations approved by and under such conditions as may be imposed by the City Manager.

14.48.150 Sidewalk seating, benches and planters.

A. Notwithstanding anything to the contrary in this Chapter, the City of Berkeley Engineering Division of the Department of Public Works, or its successor, may approve Sidewalk Seating, Benches and/or Planters on sidewalks, parking lanes, street areas, and other public right of way locations as set forth in, and in compliance with, this Section.

1. No permit may be issued under this Section for any sidewalk area in front of a single parcel if there are any current violations of this Chapter in that sidewalk area.

2. A permit for Sidewalk Seating, Benches and/or Planters may not be issued unless the business for which the Sidewalk Seating, Benches and/or Planters is/are proposed is in full compliance with Title 23 and any Permit issued thereunder.

3. Sidewalk Seating and Outdoor Commerce shall require a Sidewalk Seating engineering permit, renewed annually.

4. Businesses conducting Outdoor Commerce in a parking lane shall additionally pay an annual Outdoor Commerce Use Fee in exchange for using public parking spaces for business operations.

5. Sidewalk Seating shall be permitted in any area of the public right-of-way if City Staff makes a finding that the use of the right-of-way for Sidewalk Seating purposes does not create a dangerous condition for customers, pedestrians, or bicycle or motor vehicle traffic. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate.

6. Upon termination of any declared City emergency, any Sidewalk Seating present in the public right-of-way and not on the sidewalk shall within (365) days of date of termination either obtain a valid Sidewalk Seating Engineering Permit and pay the Outdoor Commerce Use Fee or be removed from the public right-of-way.

B. For purposes of this Chapter, the following terms shall be defined as follows:

1. "Bench" means a seat designed for two or more persons.

2. "Block Face" means one side of one block, e.g., the north side of Center Street between Milvia Street and Shattuck Avenue.

3. "Bus Bench" means a bench installed and maintained under an agreement between the City, A.C. Transit and Lamar Transit Advertising or another public or semi-public transit provider.

4. "Commercial Establishment" means, but is not limited to, a place where Business Activity is established. Business activity is defined as any activity subject to BMC Chapter 9.04 and any economic activity which generates receipts but is exempt from BMC Chapter 9.04 by state or federal law.

5. "District-wide Sidewalk Bench/Planter Area Plan" means a City-approved plan for a specific commercial district as defined in said plan that establishes area-specific regulations for benches, planters and/or plant material, and establishes general regulations for the placement of benches and planters in the public right-of-way, for the designated district.

6. "District-wide Sidewalk Seating Area Plan" means a City-approved plan for a specific commercial district as defined in said plan that establishes area-specific

regulations for sidewalk seating, and establishes general regulations for the placement of sidewalk seating in the public right-of-way, for the designated district.

7. "Food Service Establishment" has the same meaning as set forth in BMC Chapter 23F.04.

8. "Furniture" means amenities such as but not limited to tables, chairs, benches, and other equipment that facilitates the stationary use of sidewalk, parking lanes, street area, and other public right of way spaces.

9. "Outdoor Commerce" means Sidewalk Seating in the public right of way.

10. "Outdoor Commerce Use Fee" means an annual fee for the use of the parking lane for Sidewalk Seating.

11. "Planter" means a container that is designed or used for growing plants.

12. "Parking Lane" and "Street Area" are considered to be part of the Public right-of-way (PROW), known as, "any public street, public way, public place or rights-of-way, now laid out or dedicated, and the space on, above or below it, and all extensions thereof, and additions thereto, owned, operated and/or controlled by the City or subject to an easement owned by City and any privately-owned area within City's jurisdiction which is not yet, but is designated as a proposed public place on a tentative subdivision map approved by City." as defined in BMC 23F.04.010.

13. "Sidewalk" has the same meaning as set forth in BMC 1.04.010(18).

14. "Sidewalk Seating" means tables and/or chairs (including benches) and, umbrellas and other associated furniture with lawfully operating Food Service Establishments or other commercial establishments, in or on the sidewalk. "Sidewalk Seating" includes seating and associated furniture in the public right-of-way or resting on, or projecting into, the sidewalk, parking lane, or street area, or any combination thereof which are not physically or structurally attached to a building, retaining wall or fence.

15. "Transit Stop" means an AC Transit bus stop, UC Berkeley bus stop, a paratransit bus stop, Bay Area Rapid Transit station entrance, or another public transit provider.

16. "Window Box Planter" means a box, designed to hold soil for growing plants, attached at or on a windowsill.

C. Sidewalk Seating, Benches and Planters shall fully conform to the following requirements of this subdivision:

1. Any object permitted under this Section shall leave a minimum horizontal clear space of six feet for ADA-compliant path of travel, (or reduce to 5 feet at a single point of contact) or such greater (or smaller) amount of clear space as the Engineering Division finds necessary to protect and enhance pedestrian and vehicle traffic for public use in the sidewalk area, as that space is determined by the City of Berkeley Engineering Division of the Department of Public Works, or its successor.

2. Objects permitted under this Section shall not:

(a) Unduly interfere with access by public employees and utility workers to meters, fire hydrants or other objects (street hardware) in the right-of-way;

(b) Block or obstruct the view of necessary authorized traffic devices;

(c) Unduly interfere with pedestrian traffic in the public ROW/sidewalk, pedestrian safety, access to public or private parking, traffic circulation, and/or vehicular safety;

(d) Be closer than 25 feet to any curb return or fire hydrant; except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, Sidewalk Seating, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshal as appropriate;

(e) Be affixed to any City or utility company-owned poles or appurtenances;

3. All sidewalk seating shall be subject to the following additional standards and requirements:

(a) All Sidewalk Seating configurations shall comply with applicable Americans with Disabilities Act (ADA) accessibility standards.

(b) All Sidewalk Seating components shall be stored in a secure location when not in use.

(c) The permittee shall regularly inspect and clean the Sidewalk Seating and that portion of the public sidewalk adjacent to the establishment. A waste receptacle shall be provided.

4. All benches and planters shall be subject to the following additional standards and requirements:

(a) All proposals shall comply to the greatest extent possible with any design requirements adopted by the City for benches, planters and/or plant material.

D. All permits issued under this Section shall be subject to the following conditions:

1. The permittee shall be responsible for, and exercise reasonable care in the inspection, maintenance, and cleanliness of the area affected by any object(s) permitted by this Section, including any design requirements hereafter enacted, from the building frontage to the curb, parking lane, or street area.

2. The permittee shall restrict any objects permitted under this Section to the approved location(s) and configuration, and ensure compliance with all applicable laws, and the number of tables and chairs shall not be increased without prior approval of the Public Works or Public Health Department.

3. When any objects permitted under this Section are found to be in conflict with existing or proposed facilities or improvements owned, maintained, or operated by the City, or any existing or proposed City design plans, those objects shall, upon written demand of the City Manager or their designee, be removed or relocated in such a way as to eliminate the conflict. Should the permittee fail to comply with said written demand within a reasonable period of time, the City may cause such relocation of the placement at the expense of the permittee. Any such non-compliance shall also be a violation of this Section.

4. Permits issued under the Section shall be posted in plain view within the commercial establishment for which the permit has been issued along with any other relevant permits that support health and safety of patrons and the general public.

5. By accepting a permit under this Section, the permittee explicitly agrees to hold the City, its officers and employees harmless from any liability, claims, suits or actions for any and all damages alleged to have been suffered by any person or property by

reason of the permittee's installation, operation, maintenance or removal of Sidewalk Seating, Furniture, Benches and/or Planters.

6. Prior to permit approval, the permittee shall demonstrate possession of liability insurance in the amount of $1,000,000 for Benches and Planters, and related Sidewalk Seating furniture. Said insurance shall name the City of Berkeley as additionally insured and shall be in a form acceptable to the City Attorney.

7. The permittee shall monitor and control the use of the Sidewalk Seating so as to prevent disturbance of the surrounding neighborhood.

8. A food service establishment that proposes to serve alcoholic beverages within an outdoor dining area shall comply with the standards established by the State of California Department of Alcoholic Beverage Control. The dining area shall be:

(a) Physically defined and clearly part of the commercial establishment it serves; and

(b) Supervised by a commercial establishment employee to ensure compliance with laws regarding the on-site consumption of alcoholic beverages.

E. Permits under this Section are not transferable, and must be renewed annually.

F. Sidewalk Seating, Benches, Furniture, and/or Planters that are not permitted under this Section are prohibited encroachments under Chapter 16.18, and shall constitute public nuisances subject to the remedies in Chapter 1.26.

G. The City Council may by resolution establish or waive fees for the implementation and administration of this Section. Outdoor Commerce Use Fees shall be equivalent to the expected block face parking revenue from the parking spaces used by the permittee, and shall be treated as Parking Meter Fund revenue.

14.48.160 Removal of obstructions on streets and sidewalks.

Anything placed or permitted to remain upon any sidewalk or roadway in violation of this Chapter, is declared to constitute a nuisance and the City is authorized and empowered to abate such nuisance by removing the same to the custodian of lost property in the Police Department or the Corporation Yard of the City, or other location designated by the City.

14.48.170 Use of streets and sidewalks by vendors.

Any properly licensed vendor may use the public streets of the City in commercial or industrial zones for the sale of goods, wares, merchandise, or food when conducted under the conditions stated in this section.

A. Sidewalk vending is permitted as regulated by Chapter 9.48 of the Berkeley Municipal Code.

B. Other street vending is permitted from vehicles which are lawfully parked upon streets which are not regulated by parking meters or other posted parking time limits.

C. It is unlawful for any person to vend in violation of this section.

14.48.180 Trap doors in sidewalks.

A. Trap doors in sidewalks used to cover an opening for an elevator, stairway or chute must be kept in such a condition that they will not endanger persons or property, and it is unlawful for any person owning or being in charge or control of any such doors in sidewalks used for covering entrances to elevators, stairways or chutes, or other openings in the sidewalk leading to the basement, to allow said doors to remain open, except when such elevator, stairway or chute is being used and monitored for pedestrian safety while loading or unloading or transferring of merchandise or material.

B. The requirements of this section shall be in addition to and not in lieu of any other ordinance of the City having to do with doors or other openings in sidewalks.

14.48.190 Parklets.

A. Notwithstanding anything to the contrary in this Chapter, the City of Berkeley Engineering Division of the Department of Public Works, or its successor, may approve Parklets, Benches and/or Planters in the public right of way (excluding Sidewalks alone, which are subject to and governed by Section 14.48.200) as set forth in, and in compliance with, this Section.

1. No permit may be issued under this Section for any right-of-way area in front of a single parcel if there are any current violations of this Chapter in that right-of-way area.

2. A permit for a Parklet may not be issued unless the parklet Host is in full compliance with all applicable requirements of Title 23 and any Permit issued thereunder.

3. A permit for a Parklet may only be issued adjacent to parcels in the following zoning districts: all Commercial (C-prefixed districts), Mixed-Use Light Industrial (MU-LI), Mixed-Use Residential (MU-R), and Mixed Manufacturing (MM).

B. For purposes of this Chapter, the following terms shall be defined as follows:

1. "Bench" means a seat designed for two or more persons.

2. "Bike Parking" means a location with bike racks intended for the secure parking of bicycles.

3. "Furniture" means amenities such as but not limited to tables, chairs, benches, and other equipment that facilitates the stationary use of public space.

4. "Parklet" means a platform or similar level surface extending into the public right of way with amenities such as but not limited to tables and/or chairs (including Benches), Bike Parking, and umbrellas, designated as public space, located in or on the public right-of-way or resting on, or projecting into, the sidewalk and parking area, which are not physically or structurally attached to a building, retaining wall or fence. Platforms that meet this definition but have received a Sidewalk Seating Permit pursuant to BMC Section 14.48.150 shall not be considered Parklets.

5. "Planter" means a container that is designed or used for growing plants.

6. "Sidewalk" has the same meaning as set forth in Section 1.04.010(18).

7. "Sponsoring Business", "Host", "Permit Holder" or "Permittee" means, and is limited to, any establishment engaged in insuring and caring for the Parklet as set forth in the Parklet maintenance agreement.

8. "Transit Stop" means an AC Transit bus stop, UC Berkeley bus stop, a paratransit bus stop, Bay Area Rapid Transit station entrance, or another public transit provider.

C. Parklets, Benches and Planters shall fully conform to the following requirements of this subdivision:

1. Any object permitted under this Section shall leave a minimum of clear space as the Engineering Division finds necessary to protect and enhance pedestrian or vehicle traffic for public use in and around the Parklet area, as that space is determined by the City of Berkeley Engineering Division of the Department of Public Works, or its successor.

2. Parklets shall comply with applicable Americans with Disabilities Act (ADA) accessibility standards.

3. Objects permitted under this Section shall not:

(a) Unduly interfere with access by public employees and utility workers to meters, fire hydrants or other objects (street hardware) in the right-of-way;

(b) Block or obstruct the view of necessary authorized traffic devices;

(c) Unduly interfere with pedestrian traffic in the right-of-way, including the Sidewalk, pedestrian safety, traffic circulation, and/or vehicular safety;

(d) Be closer than 25 feet to any curb return or fire hydrant; except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, a parklet, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate;

(e) Be affixed to any City or utility company-owned poles or appurtenances;

(f) The width of the Parklet must not extend beyond six feet from the curb line, except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, a Parklet, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate.

4. All Parklets shall be subject to the following additional standards and requirements:

(a) Parklets must remain publicly accessible and must include signage posted on site to this effect;

(b) Parklet construction materials must be of high quality, durable, and suitable for public use;

(c) A visible edge to the Parklet is required, which may consist of Planters, railing, or cabling. The edges should be visually permeable;

(d) The Permittee shall regularly inspect and clean the Parklet and that portion of the public sidewalk adjacent to the Parklet;

(e) Access panels must be included in order to maintain the gutter and area underneath the Parklet and the design must allow for drainage along the gutter to pass underneath the Parklet;

(f) Safe hit posts and wheel stops, or approved equivalents, may be required. If Bike Parking is provided, the bike racks can be at street grade;

5. All Benches, Furniture, and Planters within the Parklet shall be subject to the following additional standards and requirements:

(a) All proposals shall comply with any design requirements adopted by the City for Benches, Planters and/or plant material;

(b) All non-secured Parklet components shall be stored in a secure location on private property when not in use;

(c) Any unsecured Furniture must be clearly different from the Furniture used by a Parklet Host in order to emphasize that the Parklet is public space, as determined by City staff;

D. All permits issued under this Section shall be subject to the following conditions:

1. The Permittee shall be responsible for, and exercise reasonable care in the inspection, maintenance, and cleanliness of the area affected by any object(s) permitted by this Section, including any design requirements hereafter enacted, from the building frontage to the right-of-way, including the Parklet area.

2. The Permittee shall restrict any objects permitted under this Section to the approved location(s) and configuration, ensure compliance with all applicable laws, and the number and configuration of Benches, Furniture and Planters and overall square footage of the Parklet shall not be modified without prior approval of the Public Works Department.

3. When any objects permitted under this Section are found to be in conflict with existing or proposed facilities or improvements owned, maintained, or operated by the City, or any existing or proposed City design plans, those objects shall, upon written demand of the City Manager or his or her designee, be removed or relocated in such a way as to eliminate the conflict, at the sole expense of the Permittee. Should the Permittee fail to comply with said written demand within a reasonable period of time, the City may cause such relocation of the placement at the expense of the Permittee. Any such non-compliance shall also be a violation of this Section.

4. Permits issued under the Section, when under review prior to issuance shall be posted in plain view within the sponsoring establishment(s) for which the permit has been issued. Public notice, permitting, and appeal for Parklets are set forth in BMC Section 16.18.060 (Permit procedure for minor encroachment) of the Berkeley Municipal Code. Section D(4) is not applicable in cases of declared local emergency due to disease outbreak. Upon termination of a declared local emergency due to disease outbreak within 365 days, a permittee must:

(a) pay the permit fee for a minor encroachment and comply with all the requirements of this Section and Section 16.18.060, except that public notice requirements shall not be required; or

(b) apply for a Sidewalk Seating Permit pursuant to BMC Section 14.48.150, and pay initial annual outdoor commerce use fee (the application permit fee for transitioning permits will be waived); or

(c) remove the Parklet from the public right-of-way.

5. By accepting a permit under this Section, the Permittee explicitly agrees to hold the City, its officers and employees harmless from any liability, claims, suits or actions for any and all damages alleged to have been suffered by any person or property by reason of the Permittee's installation, operation, maintenance or removal of the Parklet, Benches and/or Planters.

6. Prior to permit approval, the Permittee shall demonstrate possession of liability insurance, in the amount not less than $1,000,000, for the Parklet including any associated Benches, Planters and Furniture. Said insurance shall name the City of Berkeley as an additional insured and shall be in a form acceptable to the City Attorney.

7. The City Manager or their designee may require a performance bond to ensure Parklet removal in the event of a permit cancellation.

8. The Permittee shall monitor and control the use of the Parklet to prevent disturbance of the surrounding neighborhood.

9. A Sponsoring Business or other business is not permitted to perform table service at a Parklet or otherwise incorporate a Parklet into its business operations. Section D(9) is not applicable in cases of declared local emergency due to disease outbreak.

10. Commercial signage, smoking, and advertising are prohibited at Parklets.

E. Parklets, Benches and/or Planters that are not permitted under this Section are prohibited encroachments under Chapter 16.18, and shall constitute public nuisances subject to the remedies in Chapter 1.26.

F. The City Council may by resolution establish or waive fees and guidelines for the implementation and administration of this Section.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on September 10, 2024 this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Humbert, Kesarwani, Taplin, Tregub, Wengraf, and Arreguin.

Noes: Lunaparra.

Absent: None.

04

Office of the City Manager

CONSENT CALENDAR
September 24, 2024

To: Honorable Mayor and Members of the City Council

From: LaTanya Bellow, Interim City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Establish 2025 City Council Meeting Schedule

RECOMMENDATION
Adopt a Resolution establishing the City Council regular meeting schedule for 2025, with starting times of 6:00 p.m.

FISCAL IMPACTS OF RECOMMENDATION
None.

BACKGROUND
Pursuant to the Open Government Ordinance, the Council must adopt an annual regular meeting schedule with at least 24 regular meetings. The schedule generally consists of either two or three meetings per month and provides for Spring, Summer and Winter recess periods. Meetings have not been scheduled on City holidays, Election Day or days of major religious/cultural observances that have work restrictions for common observance in the Unites States pursuant to Council policy.

The Mayor or a majority of the Council may call special meetings as needed. The Council may also amend the regular meeting schedule when necessary.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

CONTACT PERSON
Mark Numainville, City Clerk, (510) 981-6900

Attachments:
1: Resolution
    Exhibit A: 2025 Council Calendar
2: List of Religious/Cultural Observances for 2025

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

ADOPTING THE CITY COUNCIL 2025 REGULAR MEETING SCHEDULE

WHEREAS, pursuant to the Open Government Ordinance, the Council must adopt an annual meeting schedule with at least 24 regular meetings; and

WHEREAS, the proposed schedule (Exhibit A) provides for regular meetings to occur with starting times of 6:00 p.m. on specified Tuesdays of each month with exceptions provided for recess periods or when a meeting would fall on a City, religious or cultural holiday with work restrictions or Election Day; and

WHEREAS, the Council desires to establish as part of their schedule a Winter, Spring and Summer recess period for 2025; and

WHEREAS, the Mayor or a majority of the Council may call special meetings or revise the regular meeting schedule when necessary.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council adopts the 2025 regular meeting schedule on specified Tuesdays at 6:00 p.m. as indicated:

Winter Recess: December 11, 2024 – January 20, 2025
January 21, 2025
February 11 and February 25, 2025
March 11, March 18 and March 25, 2025
Spring Recess: March 26 – April 14, 2025
April 15 and April 29, 2025
May 6 and May 20, 2025
June 3, June 17 and June 24, 2025
July 8, July 22 and July 29, 2025
Summer Recess: July 30 – September 8, 2025
September 9, September 16 and September 30, 2025
October 14 and October 28, 2025
November 4 and November 18, 2025
December 2, 2025
Winter Recess: December 3, 2025 – January 26, 2026

Exhibit A: 2025 Council Calendar

Exhibit A

City Clerk Department 2025 Council Calendar

(Subject to change. For the latest information, please contact the City Clerk Department, 510-981-6900.)

Date	Time
January	
Winter Recess (Dec. 11, 2024 – Jan. 20, 2025)	
Jan 21	6:00 p.m.
February	
Feb 11	6:00 p.m.
Feb 25	6:00 p.m.
March	
Mar 11	6:00 p.m.
Mar 18	6:00 p.m.
Mar 25	6:00 p.m.
April	
Spring Recess (March 26 – April 14, 2025)	
April 15	6:00 p.m.
April 29	6:00 p.m.
May	
May 6	6:00 p.m.
May 20	6:00 p.m.
June	
June 3	6:00 p.m.
June 17	6:00 p.m.
June 24	6:00 p.m.
July	
July 8	6:00 p.m.
July 22	6:00 p.m.
July 29	6:00 p.m.
Summer Recess (July 30 – Sept. 8, 2025)	
September	
Sept 9	6:00 p.m.
Sept 16	6:00 p.m.
Sept 30	6:00 p.m.
October	
Oct 14	6:00 p.m.
Oct 28	6:00 p.m.
November	
Nov 4	6:00 p.m.
Nov 18	6:00 p.m.
December	
Dec 2	6:00 p.m.
Winter Recess (Dec. 3, 2025 – Jan. 26, 2026)	

City Policy Regarding the Scheduling of City Meetings on All Significant Religious Holidays

Pursuant to Resolution No. 70,066-N.S., it is the policy of the City to avoid scheduling meetings of City Legislative Bodies (City Council, Policy Committees, Commissions, Task Forces) on religious holidays that incorporate significant work restrictions for common observance in the United States. City legislative bodies must avoid scheduling meetings on the religious holidays listed below.

Religion	Holiday	2025 Date(s)
Shinto	New Year	1/1/2025 thru 1/3/2025
Hindu	Makar Sankranti	1/14/2025
Cultural	Chinese New Year (Eve, Day, Lantern Festival)	1/28, 1/29, 2/12
Isalm	Ramadan (Eve & First Night)	2/28/2024 thru 3/1/2025
Hindu	Holi	3/14/2025
Islam	Eid al-Fitr	3/30/2025 thru 3/31/2025
Jewish	Passover Nights 1 & 2 (7*, 8*)	4/12 - 4/13 (4/19, 4/20)
Christian	Good Friday	4/18/2025
Christian	Easter Sunday	4/20/2025
Buddhist	Vesak	5/12/2025
Jewish	Shavuot*	6/1/2025 thru 6/3/2025
Islam	Eid al-Adha	6/6/2025 thru 6/7/2025
Shinto	Obon Ceremony*	8/13/2025 thru 8/15/2025
Jewish	Rosh Hashanah	9/22/2025 thru 9/24/2025
Jewish	Yom Kippur	10/1/2025 thru 10/2/2025
Hindu	Dussehra	10/2/2025
Jewish	Sukkot (1st Day)*	10/6/2025 thru 10/7/2025
Jewish	Shmini Atzeret/ Simchat Torah*	10/13/2025 thru 10/15/2025
Hindu	Diwali	10/20/2025
Baha'i Faith	Birth of Bab	10/22/2025
Baha'i Faith	Birth of Baha'u'llah	10/23/2025
Jewish	Chanukah (1st night)	12/14/2025
Christian	Christmas	12/25/2025
Cultural	Kwanzaa	12/26/2025 thru 1/1/2026
Jewish	Shabbat (Friday sunset to Saturday sunset)*	Weekly

** Meetings not prohibited, but avoid scheduling meetings if possible*

Internal

05

Office of the City Manager

CONSENT CALENDAR
September 24, 2024

To: Honorable Mayor and Members of the City Council

From: LaTanya Bellow, Interim City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 24, 2024

RECOMMENDATION

Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is **$5,500,000**

PROJECT	Fund	Source	Amount
Citywide custodial services: Cleaning and supplying designated city facilities	673 636 101	Prof. Services – Misc.	$5,500,000
Total:			**$ 5,500,000**

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager's purchasing authority for services to $50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of $100,000 for goods; and $200,000 for playgrounds and construction; and $50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

BACKGROUND
On May 6, 2008, Council adopted Ordinance No. 7,035-N.S., amending the City Manager's purchasing authority for services

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
The Finance Department reviews all formal bid and proposal solicitations to ensure that they include provisions for compliance with the City's environmental policies. For each contract that is subject to City Council authorization, staff will address environmental sustainability considerations in the associated staff report to City Council.

RATIONALE FOR RECOMMENDATION
Need for the goods and/or services.

ALTERNATIVE ACTIONS CONSIDERED
None.

CONTACT PERSON
Roopreet Soorma, Senior Buyer, Finance, 510-981-7311

Attachments:
1) Citywide custodial services: Cleaning and supplying designated city facilities

Note: Original of this attachment with live signature of authorizing personnel is on file in General Services.

SPECIFICATION NO.	DESCRIPTION OF GOODS / SERVICES BEING PURCHASED	APPROX. RELEASE DATE	APPROX. BID OPENING DATE	INTENDED USE	ESTIMATED COST	BUDGET CODE TO BE CHARGED	DEPT. / DIVISION	CONTACT NAME & PHONE
25-11680-C	Citywide custodial services: Cleaning and supplying designated city facilities	09/11/24	10/1/24	Citywide custodial services. Daily, weekly, monthly janitorial services including but not limited to: sweeping, dusting, mopping, cleaning glass surfaces, spot cleaning, emptying waste receptacles, vacuuming, sanitizing/disinfecting areas and other related duties.	$5.5 million over three years, option to extend by 2 years	673-54-624-696-0000-000-474-622110- $400,000 ($282k available rest to be modded and/or added via AAO1) 636-54-624-696-0000-000-474-622110- $300,000 ($213k available rest to be modded and/or added by AAO1) 101-22-242-272-0000-000-463-622110- ($430k) Plus TBD funding from various departments and funding sources	Public Works / Facilities Services Library Parks/Recreation/Waterfront Police Dept. Fire Dept. Health, Housing & Community Svcs	Tucker Brofft 510- 981-5375 Erika Barros 510-981-6462 Aaron Baker 510-501-7705
DEPT. TOTAL					**$ 5,500,000**			
TOTAL					**$ 5,500,000**			

06

Office of the City Manager

CONSENT CALENDAR
September 24, 2024

To: Honorable Mayor and Members of the City Council

From: LaTanya Bellow, Interim City Manager

Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront

Subject: Grant Application: Reconnecting Communities Pilot (RCP) Discretionary Grant Program for the Santa Fe Railroad Trackbed to Park Conversion Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or their designee to: submit a grant application in the amount of up to $5 million to the U.S. Department of Transportation for the Reconnecting Communities Pilot (RCP) Discretionary Grant Program (second round) for the Santa Fe Railroad Trackbed to Park Conversion Project; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.

FINANCIAL IMPLICATIONS

The RCP Grant requires a 50% match of non-federal funds. In 2022, the City received a $5 million dollar grant from the Proposition 68 Statewide Parks Program (SPP), which will be used as the non-federal match for the RCP grant application.

CURRENT SITUATION AND ITS EFFECTS

In July of 2024, the Reconnecting Communities Pilot (RCP) Discretionary Grant Program announced a second Notice of Funding Opportunity DOT-RCP-FY24-01, due September 30, 2024. This grant program was established in the Bipartisan Infrastructure Law (BIL) to advance community-centered transportation connection projects, with a priority for projects that benefit disadvantaged communities by improving access to daily needs such as jobs, education, healthcare, food, nature, and recreation, and foster equitable development and restoration, and provide technical assistance to further these goals. This grant is for projects that reconnect communities by removing, retrofitting, or mitigating transportation facilities that create barriers to community connectivity, such as the former Santa Fe Railroad land that sits vacant with soils that need to be remediated.

The City's Parks, Recreation & Waterfront Department applied to the RCN (first round) in September 2023 and did not receive a grant award, but was encouraged to re-apply.

During the design phase, the City contracted with a professional environmental consultant to conduct soil sampling needed to understand the extent of soil remediation required. The sampling results found that additional remediation is needed over and above the initial cost estimate, and new grant funds are needed to complete the project.

BACKGROUND

On April 20, 2021, Council authorized staff to submit a California Proposition 68 Statewide Parks Program grant application for the Santa Fe Railroad Trackbed to Park Conversion Project and execute the project upon securing the grant. In early 2022, the City was notified of a grant award of $5 million and on March 14, 2022 the grant contract was executed. The City is currently in the design phase of the project, which included the preparation of a CEQA environmental review document. On July 6, 2021, the City filed a CEQA Notice of Exemption for the project at the Alameda County Clerk-Recorders Office.

The Santa Fe Railroad Trackbed to Park Conversion Project is located at the four former railroad parcels between Blake Street and Ward Street, along Acton Street. The Project will remediate the contaminated soil left behind by one hundred years of railroad activity and convert four vacant parcels into a community garden, separate dog park, children's playground and tot cycle track, and a teaching garden and outdoor classroom.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This project will help the City promote two goals contained in the City's Climate Action Plan: Goal 2 of Chapter 3 involves increasing access to parks and plazas; and Goal 1 of Chapter 6 involves making Berkeley resilient to the impacts of climate change by designing public improvements such as parks for retention and infiltration of stormwater.

RATIONALE FOR RECOMMENDATION

These grant funds will allow the City to complete this project to create new parkland in Southwest Berkeley. The allocation of existing funds for parks improvement projects allows the City to apply for grant opportunities that require significant matching funds.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director of Parks, Recreation & Waterfront, 981-6703
Evelyn Chan, Supervising Civil Engineer, PRW, 981-6430

Attachments
1: Resolution

RESOLUTION NO. -N.S

GRANT APPLICATION: THE RECONNECTING COMMUNITIES PILOT (RCP) DISCRETIONARY GRANT PROGRAM FOR THE SANTA FE RAILROAD TRACKBED TO PARK CONVERSION PROJECT

WHEREAS, in July of 2024, the Reconnecting Communities Pilot (RCP) Discretionary Grant Program announced a second Notice of Funding Opportunity DOT-RCP-FY24-01, due September 30, 2024; and

WHEREAS, the RCP Grant requires a 50% match of non-federal funds; and

WHEREAS, in 2022, the City received a $5 million dollar grant from the Proposition 68 Statewide Parks Program (SPP), which will be used as the non-federal match for the RCP grant application; and

WHEREAS, during the design phase, the City discovered that additional soil remediation is needed over and above the initial cost estimate, and new grant funds are needed to complete the project; and

WHEREAS, the Santa Fe Railroad Trackbed to Park Conversion Project is located at the four former railroad parcels between Blake Street and Ward Street, along Acton Street. The Project will remediate the contaminated soil left behind by one hundred years of railroad activity and convert four vacant parcels into a community garden, separate dog park, children’s playground and tot cycle track, and a teaching garden and outdoor classroom.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or their designee is authorized to: submit an application to the Reconnecting Communities Pilot (RCP) Discretionary Grant Program for the Santa Fe Railroad Trackbed to Park Conversion Project in the amount of up to $5 million; to accept any grants; to execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the project and appropriation of funding for related expenses, subject to securing the grant. A record signature copy of said agreements and any amendments to be on file in the Office of the City Clerk.

07

Civic Arts Commission

CONSENT CALENDAR
September 24, 2024

To: Honorable Mayor and Members of the City Council

From: Civic Arts Commission

Submitted by: Dana Blecher, Chairperson, Civic Arts Commission

Subject: Civic Arts Commission Fund Request - Mitigation Fee Nexus Study, Public Art on Private Development Requirement

RECOMMENDATION

The Civic Arts Commission recommends that the City Council allocate $125,000 in the FY24/25 Budget to fund a nexus study on the existing Public Art on Private Development Requirement (Berkeley Municipal Code 23.316), which was established in 2017. The Civic Arts Commission would like to make changes to the requirement to ensure ongoing support for the arts and culture sector in Berkeley. In order to make any changes to the Public Art on Private Development Requirement, first a nexus study is required by the State of California's Mitigation Fee Act.

SUMMARY

Established by ordinance in 2017, the City's Public Art on Private Development Requirement, codified in the Berkeley Municipal Code (BMC) section 23.316, requires that construction developers of private property in Berkeley do one of the following:

A. Include on-site publicly accessible art valued at 1.75 percent of the construction cost. If the value of on-site publicly accessible art as installed is less than 1.75 percent of the construction cost, an amount equal to 80 percent of the difference in value shall be paid to the City of Berkeley as an in-lieu fee.
B. Pay an in-lieu fee to the City of 0.80 percent of the construction cost.

This requirement applies to:

- New multifamily residential projects of five or more dwelling units
- New commercial structures
- New industrial structures
- All construction of building additions exceeding 10,000 square feet

The following project types are exempt from the requirement:

- Development projects where at least 60 percent of the units are affordable housing
- Buildings with religious assembly uses or nonprofit arts/cultural uses
- Transitional housing

A complete list of projects participating in this program current though July 2024, entitled “Private Percent Project Payment Tracking” is included in this report as Attachment 1.

In the eight years since the Public Art on Private Development Requirement was established, City Zoning regulations and State laws have changed which have impacted the public art requirement and are preventing it from fully fulfilling its original intent. The Civic Arts Commission wishes to address these issues by making amendments to Berkeley Municipal Code 23.316.

FISCAL IMPACTS OF RECOMMENDATION

The fiscal impact of this recommendation is the allocation of $125,000 in General Funds in Fiscal Year 2024/2025 to fund a mitigation fee Nexus Study for the Public Art on Private Development Requirement. The cost of the Nexus Study cannot be funded from the fees collected through the Public Art on Private Development Requirement, because those funds are limited by policy to expenditures related to public art and the staffing to administer the projects.

CURRENT SITUATION AND ITS EFFECTS

Since the establishment of the Public Art on Private Development Requirement in 2017, the Civic Arts Commission has noted the following issues that it would like to address by making amendments to Berkeley Municipal Code 23.316.

1. Currently projects that were not expressly exempt from this requirement are seeking an exemption by claiming that their project’s type of structure is not expressly included in the “applicability” section (for example “Group Living Accommodations”). To address this, changes could be made to 23.316.020 Applicability, specifically by editing section “B. Uses.” in this chapter to “Structures” so that it would apply to all types of structures, not just “residential, commercial, and industrial.”
2. In 2023, the City made administrative changes to Zoning BMC Section 23.328 (Inclusionary Housing) which changed thresholds used for the affordable housing in-lieu fee from a “per unit” threshold to square feet. This created a discrepancy with the thresholds used in the Public Art Requirement section where the threshold of “five or more dwelling units” is used. To address this, the Public Art Requirement thresholds could be changed to bring consistency between the methodology used in the two requirements.
3. The Commission is interested in exploring the inclusion of another option beyond “on-site art” or “paying an in-lieu fee” such as allowing developers to designate a percentage of construction costs to build out publicly accessible non-profit arts venue space at the ground floor that would be designated as such in perpetuity.
4. Currently, pursuant to the State Density Bonus law, developers are able to request concessions to waive the public art requirement for projects that have a certain increased percent of inclusionary affordable housing.

The Commission is interested in exploring zoning amendments that would result in fewer developers leveraging concessions to waive the Public Art Requirement, and instead:

a. Alternatively, explore whether inclusionary affordable units can be set aside for artists/arts workers when developers seek concessions on the public art requirement.
b. Change the Public Art Requirement to be solely a Mitigation Impact Fee so that it is not on the list of costs that may be waived as a "concession" as is currently allowed under the State Density Bonus laws.

BACKGROUND

The City of Berkeley is well known for its diversity in art, music and culture. Arts and culture are also an important economic engine, bringing visitors from throughout the region and world to Berkeley to take part in our community's numerous cultural activities and admire our public art program. The City of Berkeley established the Public Art in Private Development policy by Ordinance in 2017, which requires qualifying private development projects to either incorporate a public art element or pay an in-lieu fee to the Cultural Trust Fund to support the ongoing activities outlined above. The Public Art on Private Development Program plays an essential role in maintaining and advancing Berkeley's cultural arts landscape.

Public Art Program Impact

Since the establishment of Public Art in Private Development policy and the adoption of the Ordinance in 2017, 49 development projects have completed their Public Art on Private Development requirement as follows:

- 8 have created on-site public art (Total value = $1,347,013)
- 35 have paid the in-lieu fee (Total collected = $4,729,284)
- 6 had "State Density Bonus" concessions granted to waive the public art requirement (Art requirement amount waived = $89,793,613 for three of the six projects - three did not provide values.)

There are currently 53 eligible projects in the development pipeline:

- 10 stated intentions to create on-site public art (Estimated total value = $2,429,949)
- 41 stated intentions to pay the in-lieu fee (Estimated total = $5,995,920)
- 1 stated intention to seek a "State Density Bonus" concession to waive the public art requirement (Value unknown.)

Details for all the development projects being tracked as subject to this requirement may be found in Attachment 1, the total received as of July 2024, since program inception is approximately $4.73M.

Use of In-Lieu Funds

By policy, 70% of the monies received from art in-lieu fees contributed primarily from commercial developers on large-scale projects goes towards acquiring and installing public art in the City of Berkeley. The recent sculpture by Mildred Howard installed near

BART's Ashby Station is an example of such an acquisition. The City of Berkeley has many unfunded Public Art needs that are dependent upon this fund source. For example, there are some projects which have been identified on the Civic Arts Commission Work Plan, which have not yet been fully funded through this fund source, such as Turtle Island Monument.

20% of the art in-lieu fees goes to administration which in turn support a portion of staff salaries for two FTEs in the Civic Arts team. These staff manage public art selection processes, contracts with artists, fabrication of artwork, installation of art and maintenance of the City's art collection. These functions are essential to maintaining the high quality of cultural arts in the City of Berkeley.

The remaining 10% of the art in-lieu fee contributes to the care and maintenance of existing public art in the City's public art collection, an essential factor in responsible art ownership. The recent cleaning and restoration of the *Mak Roote* murals at the University Avenue underpass at the Berkeley Amtrak station is an excellent case in point where several City departments teamed up to restore commissioned murals from the natural occurring weather damage but also to clean and beautify the surrounding area to greatly improve the setting for the artworks. This budget allows for the proper care and maintenance of dozens of public artworks in the City of Berkeley public art collection.

In 2019, the Civic Arts Program completed a comprehensive assessment of the City's Public Art Collection, which included a complete inventory and condition evaluation of all the artworks in the City's collection. The assessment found that 65% of the City's outdoor artworks require conservation attention. The estimated cost to conserve all the artworks in need of treatment is between $782,135 to $995,530. To preserve the collection, the artwork should also be regularly maintained at a cost of approximately $50,000 annually. Additionally, artwork is sometimes vandalized, and those repair costs can vary depending upon the damage.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The Public Art on Private Development Program is critical in the acquisition, installation, care and maintenance of many of the cultural artifacts and artworks that are integral to the City of Berkeley's unique identity. These attributes are world-renown, enjoyed by the public and can attract residents/tenants to reside in Berkeley. As the state law related to housing and private development evolves, so must the public art program and its fee structure.

ALTERNATIVE ACTIONS CONSIDERED

None.

CIVIC ARTS COMMISSION APPROVAL

The Civic Arts Commission took the following action at their regular meeting on July 24, 2024:
M/S/C (Covarrubias/Blecher) to request Council Referral for amendments to the Public Art on Private Development Ordinance and Budget Referral Request for Fee Nexus Study.
Vote: Ayes — Anno, Bachrach, Blecher, Covarrubias, Crandall, Ibarra, Pineda, Woo; Nays — None; Abstain — None; Absent — Bullwinkel.

CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

CONTACT PERSON

Jennifer Lovvorn, Secretary, Civic Arts Commission, (510) 981-7533

Attachment:

1: Public Art on Private Development, Private Percent Project Payment Tracking, 2024.

PUBLIC ART ON PRIVATE DEVELOPMENT			Date: 7/24/2024														
Fiscal Year	Project Address	Project Street	Type	On-Site Art Value	On-Site Art Admin 5% Fee	In-Lieu Fee Payment Amount	Date Paid	Fee Waived: State Density Bonus Concession Amount	On-Site Art	In-Lieu Fee	Fee Waived	Cumulative Totals: Number of On-site Art Projects	Cumulative Totals: Value of On-site Art Projects	Cumulative Totals: Number In-Lieu Fees	Cumulative Totals: Total In-Lieu Fees	Cumulative Totals: Number Fee Waived	Cumulative Totals: Total Amount Fees Waived
FY19																	
	1717	University	On-Site Art - Final Art Plan Approved						1								
	1950	Addison	On-Site Art - Final Art Plan Approved	$252,682.00					1								
	2120	Berkeley	On-Site Art - Final Art Plan Approved	$60,000.00					1								
	2124	BANCROFT	In-Lieu Fee Paid			$60,186.58	8/4/2017			1							
	2029	BLAKE	In-Lieu Fee Paid			$126,400.00	8/7/2017			1							
				$312,682.00	$0.00	$186,586.58			3	2		3	$312,682.00	2	$0.00		
FY20																	
	2503	HASTE	On-Site Art Plan approved & Admin Fee Paid	$328,460.28	$16,423.01		3/1/2019		1								
	2510	CHANNING	In-Lieu Fee Paid			$106,664.00	4/17/2019			1							
	2621	TENTH	In-Lieu Fee Paid			$84,000.00	5/17/2019			1							
	739	CHANNING	In-Lieu Fee Paid			$20,388.00	5/23/2019			1							
	2580	Bancroft	In-Lieu Fee Paid			$235,569.89	6/27/2019 for FY20			1							
				$328,460.28	$16,423.01	$446,621.89			1	4		4	$641,142.28	6	$463,044.90		
FY21																	
	2628	SHATTUCK	In-Lieu Fee Paid			$88,879.00	9/3/2019			1							
	999	ANTHONY	In-Lieu Fee Paid			$25,200.00	12/18/2019			1							
	2100	SAN PABLO	In-Lieu Fee Paid			$144,000.00	2/21/2020			1							
	2072	Addison	In-Lieu Fee Paid			$74,936.00	2/24/2020			1							
	2452	Durant	On-Site Art - Final Art Plan Approved	$42,185.00					1								
	2556	TELEGRAPH	On-Site Art Plan approved & Admin Fee Paid	$103,722.50	$5,186.13		5/20/2020		1								
	2028	BANCROFT	In-Lieu Fee Paid			$48,000.00	8/27/2020			1							
				$145,907.50	$5,186.13	$381,015.00			2	5		6	$787,049.78	11	$849,246.03		
FY22																	
	2229	FOURTH/2222 5th Street	In-Lieu Fee Paid			$17,360.21	5/26/2021			1							
				$0.00	$0.00	$17,360.21			0	1		6	$787,049.78	12	$866,606.24		
FY23																	
	Bayer Annual Payment FY23		Community Benefit Agreeement			$60,000.00	6/30/2023										
	3000	SAN PABLO	In-Lieu Fee Paid			$72,329.13	9/22/2021			1							
	2176	Kittredge (Same Project)	In-Lieu Fee Paid			$236,792.00	11/3/2021			1							
	2176	Kittredge (Same Project)	In-Lieu Fee Paid			$49,748.00	12/23/2021										
	2025	Kala Bagai Way	In-Lieu Fee Paid			$31,002.00	11/19/2021			1							
	600	Addison	In-Lieu Fee Paid			$1,414,578.00	12/21/2021			1							
	2352	Shattuck (Combo Art and Fee)	In-Lieu Fee Paid			$230,166.07	1/25/2022			1							
	2352	Shattuck (Combo Art and Fee)	On-Site Art Plan approved & Admin Fee Paid	$425,250.00	$21,262.50		1/25/2022		1								
	2902	ADELINE	In-Lieu Fee Paid			$80,000.00	4/11/2022			1							
	2000	Dwight	In-Lieu Fee Paid			$115,625.00	4/13/2022			1							
	2701	SHATTUCK	In-Lieu Fee Paid			$37,352.90	6/21/2022			1							
	2099	MLK	In-Lieu Fee Paid			$103,304.58	6/23/2022			1							
				$425,250.00	$21,262.50	$2,430,897.68			1	9		7	$1,212,299.78	21	$3,318,766.42		
FY24																	
	Bayer Annual Payment FY24		Community Benefit Agreeement			$62,424.00	9/30/2023										
	1951	SHATTUCK	In-Lieu Fee Paid			$480,000.00	7/19/2022			1							
	2000	University	In-Lieu Fee Paid			$41,388.52	7/20/2022			1							
	1331	ASHBY	In-Lieu Fee Paid			$7,040.00	7/21/2022			1							
	787	BANCROFT	In-Lieu Fee Paid			$164,905.22	9/20/2022			1							
	2213	Fourth	In-Lieu Fee Paid			$96,000.00	9/20/2022			1							
	2650	TELEGRAPH	In-Lieu Fee Paid			$46,278.00	9/22/2022			1							
				$0.00	$0.00	$898,035.74		$0.00	0	6	0	7	$1,212,299.78	27	$4,216,802.16	0	$0.00
FY25																	
	Bayer Annual Payment FY25		Community Benefit Agreeement			$63,672.00	not yet paid										
	2067	University	In-Lieu Fee Paid			$36,711.74	7/13/2023			1							
	2434	SAN PABLO	In-Lieu Fee Paid			$9,600.00	9/28/2023			1							
	1773	Oxford	In-Lieu Fee Paid			$30,548.77	10/2/2023			1							
	2590	BANCROFT	In-Lieu Fee Paid			$110,964.00	10/24/2023			1							
	2317	Channing	In-Lieu Fee Paid			$23,274.81	11/7/2023			1							
	2403	SAN PABLO	On-Site Art Plan approved & Admin Fee Paid	$134,714.00	$6,735.70		5/1/2024		1								
	2555	College	In-Lieu Fee Paid			$13,115.15	5/9/2024			1							
	2480	Bancroft	Fee Waived: State Density Bonus Concession				5/1/2023	$61,443			1						
	1950	Shattuck	Fee Waived: State Density Bonus Concession				3/12/2024	$89,627,324			1						
	2109	Milvia	Fee Waived: State Density Bonus Concession				3/12/2024	$116,290			1						
	2037	Durant	Fee Waived: State Density Bonus Concession				5/21/2024				1						
	2680	BANCROFT	Fee Waived: State Density Bonus Concession				6/25/2024				1						
	2036	BANCROFT	Fee Waived: State Density Bonus Concession				6/25/2024				1						
				$134,714.00	$6,735.70	$224,214.47		$89,805,056.69	1	6	6	8	$1,347,013.78	33	$4,447,752.33	6	$89,805,056.69
FY26																	

	Bayer Annual Payment FY26		Community Benefit Agreeement				not yet paid										
	2127	Dwight (2127-2159)	In-Lieu Fee (20% for Admin)			$125,476.26	7/1/2024			1							
	3030	TELEGRAPH	In-Lieu Fee (20% for Admin)			$156,056.16	7/1/2024			1							
				$0.00	$0.00	$281,532.42		$0.00	0	2	0	8	$1,347,013.78	35	$4,729,284.75	6	$89,805,056.69
In Progress																	
	742	Grayson	In-Lieu Fee			$314,637.06				1							
	805	Jones	On-Site Art (5% Admin Fee)	$9,712.50	$485.63				1								
	1110	University	On-Site Art (5% Admin Fee)	$175,000.00					1								
	1155 (-1173)	Hearst	In-Lieu Fee				No Declaration Yet										
	1200 (-1214)	SAN PABLO	In-Lieu Fee			$66,166.54	Not yet paid/This FY or next			1							
	1201	SAN PABLO	In-Lieu Fee			$65,789.48				1							
	1207	TENTH	On-Site Art (5% Admin Fee)	$56,039.00					1								
	1367	University	In-Lieu Fee (20% for Admin)			$7,651.19				1							
	1598	University	In-Lieu Fee (20% for Admin)			$106,658.34				1							
	1650	Alcatraz				not compliant											
	1650	SHATTUCK				$32,000.00				1							
	1652	University	In-Lieu Fee			$29,939.27				1							
	1740	SAN PABLO				not compliant											
	1752	Shattuck	In-Lieu Fee (20% for Admin)			$73,218.48				1							
	1773	Oxford	In-Lieu Fee (20% for Admin)			$30,548.77				1							
	1790	University	In-Lieu Fee (20% for Admin)			$39,286.00				1							
	1822	San Pablo				not compliant											
	1835	SAN PABLO	In-Lieu Fee			$94,198.00	Not yet paid			1							
	1900	FOURTH	In-Lieu Fee			$560,000.00	Not yet paid			1							
	1914	Fifth	In-Lieu Fee			$224,385.86				1							
	2001	ASHBY				no applic- not complaint											
	2015	Blake	In-Lieu Fee			$246,317.00	Not yet paid			1							
	2018	Blake	In-Lieu Fee (20% for Admin)			$32,000.00	Not yet paid			1							
	2023	SHATTUCK aka 2025 Kala Bagai Way	In-Lieu Fee			$30,822.00	Not yet paid			1							
	2037	Kala Bagai Way	Concession?								1						
	2065	KITTREDGE															
	2115	KITTREDGE	In-Lieu Fee			$237,979.00	Not yet paid			1							
	2127	Dwight (2127-2159)	In-Lieu Fee (20% for Admin)			$125,476.26	Not yet paid			1							
	2128	Oxford (2132-2154 Center)	Concession? Value in DRC packet $1.1M			$917,163.00	Not yet paid				1						
	2136	SAN PABLO	In-Lieu Fee			$104,878.65	Not yet paid			1							
	2190	SHATTUCK	In-Lieu Fee			$680,000.00				1							
	2198	SAN PABLO	In-Lieu Fee			$46,400.00	Not yet paid			1							
	2210	Harold	In-Lieu Fee			$122,500.00	Not yet paid			1							
	2221	Fourth/2216 5th St	In-Lieu Fee			$87,200.00				1							
	2229	FOURTH/2222 5th Street															
	2300	Ellsworth	In-Lieu Fee			$263,324.00				1							
	2317	Channing	In-Lieu Fee			$23,274.81	Not yet paid			1							
	2325	MCGEE Ave	In-Lieu Fee			$8,000.00	Not yet paid			1							
	2420	Shattuck	On-Site Art (5% Admin Fee)	$314,864.00	$15,743.20		received dec on 5/31/2023		1								
	2427	SAN PABLO (2427-2433)	In-Lieu Fee			$72,106.00	Not yet paid			1							
	2434	SAN PABLO				$9,600.00	Not yet paid			1							
	2435	SAN PABLO	In-Lieu Fee			$24,671.14	Not yet paid			1							
	2440	SHATTUCK				$120,000.00	received declaration 11/18/21										
	2441	Le Conte	In-Lieu Fee (20% for Admin)			$31,994.00	received declaration 2/21/24			1							
	2449	Dwight	In-Lieu Fee (20% for Admin)			$70,880.00	received declaration 11/9/22			1							
	2462	BANCROFT	In-Lieu Fee (20% for Admin)			$75,228.00				1							
	2527	SAN PABLO	In-Lieu Fee			$59,200.00	Not yet paid			1							
	2538	Durant	In-Lieu Fee (20% for Admin)			$132,000.00	Not yet paid			1							
	2538	Durant	In-Lieu Fee			$132,000.00				1							
	2550	Shattuck	TBD														
	2587	Telegraph	In-Lieu Fee (20% for Admin)			$139,044.00	Not yet paid			1							
	2601	San Pablo	On-Site Art (5% Admin Fee)	$496,920.00	$24,846.00				1								
	2712	TELEGRAPH	In-Lieu Fee (20% for Admin)			$58,118.00	Not yet paid										
	2720	SAN PABLO	On-Site Art (5% Admin Fee)	$ 191,501.00	$ 9,575.05				1								
	2733	San Pablo	On-Site Art (5% Admin Fee)	$ 383,583.00	$ 19,179.15				1								
	2795	SAN PABLO															
	2800	TELEGRAPH	In-Lieu Fee			$24,573.85	not yet paid			1							
	2847	Shattuck	On-Site Art (5% Admin Fee)	$247,415.72	$12,370.79				1								
	2920	Shattuck	On-Site Art (5% Admin Fee)	$449,914.00	$22,495.70				1								
	2942	College	In-Lieu Fee (20% for Admin)			8636.05				1							
	3000	SHATTUCK					No Declaration Yet										
	3030	TELEGRAPH	In-Lieu Fee (20% for Admin)			$156,056.16				1							
	3031	Adeline	On-Site Art (5% Admin Fee)	$105,000.00	$ 5,250.00				1								
	3031	TELEGRAPH	In-Lieu Fee			$312,000.00				1							
	TOTAL			$2,429,949.22	$109,945.51	$5,995,920.91		$0.00	10	40	2	18	$3,776,963.00	76	$10,835,151.17	8	$89,805,056.69

08

Office of the Mayor

CONSENT CALENDAR
September 24, 2024

To: Members of the City Council

From: Mayor Jesse Arreguín

Subject: Contract No. 32000196 Amendment: Szabo & Associates for Communications Consulting Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 32000196 with Szabo & Associates for communications consulting services for the Mayor's Office, increasing the contract amount by $11,632.30 for a new total not to exceed $347,632.30.

FINANCIAL IMPLICATIONS

This amendment will add $11,632.30 to extend the Mayor's Office's existing contract for communications consulting services. Funds for this contract amendment are available from the Mayor's Office budget.

CURRENT SITUATION AND ITS EFFECTS

Under Berkeley Municipal Code Chapter 7.18.010A, "expenditures…which exceed the amount of $50,000 shall require Council approval", as adopted under Ordinance No. 7,566 and mandated under Article XI, Section 67.5 of the City Charter.

Contract No. 32000196 was entered into on March 16, 2020, originally at $35,000. Since then, amendments have been made to extend the term of the contract. A new extension was approved by Council in July 2021, which was required as the increase in the cumulative amount of the contract went beyond the $50,000 threshold, thus requiring Council approval.

In 2021 during the first contract extension, as a courtesy, bargaining unit members of SEIU CSU/PTRLA were advised by City of Berkeley Human Resources Department of this contract extension and offered the opportunity to meet. The services provided under this contract are not of the kind, nature or type of work presently performed by the bargaining unit members.

BACKGROUND

Under Article VI, Section 21 of the City Charter, the Mayor is the ceremonial head of the City. As such, the Mayor serves as a spokesperson for the City, and should provide consistent information to residents and businesses on the operations and policies of the

City. Providing open and transparent lines of communication is a cornerstone of democracy and good governance. Relaying critical information, such as communications during the ongoing local state of emergency in response to COVID-19, PG&E Power Safety Shutoff events, other critical events, and City policies and programs, are important to the health, safety and operation of the City.

Services provided by Szabo & Associates include development of press releases and media advisories on issues of importance to the Berkeley community, maintaining social media accounts, press coordination, graphic design, and other support services relating to the communications from the Mayor's Office.

Council had previously approved an amendment to this contract under Resolution No. 71,426-N.S. at the June 25, 2024 meeting. While there are no changes to the term and cost of the contract, since the passage of the latest Resolution, it has been discovered that the totality of the contract since its inception in 2020 had unfortunately been miscalculated, resulting in a gap of $11,632.30. Approval of this resolution will have no impact on the General Fund, as the Mayor's Office already has funds available for this purpose. This contract is set to expire on November 30, 2024 to coincide with the end of the Mayor's term in office.

ENVIRONMENTAL SUSTAINABILITY

There are no environmental impacts associated with the recommendations in this report.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:
1: Resolution

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

CONTRACT: SZABO & ASSOCIATES FOR COMMUNICATIONS CONSULTING SERVICES FOR THE MAYOR'S OFFICE

WHEREAS, as the ceremonial head of the city under the City Charter, the Mayor must serve as a city spokesperson and provide consistent information to residents and businesses on the operations and policies of the City; and

WHEREAS, Szabo & Associates is a communications consulting firm whose services include development of press releases and media advisories on issues of importance to the Berkeley community, maintaining social media accounts, press coordination, and other support services relating to the communications; and

WHEREAS, providing open and transparent lines of communication is a cornerstone of democracy and good governance. Relaying critical information, such as communications during the ongoing local state of emergency in response to COVID-19, PG&E Power Safety Shutoff events, other critical events, and City policies and programs, are important to the health, safety and operation of the City; and

WHEREAS, under Berkeley Municipal Code Chapter 7.18.010A, "expenditures…which exceed the amount of $50,000 shall require Council approval", as adopted under Ordinance No. 7,566 and mandated under Article XI, Section 67.5 of the City Charter; and

WHEREAS, Contract No. 32000196 was entered into on March 16, 2020, originally at $35,000, with additional amendments having been made, and requires Council approval by passing the $50,000 threshold; and

WHEREAS, in July 2021, Council approved Resolution No. 69,985-N.S. to increase the contract by $78,000 and extending the contract to June 30, 2022; and

WHEREAS, in July 2022, Council approved Resolution No. 70,451-N.S. to increase the contract by $78,000 and extending the contract to June 30, 2023; and

WHEREAS, in June 2023, Council approved Resolution No. 70,928-N.S. to increase the contract by $78,000 and extending the contract to June 30, 2024; and

WHEREAS, in June 2024, Council approved Resolution No. 71,426-N.S. to increase the contract by $32,500 and extending the contract to November 30, 2024; and

WHEREAS, since the passage of the latest Resolution, it has been discovered that the totality of the contract since its inception in 2020 had unfortunately been miscalculated, resulting in a gap of $11,632.30; and

WHEREAS, funding for this amendment is available in the Mayor's Office budget.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 32000196 with Szabo & Associates for communications consulting services for the Mayor's Office, increasing the contract by $11,632.30.

09

Rashi Kesarwani
Councilmember, District 1

CONSENT CALENDAR
September 24, 2024

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author)

SUBJECT: Budget Referral: Independent Consultant to Conduct Analysis of Referring Restaurant Inspections to Alameda County

RECOMMENDATION

Refer to the November budget process $100,000 for the City Manager to engage an independent consultant to conduct an analysis that considers feasibility, costs, and benefits of referring food facility inspections to Alameda County, and submit a report with recommendations for Council consideration and potential action as soon as practicable.

The report should consider the following key areas:

- Environmental Health Division staffing, recruitment and retention;
- Costs and staffing resources to develop a new restaurant inspection database that complies with state rules; and
- Costs and staffing resources to develop a restaurant "grading" system, such as those used in Los Angeles County, New York City, or other jurisdictions.

CURRENT SITUATION AND ITS EFFECTS

Nearly 45 Percent of Berkeley Food Facilities Were Not Inspected in 2023. The Berkeley City Auditor released an audit in July 2024, "Berkeley Restaurant Inspections: Chronically Understaffed Program Did Not Meet Targets," finding that the City's Environmental Health Division of the Health, Housing and Community Services Department did not meet its targets for food facility inspections in 2023, increasing health risk.[1] Nearly 45 percent of Berkeley's permitted food facilities, including 193 restaurants, were not inspected even once. This is in stark contrast to Alameda County, where only 3 percent of food facilities went uninspected during the same period. Chronic understaffing and inadequate data management have exacerbated the City's challenges in meeting its inspection targets and ensuring public health.

[1] City Auditor, "Berkeley Restaurant Inspections: Chronically Understaffed Program Did Not Meet Targets," https://berkeleyca.gov/sites/default/files/documents/Berkeley_Restaurant_Inspections_-_Chronically_Understaffed_Program_Did_Not_Meet_Targets.pdf

City Staff Say Annual Inspection Targets Are "Not Achievable" for High Risk Food Facilities. Berkeley is one of four cities in California that conducts its own restaurant inspections, which are typically handled by county health offices, according to Berkeleyside.[2] According to reporting from Berkeleyside, City spokesperson Maitée Rossoukhi wrote in an e-mail that staff have visited 302 of the 544 "high risk facilities" in Berkeley, a category that includes restaurants, nursing homes, catering operations and several other types of food-centric businesses. The city estimates the rest of the inspections will be done by the end of October. Significantly, Berkeleyside wrote, even if the division's staff clear the backlog of facilities that were not inspected last year, they would still be well short of the department's stated target of visiting restaurants every four months, as show in Figure 2 below from the audit report. The City Auditor's report found that almost none of Berkeley's food facilities are inspected that often, and division employees consider the goal "not achievable."

Figure 2. Inspection Targets By Risk Level, 2023

Risk Level	Description and Examples	Total Facilities	Annual Inspection Targets
Very High	Foods that fall within the high risk designation and serve a vulnerable population. Example: nursing care facilities.	7	3
High	Foods with complex preparation, including pre-preparation, cooling, and reheating. Examples: catering operations, food trucks, and restaurants.	526	3
Medium	Foods that require light preparation. Examples: cafes, schools, and fraternities/sororities.	204	2
Low	Pre-packaged foods. Examples: small grocery stores, convenience stores, and farmer's market stands.	143	1
No Risk Level	Various types of facilities listed above.	53	1 or more

Source: Environmental Health Division and analysis of Division database

BACKGROUND

Understaffing, Poor Data Management, and Resulting Lack of Public Transparency Plague Berkeley's Current Inspection System. The audit found that Berkeley's Environmental Health Division is severely understaffed, with only three food inspectors responsible for nearly 600 routine inspections each—far exceeding the recommended workload by the federal Food and Drug Administration. This staffing shortage has resulted in a backlog of inspections, particularly among high-risk facilities such as restaurants and nursing care homes. Additionally, the audit exposed gaps in public transparency, with limited access to food safety information, and issues with data management, leading to some facilities being overlooked entirely. According to reporting from Berkeleyside, City staff estimate that it could take "a year or longer" for Berkeley to develop a new database that complies with state rules, a process that would require additional funding from the City.

[2] Savidge, Nico, "Berkeley may rethink restaurant inspections after audit reveals serious failures, health chief says," https://www.berkeleyside.org/2024/08/05/berkeley-restaurant-inspections-environmental-health-audit, Aug. 5, 2024

RATIONALE
Alameda County appears to have an effective food inspection program with a much lower percentage of uninspected facilities compared to Berkeley. The county's larger pool of resources and established systems for data management and reporting suggest that the City should further explore the possibility of referring food facility inspections to the county.

FISCAL IMPACTS
Engaging an independent consultant will incur costs of $100,000. The consultant's analysis and recommendations will guide the City Council in making an informed decision that could ultimately lead to cost savings.

CONTACT PERSON
Councilmember Rashi Kesarwani
(510) 981-9110

Berkeley City Councilmembers
Mark Humbert, District 8
Terry Taplin, District 3
Susan Wengraf, District 6
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
mhumbert@berkeleyca.gov

CONSENT CALENDAR
September 24, 2024

To: Honorable Mayor and Members of the City Council

From: Councilmember Humbert (Author), Councilmember Taplin (Co-Author), Councilmember Wengraf (Co-Author)

Subject: Resolution Clarifying the Intent of Measure Y (2024) – Increasing the Parks, Trees and Landscaping Maintenance Tax

RECOMMENDATION

In order to ensure that voters are fully informed and to inform future discussions of potential expenditures, it is recommended that the Berkeley City Council adopt the following language to clarify (but not change) the intent of Measure Y:

> *The intent of Measure Y is to generate additional funds by increasing the Parks Tax for park and landscape maintenance in the Waterfront including Cesar Chavez (Berkeley's largest park), improvements to Berkeley's urban forest and street tree plantings, and essential park and landscaping related capital projects.*

FINANCIAL IMPLICATIONS

None. Staff time to record resolution.

CURRENT SITUATION AND ITS EFFECTS

At a special meeting on July 30, 2024, the Berkeley City Council unanimously approved[1] Item 6c to[2]:

1. Adopt a Resolution placing the attached measure to increase the parks, trees and landscaping maintenance tax on the ballot at the November 5, 2024 General Municipal Election.

2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

---

[1] https://berkeleyca.gov/sites/default/files/city-council-meetings/2024-07-30%20Special%20Annotated%20Agenda%20-%20Council.pdf

[2] https://berkeleyca.gov/sites/default/files/documents/2024-07-30%20Special%20Item%2006c%20Ballot%20Measure%20%E2%80%93%20Increasing%20the%20Parks%2C%20Trees%20and%20Landscaping.pdf

BACKGROUND

In an item from the December 12, 2023 Council Meeting[3], the Parks, Recreation and Waterfront Commission recommended that the City Council include in upcoming community survey for possible 2024 ballot measures, a measure to increase the Parks Tax by 4ct/ft2 or ~20%, and appropriate funding for the survey.

This recommendation was based on action at the regular Parks, Recreation and Waterfront Commission meeting on November 8, 2023. At that meeting, the Commission approved a motion to communicate a recommendation to Council to include an increase in the Parks Tax by 4cts/SF or ~20% in polling for possible November 2024 ballot measures. The estimated $3.5M annually, would be divided between: major maintenance/capital projects, Urban Forest restoration, and consolidation of three Waterfront Parks into City Park system.

The vote at the meeting was:

M/S/C (Avellar/Kawczynska/U). Ayes: Abshez; Avellar; Cox; Diehm; Kawczynska; Lee; Ranuzzi; Wozniak; Noes: None; Absent: Hurtado; Leave of Absence: None.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None. The resolution makes no change to the originally intended uses of potential funds; it merely formalizes and makes explicit the intent verbally discussed at previous Council meetings.

CONTACT PERSON

Councilmember Mark Humbert Council District 8 510-981-7180

[3] https://berkeleyca.gov/sites/default/files/documents/2023-12-12%20Item%2023%20Council%20Referral%20%E2%80%93%20Request%20for%20City.pdf

Office of the City Manager

11

ACTION CALENDAR
September 24, 2024
(Continued from the September 10, 2024 meeting)

To: Honorable Mayor and Members of the City Council

From: LaTanya Bellow, Interim City Manager

Submitted By: Mark Numainville, City Clerk

Subject: City Council Rules of Procedure and Order Revisions

RECOMMENDATION
Adopt a Resolution revising the City Council Rules of Procedure and Order to clarify and reorganize existing language, make technical corrections related to account for hybrid meetings; incorporate temporary provisions from Appendix C into the main body of the document; add revisions recommended by the Open Government Commission and approved by Council; Add new language and update existing language related to the legislative process recommended by the Agenda & Rules Committee; and rescinding any preceding amendatory resolutions.

POLICY COMMITTEE RECOMMENDATION
On August 26, 2024, the Agenda and Rules Committee adopted the following action: M/S/C (Hahn/Arreguin) to send the proposed amendments to the Rules of Procedure, as discussed and further amended on August 26, 2024, to the City Council with a positive recommendation. Vote: Ayes – Hahn, Arreguin; Noes – None; Abstain – Wengraf.

FISCAL IMPACTS OF RECOMMENDATION
None.

CURRENT SITUATION AND ITS EFFECTS
This review and update of the Rules of Procedure was precipitated several factors, 1) the end of the state-declared emergency and the return to in-person meetings in the hybrid format; 2) approval of the Open Government Commission (OGC) recommendations by Council on May 7, 2024; and 3) the legislative redesign process that has been discussed for several years by the full Council and at the Agenda & Rules Committee. In addition, all defined terms have been capitalized for consistency.

During the review, other technical corrections and updates were identified that will keep the Rules of Procedure current and effective. The updates are shown in track changes with explanatory comments in Attachment 2. The primary categories of updates are noted below.

- Add new amendments to the legislative process related to “Major Items” submitted by Councilmembers, the authority of the Agenda & Rules Committee with regards to items submitted by the Mayor and Council, and process improvements for policy committees.

- Incorporate the recommendations from the OGC that Council adopted on May 7, 2024 related to public comments, consideration of consent calendar items, and meeting/agenda management.

- Modify the noticing procedures for ad hoc committees to align with the rules in the Brown Act, and for consistency with City boards and commissions.

- Update the legislative process rules to account for the new Charter Offices of City Attorney and Director of Police Accountability, and properly account for the role of the Auditor in the process.

- Update public comment procedures to account for speakers participating both remotely and in-person under the hybrid meeting model.

- Remove Appendix C, specific to all-remote pandemic meetings, and incorporate certain successful provisions into the main body regarding moving items to the Action Calendar, public comments, and Council debate procedures.

BACKGROUND

The City Council Rules of Procedure and Order governs the duties of the Council, the conduct of meetings, the agenda, procedural matters and facilities. The rules have been amended as necessary over time to improve the function of the legislative process and the conduct of City Council meetings.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The changes to the Rules are intended to keep the document current and directly applicable to Council meeting format and procedure.

ALTERNATIVE ACTIONS CONSIDERED

The Council may adopt all, some, or none of the proposed amendments.

CONTACT PERSON

Mark Numainville, City Clerk, (510) 981-6900

Attachments:
1: Resolution
    Exhibit A: City Council Rules of Procedure and Order
2: Track Changes Version - City Council Rules of Procedure and Order

Office of the City Manager

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

RE-ADOPTING THE CITY COUNCIL RULES OF PROCEDURE

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council Rules of Procedure and Order attached hereto as Exhibit A shall govern all proceedings of the City Council therein described, subject to the exception and deviations provided for in such rules.

BE IT FURTHER RESOLVED that violation of these rules shall not be construed as a penal offense, except as provided for by the adopted Rules of Procedure.

BE IT FURTHER RESOLVED that this update is to clarify and reorganize existing language, make technical corrections related to hybrid meetings; incorporate temporary provisions from Appendix C into the main body of the document; add certain new provisions approved by Council; and make changes related to improvements in the legislative process.

BE IT FURTHER RESOLVED that all preceding amendatory resolutions are hereby rescinded.

Exhibit A: City Council Rules of Procedure and Order

2180 Milvia Street, Berkeley, CA 94704 ● Tel: (510) 981-7000 ● TDD: (510) 981-6903 ● Fax: (510) 981-7099
E-Mail: manager@berkeleyca.gov Website: http://www.berkeleyca.gov

Exhibit A

The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. ##,###–N.S.

Effective [Date]

Table of Contents

I. DUTIES....4

A. Duties of Mayor....4
B. Duties of Councilmembers....4
C. Motions to be Stated by Chair....4
D. Decorum by Councilmembers....4
E. Voting Disqualification....4
F. Requests for Technical Assistance and/or Reports....5

II. MEETINGS....6

A. Call to Order - Presiding Officer....6
B. Roll Call....6
C. Quorum Call....6
D. Council Meeting Conduct of Business....6
E. Adjournment....7
F. Unfinished Business....7
G. City Council Schedule and Recess Periods....7
H. Pledge of Allegiance to the Flag....8
I. Ad Hoc Subcommittees....8

III. AGENDA....9

A. Declaration of Policy....9
B. Definitions....9
C. Standards for Agenda Items....10
D. Procedure for Bringing Matters Before City Council....12
E. Packet Preparation and Posting....18
F. Agenda Sequence and Order of Business....20
G. Closed Session Documents....20
H. Regulations Governing City Council Policy Committees....21
I. Agenda Items Authored by Former Mayors and Councilmembers....25

IV. CONDUCT OF MEETING....26

A. Comments from the Public....26
B. Consent Calendar....29
C. Information Reports Called Up for Discussion....30
D. Written Communications....30
E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters....30
F. Work Sessions....31
G. Protocol....31

V. PROCEDURAL MATTERS....32

A. Persons Authorized to Sit at Tables....32
B. Decorum....32
C. Enforcement of Decorum....32
D. Precedence of Motions....32
E. Robert's Rules of Order....33
F. Rules of Debate....33
G. Debate Limited....34
H. Motion to Lay on Table....34
I. Division of Question....34
J. Addressing the Council....34
K. Addressing the Council After Motion Made....35
L. Use of Cellular Phones and Electronic Devices....35

VI. FACILITIES 36

A. Meeting Location Capacity 36
B. Alternate Facilities for Council Meetings 36
C. Amplified Sound, Signs, Objects, and Symbolic Materials 36
D. Fire Safety 36
E. Overcrowding 36
F. Format of Meetings 37

APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES 38

APPENDIX B. GUIDELINES FOR CITY COUNCILMEMBER/MAYOR MAJOR ITEMS 41

I. DUTIES

A. Duties of Mayor

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. In the Mayor's absence, the Vice President of the Council (hereafter referred to as the Vice-Mayor) shall preside.

B. Duties of Councilmembers

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

C. Motions to be Stated by Chair

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

D. Decorum by Councilmembers

While the Council is in session, the City Council will practice civility and decorum in their discussions and debate. Councilmembers will value each other's time and will preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council, use personal, impertinent or slanderous remarks, nor disturb any other member while that member is speaking or refuse to obey the orders of the presiding officer or the Council, except as otherwise provided herein.

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak. The Presiding Officer may set a limit on the speaking time allotted to Councilmembers during Council discussion.

The presiding officer has the affirmative duty to maintain order. The City Council will honor the role of the presiding officer in maintaining order. If a Councilmember believes the presiding officer is not maintaining order, the Councilmember may move that the Vice-Mayor, or another Councilmember if the Vice-Mayor is acting as the presiding officer at the time, enforce the rules of decorum and otherwise maintain order. If that motion receives a second and is approved by a majority of the Council, the Vice-Mayor, or other designated Councilmember, shall enforce the rules of decorum and maintain order.

E. Voting Disqualification

No member of the Council who is disqualified shall vote upon the matter on which the member is disqualified. Any member shall openly state or have the presiding officer announce the fact and nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be

decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to recuse themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

F. Requests for Technical Assistance and/or Reports

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

II. MEETINGS

A. Call to Order - Presiding Officer

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting Agenda and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair. In the absence of the two officers specified in this section, the Councilmember present with the longest period of Council service shall preside.

B. Roll Call

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

C. Quorum Call

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

D. Council Meeting Conduct of Business

The Agenda for the regular business meetings shall include the Order of Business described in Chapter III.F. Presentations and workshops may be included as part of the Action Calendar. The Chair will determine the order in which the item(s) on Action will be heard.

Three or more members of the City Council must agree to pull an item from the Consent or Information Calendar for it to move to Action. Absent at least three members concurring, the item will stay on the Consent or Information Calendar.

With respect to Consent items, the Mayor or Councilmembers will be allowed to record their aye, nay or abstain votes on individual items or the entire Consent Calendar prior to the vote on the Consent Calendar. However, if three or more Councilmembers object to a Consent item by expressing their intent to abstain or vote no, the item shall be moved from Consent to Action.

Moving an item from the Action Calendar to the Consent Calendar requires the unanimous consent of the entire City Council.

A public hearing that is not expected to be lengthy may be placed on the Agenda for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council’s regular meeting schedule is heavily booked, the Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the Agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Except at meetings at which the budget is to be adopted, no public hearing may commence later than 10:00 p.m. unless there is a legal necessity to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing.

The Council will endeavor to inform meeting attendees of the approximate time for high interest items. In addition, the Council will make best efforts to determine if items should be carried over to future meetings earlier in the meeting rather than later.

E. Adjournment

No Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific Agenda Items to be covered and shall specify in which order these items shall be handled.

Any items not completed at a regularly scheduled Council meeting may be continued to an Adjourned Regular Meeting by a two-thirds majority vote of the Council.

F. Unfinished Business

Any items not completed by formal action of the Council, and any items not postponed to a date certain, shall be considered Unfinished Business. All Unfinished Business shall be referred to the Agenda & Rules Committee for scheduling for a Council meeting that occurs within 60 days from the date the item last appeared on a Council Agenda. The 60 day period is tolled during a Council recess.

G. City Council Schedule and Recess Periods

Pursuant to the Open Government Ordinance, the City Council shall hold a minimum of twenty-four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.

Regular meetings of the City Council shall be held generally two to three Tuesdays of each month except during recess periods; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

Regular City Council meetings shall begin no later than 6:00 p.m.

A recess period is defined as a period of time longer than 21 days without a regular meeting of the Council.

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the Agenda & Rules Committee meeting for the last regular meeting before a Council

recess and this authority shall extend up to the date of the Agenda & Rules Committee meeting for the first regular meeting after the Council recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

H. Pledge of Allegiance to the Flag

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the Ceremonial Calendar will be the Pledge of Allegiance.

I. Ad Hoc Subcommittees

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Councilmembers may be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from residents, related commissions, and other groups, as appropriate to the charge or responsibilities of such subcommittee. Ad hoc subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

III. AGENDA

A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the Agenda of the meeting and posted in accordance with Section III.E.2. Exceptions to this rule are limited to circumstances listed in Section III.E.4.b and items continued from a previous meeting and published on a revised Agenda.

B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the Agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by the Mayor or any Councilmember, a Charter Officer, the Auditor, or any board/commission/committee created by the City Council or City Charter, or any Report For Information which may be acted upon if the Mayor or a Councilmember so requests. For purposes of this section, appeals shall be considered action items. All information from a Charter Officer concerning any item to be acted upon by the Council shall be submitted as a report on the Agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney-client communication concerning a litigation matter. Council Agenda Items are limited to a maximum of four Authors and Co-Sponsors, in any combination that includes at least one Author.

   Authors must be listed in the original item as submitted by the Primary Author. Co-Sponsors may only be added by the Primary Author (1) at the Agenda Committee meeting where the item is placed on a Council Agenda; or (2) after the item has been placed on a Council Agenda, through the Supplemental process, or (3) at the Council meeting where the item appears on the Agenda.

2. “Author” means the Mayor or other Councilmembers who actually authored an item by contributing to the ideas, research, writing or other material elements.

3. “Primary Author” means the Mayor or Councilmember listed first on the item. The Primary Author is the sole contact for the City Manager with respect to the item. Communication with other Authors and Co-Sponsors, if any, is the responsibility of the Primary Author.

4. “Co-Sponsor" means the Mayor or other Councilmembers who wish to indicate their strong support for the item, but are not Authors, and are designated by the Primary Author to be Co-Sponsors of the Council Agenda Item.

5. "Agenda" means the compilation of the descriptive titles of Agenda Items submitted to the City Clerk, arranged in the sequence established in Section III.F hereof.

6. "Packet" means the Agenda plus all of its corresponding Agenda Items.

7. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:

    a) A work stoppage or other activity which severely impairs public health, safety, or both exists;

    b) A crippling disaster, which severely impairs public health, safety or both exists.

    c) Notice of the Council's proposed consideration of any such Emergency Matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.

8. “Continued Business” means Items carried over from a prior Agenda of a meeting occurring 11 or fewer days earlier.

9. "Old Business" means Items carried over from a prior Agenda of a meeting occurring more than 11 days earlier.

10. “Charter Officer” means the City Manager, City Attorney, and the Director of Police Accountability.

11. “Major Item” means an Agenda Item with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts submitted by the Mayor or any Councilmember.

12. “Regular Item” means any Agenda Item not classified as a Major Item.

C. Standards for Agenda Items

1. Agenda Items, other than Major Items submitted by the Mayor or any Councilmember, shall contain all relevant documentation, including the information listed below:

    i. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;

    ii. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;

    iii. Recommendation of the report’s author that describes the action to be taken on the item, if applicable;

    iv. Fiscal impacts of the recommendation;

    v. A description of the current situation and its effects;

    vi. Background information as needed;

    vii. Rationale for recommendation;

viii. Alternative actions considered;

ix. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items);

x. Person or persons to contact for further information, with telephone number;

xi. Additional information and analysis as may be required.

xii. Environmental sustainability and climate impacts.

It is recommended that Regular Item reports also include, to the extend relevant, the points of analysis in Major Council Item Standards in Section C.2.

2. Major Items submitted by the Mayor or any Councilmember shall contain all relevant documentation, including the information listed below and more fully described in Appendix B, Guidelines for City Councilmember/Mayor Major Items:

i. Title

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

ii. Consent/Action/Information Calendar

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

iii. Recommendation

A clear, succinct statement of actions to be taken. More lengthy/detailed actions can be detailed within the item and incorporated by reference.

iv. Summary Statement/Current Situation and its effects

A short resume of the circumstances that give rise to the need for the recommended actions.

v. Background

A full discussion of the history, circumstances and concerns to be addressed by the item.

vi. Review of Existing Plans, Programs, Policies and Laws

Review, identification, and discussion of relevant/applicable City of Berkeley, State, and other relevant Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from, or run contrary to them.

vii. Actions/Alternatives Considered

A listing of solutions/measures that other jurisdictions, advocates, experts, or organizations have studied or adopted to address the same or similar subject matter, the range of actions considered, and the reasons why those solutions/measures are proposed to be adopted, modified, or rejected.

viii. Consultation/Outreach Overview and Results

Review/listing of external and internal City of Berkeley stakeholders that were consulted and reports, articles, books, websites and other materials that were consulted and discussion of approaches that were accepted, modified, or rejected.

ix. Rationale for Recommendation

A clear and concise statement as to whether the item proposes actions that (a) conform to, clarify or extend, (b) make major or minor changes/amendments, (c) create an exception, or (d) reverse/go contrary to existing City of Berkeley Plans, Programs, Policies and Laws, or (e) create largely or entirely new Plans, Programs, Policies or Laws.

x. Implementation, Administration and Enforcement

A discussion of how the recommended action would be implemented, administered and enforced by the City of Berkeley.

xi. Environmental Sustainability and Climate Impacts

A discussion of the impacts of recommended actions, if any, on the environment and the recommendation's relationship to the City's Climate Action, Resilience, and other sustainability goals.

xii. Fiscal Impacts

A review of the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as expected or potential direct and indirect costs.

xiii. Outcomes and Evaluation

A statement of the specific outcomes expected and what reporting and/or evaluation is recommended to ensure the outcomes are being achieved.

xiv. Contact Information

xv. Attachments/Supporting Materials

D. Procedure for Bringing Matters Before City Council

1. Persons Who Can Place Matters on the Agenda.

Matters may be placed on the Agenda by the Mayor or any Councilmember, the Auditor, Charter Officers, or any board/commission/committee created by the City Council, ballot measure, or the City Charter. All items are subject to review, referral, and scheduling by the Agenda & Rules Committee pursuant to the rules

and limitations contained herein. The Agenda & Rules Committee shall be a standing committee of the City Council.

The Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the Agenda of that City Council meeting. Pursuant to BMC Section 1.04.080, if the 15th day prior to the Council meeting falls on a holiday, the Committee will meet the next business day. The Agenda & Rules Committee Packet, including a draft Agenda and reports from the Mayor and Councilmembers, the Auditor, and Commission shall be distributed by 5:00 p.m. four days before the Agenda & Rules Committee meeting.

The Agenda & Rules Committee shall have the powers set forth below.

a) Regular Items Authored by the Mayor or a Councilmember.
As to Regular Items authored by the Mayor or a Councilmember, the Agenda & Rules Committee shall review the item and may take the following actions:

i. Refer the item to a commission for further analysis (Primary Author may decline and request Policy Committee assignment).

ii. Refer the item to the City Manager for further analysis (Primary Author may decline and request Policy Committee assignment).

iii. Refer the item back to the Primary Author for requested amendments, adherence to required form, or for additional analysis, as required in Section III.C.1 (Primary Author may decline and request Policy Committee assignment).

iv. Refer the item to a Policy Committee.

v. Schedule the item for the Agenda under consideration or one of the next three regular Council Agendas.

b) Major Items.
The Agenda & Rules Committee retains the authority to designate which Agenda Items are classified as Major Items. With regards to Major Items, the Agenda & Rules Committee shall review the item and may take the following actions:

i. Return the item to the Author if the committee determines that the item is not substantially compliant with Chapter III.C.2 and the guidelines in Appendix B.

ii. Refer the item to a policy committee and send a notice to the Budget & Finance Committee if the item contains a budget referral.

iii. Schedule the item for the Council Agenda under consideration.

iv. Schedule the item for one of the susequent three Council Agendas or a special meeting.

v. Refer the item to a commission with the consent of the Primary Author.

c) For referrals of Regular Items under Chapter III.D.1.a.i, ii, or iii, the Primary Author must inform the City Clerk within 24 hours of the adjournment of the Agenda & Rules Committee meeting whether they prefer to:

1) re-submit the item for a future meeting with modifications as suggested by the Agenda & Rules Committee; or

2) withdraw the item completely; or

3) re-submit the item with revisions as requested by the Agenda & Rules Committee within 24 hours of the adjournment of the Agenda & Rules Committee meeting for the Council Agenda under consideration; or

4) accept the referral of the Agenda & Rules Committee in sub paragraphs III.D.1.a. i, ii, or iii, or request Policy Committee assignment.

If the Primary Author requests a Policy Committee assignment, the item will appear on the next draft Agenda presented to the Agenda & Rules Committee for assignment.

In the event that the City Clerk does not receive guidance from the Primary Author of the referred item within 24 hours of the Agenda & Rules Committee's adjournment, the item will appear on the next draft Agenda for consideration by the Agenda & Rules Committee.

Items being resubmitted for a future meeting to allow for modifications will be placed on the next available Council meeting Agenda at the time that the revised version is submitted to the City Clerk.

d) Items Authored by Charter Officers and the Auditor.
The Agenda & Rules Committee shall review agenda descriptions of items authored by Charter Officers and the Auditor. The Committee can recommend that the matter be referred to a commission, to a Policy Committee, or back to the Charter Officer or the Auditor for adherence to required form, additional analysis as required in Section III.C.1, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the Charter Officer or the Auditor determines that their item should proceed notwithstanding the Agenda & Rules Committee's recommendation, it will be placed on the Agenda as directed by the Charter Officer or the Auditor. All Charter Officer and Auditor items placed on the Council Agenda against the recommendation of the Agenda & Rules Committee will automatically be placed on the Action Calendar.

e) Items Authored by Boards and Commissions.

Agenda Items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. The content of commission items is not subject to review by the Agenda & Rules Committee unless referred for policy review to the Agenda & Rules Committee.

i) For a commission item that does not require a companion report from the City Manager, the Agenda & Rules Committee may act on an agendized commission item in the following manner:

1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.

2. Re-schedule the commission report to appear on one of the next three regular Council meeting Agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.

3. Refer the item to a Policy Committee for review.

4. Allow the item to proceed as submitted.

ii) For any commission report that requires a City Manager companion report, the Agenda & Rules Committee may schedule the item on a Council Agenda. The Committee must schedule the commission item for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the Agenda & Rules Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph e.i. above.

f) The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section F.

2. Removal of Agenda Items from the Legislative Process

A Primary Author may withdraw their Agenda Item from the legislative process as follows: 1) during the time it is pending at a policy committee by sending written notification to the City Clerk or verbally at the meeting; 2) verbally at the Agenda & Rules Committee meeting when the item appears on a draft Council Agenda; or 3) verbally at the City Council meeting when the item appears on the Council Agenda or in writing through the supplemental process.

3. **Scheduling Public Hearings Mandated by State, Federal, or Local Statute.** The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.

4. **Submission of Agenda Items.**
   a) **Charter Officer Items.** Except for Continued Business and Old Business, as a condition to placing an item on the Agenda, Agenda Items from departments, including Agenda Items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.

   b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and Councilmembers is 5:00 p.m. on Monday, 22 days before each regular Council meeting.

   c) **Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the Author and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by a Charter Officer, the Auditor, Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published Agenda.

      The Primary Author of the report shall bring any reports submitted as Time Critical to the meeting of the Agenda & Rules Committee. Time Critical items must be accompanied by complete reports and statements of financial implications. If the Agenda & Rules Committee finds the matter to meet the definition of Time Critical, the Agenda & Rules Committee may place the matter on the Agenda on either the Consent or Action Calendar.

   d) **Timelines.** The City Clerk may not accept any Agenda Item after the adjournment of the Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring 11 or fewer days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.

5. **Submission of Supplemental and Revised Agenda Material.** Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an Agenda Item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:

   a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council

meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for public review or City Councilmember evaluation.

b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for public review or City Council evaluation.

c) After 12:00 p.m. one calendar day prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 40 copies of the supplemental/revised material to the City Clerk for distribution at the meeting and submitting the material electronically to the City Clerk. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for public review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the Agenda Item in order for the material to be considered.

6. Submission of Late Urgency Items Pursuant to Government Code Section 54954.2(b)

Late Urgency Items are items proposed for submission to the Council Agenda pursuant to Government Code Section 54954.2(b)

All items to be submitted for consideration for addition to an Agenda as Late Urgency Items shall be accompanied by a cover sheet that includes 1) boxes to check for the Author to affirm whether the item is submitted under the Emergency or Immediate Action Rule (and a short explanation of what is required to meet each rule, as well as the vote threshold required for the item to be placed onto the Agenda by the City Council); 2) a disclaimer in BOLD 14pt. CAPS stating that the item is not yet agendized and may or may not be accepted for the Agenda as a

Late Urgency Item, at the City Council's discretion according to Brown Act rules; 3) a prompt requiring the Author to list the facts which support consideration of the item for addition to the Agenda as either an Emergency or Immediate Action item; and 4) a copy of the City Attorney memo on Late Urgency Items.

Late Items must be submitted to the City Clerk no later than 12:00 p.m. (noon) the day prior to the meeting.

All complete Late Items submitted by the deadline will be distributed with Supplemental Communication Packet #2 by 5:00 p.m. the day before the Council meeting. A Late Item is not considered "complete" and will not be distributed unless submitted with the required cover sheet, filled out in a complete manner.

Very Late Urgency Items of an extremely urgent nature (e.g., earthquake, severe wildfire, pandemic) may be submitted for addition to the Agenda after the deadline of 12:00 p.m. the day before the meeting to accommodate unforeseeable, extreme and unusual circumstances. A Very Late Urgency Item will be distributed at the Council meeting prior to any vote to add it to the Agenda and the Presiding Officer may provide an appropriate break to allow Councilmembers and the public to review the item before voting on whether to add it to the Agenda and possibly again, at the Presiding Officer's discretion, before the item is voted on.

The required cover sheet should be included with the Very Late Urgency Item unless extremely exigent circumstances underlie the Very Late Urgency Item submission and a written cover sheet could not be prepared (for example, power is out and printing or emailing is not possible), in which case the individual "walking in" the item should be ready to provide all required information verbally at the meeting before a vote is taken to add or not add the item to the Agenda.

7. Scheduling a Presentation.

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda. The Agenda & Rules Committee may request a presentation by staff in consultation with the City Manager.

E. Packet Preparation and Posting

1. **Preparation of the Packet.**

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the Packet, which shall include the Agenda plus all its corresponding Agenda Items. No item shall be considered if not included in the Packet, except as provided for in Section III.D.5. and Section III.E.4.

2. **Distribution and Posting of Agenda.**

a) The City Clerk shall post each Agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each Agenda of a special meeting at least 24 hours prior to the meeting on the official bulletin

board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each Agenda.

b) The City Clerk shall also post Agendas and annotated Agendas of all City Council meetings and notices of public hearings on the City's website.

c) No later than 11 days prior to a regular meeting, copies of the Agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

3. **Distribution of the Agenda Packet.**
The Agenda Packet shall consist of the Agenda and all supporting documents for Agenda Items. No later than 11 days prior to a regular meeting, the City Clerk shall:

a) distribute the Agenda Packet to each member of the City Council;

b) post the Agenda Packet to the City's website;

c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and

d) make the Agenda Packet available to members of the press.

4. **Failure to Meet Deadlines.**
a) The City Clerk shall not accept any Agenda Item or revised Agenda Item after the deadlines established.

b) Matters not included on the published Agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:

- A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.7.

- Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the Agenda as required by law.

c) Matters listed on the printed Agenda but for which supporting materials are not received by the City Council on the eleventh day prior to said meeting as part of the Agenda Packet, shall not be discussed or acted upon.

F. Agenda Sequence and Order of Business

The Council Agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Land Acknowledgement Statement, Comments from the City Manager, Comments from the City Auditor [if requested], Non-Agenda Public Comment, Public Comment by Employee Unions)
    a) The Land Acknowledgement Statement and Public Comment from Employee Unions are regularly agendized only for the first regular meeting of each month.
2. Consent Calendar
3. Action Calendar
    a) Appeals
    b) Public Hearings
    c) Continued Business
    d) Old Business
    e) New Business
4. Information Reports
5. Non-Agenda Public Comment
6. Adjournment
7. Communications

Action items may be reordered at the discretion of the Chair.

The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in this section.

G. Closed Session Documents

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.

2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.

3. Removal of confidential materials from a binder is prohibited.
4. Duplication of the contents of a binder by any means is prohibited.
5. Confidential materials shall be retained in the binders for at least two years.
6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.

H. Regulations Governing City Council Policy Committees

1. Legislative Item Process

All Agenda Items begin with submission to the Agenda & Rules Committee.

Exempt Items
Regular Items under this category submitted by the Mayor or Councilmembers are exempt from Agenda & Rules Committee discretion to refer them to a Policy Committee. Items in this category may be submitted for the Agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of Exempt Items are listed below.

a. Position Letters and Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
b. Donations from the Mayor and Councilmember District Office Budgets
c. Referrals to the Budget Process that are not related to a Major Item
d. Proclamations
e. Sponsorship of Events
f. Information Reports
g. Presentations from Outside Agencies and Organizations
h. Ceremonial Items
i. Committee and Regional Body Appointments

The Agenda & Rules Committee has discretion to determine if an item submitted by the Mayor or a Councilmember is classified as an Exempt Item or if the item is subject to Policy Committee review

Major Items
Items submitted by the Mayor or Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the Agenda & Rules Committee on a draft City Council Agenda.

The Agenda & Rules Committee must take action on an item as prescribed in Chapter III.D. at the first meeting that the item appears before the Agenda & Rules Committee. The Agenda & Rules Committee may only assign the item to a single Policy Committee, except that an item meeting the definition of a Major Item that also includes a budget referral may be referred to both the Budget & Finance Committee

in the form of a notice that a budget referral is under consideration at another Committee, and one other Policy Committee for subject matter review.

Time Critical Items

A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published Agenda.

The Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

Time Critical items that would otherwise be assigned to a Policy Committee, may bypass Policy Committee review if determined to be time critical. If such an item is deemed not to be time critical, it may be referred to a Policy Committee.

Time Critical items that are submitted at a meeting of the Agenda & Rules Committee may go directly on a Council Agenda if determined to be time critical.

2. Council Referrals to Policy Committees

The full Council may refer any Agenda Item to a Policy Committee by majority vote.

3. Participation Rules for Policy Committees Pursuant to the Brown Act

a. The quorum of a three-member Policy Committee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.

b. Two Policy Committee members may not discuss any item that has been referred to the Policy Committee outside of an open and noticed meeting.

c. Notwithstanding paragraph (b) above, two members of a Policy Committee may be listed as Authors or Co-Sponsors on an item provided that one of the Authors or Co-Sponsors will not serve as a committee member for consideration of the item, and shall not participate in the committee's discussion of, or action on the item. For purposes of the item, the appointed alternate, who also cannot be an Author or Co-Sponsor, will serve as a committee member in place of the non-participating Author or Co-Sponsor.

d. All three members of a Policy Committee may not be Authors or Co-Sponsors of an item that will be heard by the committee.

e. Only one Author or Co-Sponsor who is not a member of the Policy Committee may attend the committee meeting to participate in discussion of the item.

f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an Author who is not a member of the committee

is present to participate in the discussion of their item, no other non-committee member Councilmembers, nor the Mayor, may attend as observers.

g. An item may be considered by only one Policy Committee before it goes to the full Council.

4. Functions of the Policy Committees

Committees shall have the following qualities/components:

a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting Agendas will be posted at least 72 hours in advance of the meeting.

b. Minutes shall be available online.

c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.

d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.

e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.

f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.

g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.

h. Committees will review items for completeness in accordance with Section III.C.1 and III.C.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.

i. Reports leaving a Policy Committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.

j. Per Brown Act regulations, any revised or supplemental materials must be direct revisions or supplements to the item that was published in the Agenda Packet.

Items referred to a Policy Committee from the Agenda & Rules Committee or from the City Council must be agendized for a committee meeting within 60 days of the referral date.

Within 120 days of the referral date, either (1) the committee Chair may accept the Primary Author's request, either in writing, or in person at a meeting of the committee, that the item remain in committee until a date certain (more than one extension may be requested by the Primary Author); or (2) the committee may vote to send the item

to the Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below. The Committee Chair shall report any extension granted outside of a meeting to the Committee and the City Clerk by email or verbally at the next Committee meeting.

1. Positive Recommendation (recommending Council pass the item as proposed),
2. Qualified Positive Recommendation (recommending Council pass the item with some changes),
3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's recommendation will be included in a separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a City board or commission.

The Primary Author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate City staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and recommendations originating from the Policy Committee are submitted to the City Clerk by the members of the committee.

If a Policy Committee does not take final action by the 120-day deadline, the item is returned to the Agenda & Rules Committee and appears on the next available Council Agenda. The Agenda & Rules Committee may leave the item on the Agenda under consideration or place it on the next Council Agenda. Items appearing on a City Council Agenda due to lack of action by a Policy Committee may not be referred to a Policy Committee and must remain on the full Council Agenda for consideration.

Policy Committees may add discussion topics that are within their purview to their Agenda with the concurrence of a majority of the Committee. These items are not subject to the 120-day deadline for action.

Once the item is voted out of a Policy Committee, the final item will be resubmitted to the agenda process by the Primary Author, and it will return to the Agenda & Rules Committee on the next available Agenda. The Agenda & Rules Committee may leave the item on the Agenda under consideration or place it on the following Council Agenda. The Agenda & Rules Committee may agendize the item on the Consent Calendar or Action Calendar.

The Primary Author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the deadline for final committee action is 45 days from the date the committee approves expedited review.

5. Number and Make-up of Policy Committees

Six committees are authorized, each comprised of three Councilmembers, with a fourth Councilmember appointed as an alternate. Each Councilmember and the Mayor will serve on two committees. The Mayor shall be a member of the Agenda and Rules Committee. The committees are as follows:

1. Agenda and Rules Committee
2. Budget and Finance Committee
3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

The Agenda & Rules Committee shall establish the Policy Committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All standing Policy Committees of the City Council are considered “legislative bodies” under the Brown Act and must conduct all business in accordance with the Brown Act.

6. Role of City Staff at Committee Meetings

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

I. Agenda Items Authored by Former Mayors and Councilmembers

Upon the date that the elected official leaves office, all Agenda Items in the legislative process for which the former official is the Primary Author shall be placed on the next available draft Council Agenda to be reviewed by the Agenda & Rules Committee. The Agenda & Rules Committee shall then place the items on the Council Agenda under consideration or the next Council Agenda.

At the Council meeting where the items appear on the Agenda, the Mayor or any Councilmember may assume primary authorship of any item authored by the former official. The Council may then, by motion and vote, take any legislative action permitted under the Rules of Procedure.

If any of the items from the former official are not assumed by the Mayor or Councilmember, the Council may then, by motion and vote, take any legislative action permitted under the Rules of Procedure, except that the item may not be referred to a policy committee.

IV. CONDUCT OF MEETING

A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.

- At the first regular meeting of the month, a period of public comment reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.

- Public comment on the Consent and Information Calendars.

- Public comment on the Action Calendar at the onset of the Action calendar with the exception of appeals, public hearings, and quasi-judicial matters requiring public comment for due process purposes (if invoked by the Presiding Officer).

- Public comment on Action items by those who did not speak in the earlier Action Calendar public comment period, any appeals, public hearings, and/or other quasi-judicial matters requiring extended public comment for due process purposes as they are taken up under procedures set forth in the sections governing each below.

- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Except in the case of public comment by employee unions, speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

With respect to public comment by employee unions, each union's allocated time may be shared between more than one representative, and representatives and other members of unions may speak during other public comment periods in the same manner as members of the public.

If ten or fewer persons are interested in speaking on an individual agenda item, each speaker may speak for two minutes. If there are more than ten persons interested in speaking on an item, the Presiding Officer may limit the public comment for all speakers on the item to one minute per speaker.

This procedure also applies to public hearings except those types of public hearings specifically provided for in this chapter.

The Presiding Officer has the discretion to reduce speaker time if needed in order to allow the orderly conduct of the meeting, subject to the consent of a majority of the City Council.

In order to inform members of the public of their place in the speaker's queue, the Presiding Officer will call the names of 5 speakers at a time.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry, or unless the individual is speaking with respect to a public hearing, a quasi-judicial matter, and/or any other item requiring extended public comment as a matter of due process.

1. **Public Comment on Non-Agenda Matters.**
   Immediately following Ceremonial Matters and the City Manager Comments and prior to reserved public comment by employee unions, up to ten persons will be selected to address matters not on the Council Agenda. If five or fewer persons are identified to provide non-agenda comment, each person selected will be allotted two minutes each. If more than five persons are selected to address matters not on the Council Agenda, each person selected will be allotted one minute each.

   In-person attendees wishing to address the Council on matters not on the Council Agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to the moment that the Presiding Officer calls for public comment on non-agenda items. Remote attendees must raise their hand in the videoconference application when the Presiding Officer calls for non-agenda speakers. The first five raised hands on the videoconference application will be selected to speak and the first five cards drawn at the meeting will be selected to speak. The number of in-person and remote speakers selected may be adjusted by the Presiding Officer if fewer than five speakers from either format are identified.

   The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the Agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

   Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

   For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized or raise their hand on the videoconference application to determine the number of persons interested in speaking at that time. Each speaker will be

entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate.

If the meeting is automatically adjourned at 11:00 p.m., or the expiration of any extension after 11:00 p.m., the meeting shall be automatically extended for up to fifteen minutes to hear public comment on non-agenda items.

2. **Public Comment on Consent Calendar and Information Items.**
The Council will first determine whether to move items on the Agenda for "Action" or "Information" to the "Consent Calendar," or move "Consent Calendar" items to "Action." Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent."

   The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. No additional items can be moved onto the Consent Calendar once public comment has commenced.

   At any time during, or immediately after, public comment on Information and Consent items, the Mayor or any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

   For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

3. **Public Comment on Action Items.**
After the initial ten minutes of public comment on non-agenda items, reserved public comment by employee unions, public comment on Consent and Information items, and adoption of the Consent Calendar, the public may comment on each remaining item listed on the Agenda for action as the item is taken up.

   At the discretion of the Presiding Officer, with the consent of the Council, there may be a public comment period for one or several of the Action Calendar items at the beginning of the Action Calendar. Speaking time during this comment period is subject to the standard rules for public comments in Chapter IV.A. Speakers may speak to multiple items, but may only speak once during this period. This provision is not applicable to public hearings, appeals, and/or quasi-judicial matters. Attendees that speak on an action item at the scheduled public comment period may not speak again when the action item is taken up by the Council.

   During the public comment period for each Action Item, the Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and raise their hand on the videoconference application to determine the number of persons interested in speaking on that item.

4. Appeals Appearing on Action Calendar.

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of a proposed lien (nuisance abatement/special assessment) lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council Agenda.

5. Ralph M. Brown Act Pertaining to Public Comments.

The Brown Act prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the Agenda. However, the Council may refer a matter to the City Manager.

B. Consent Calendar

There shall be a Consent Calendar on all regular meeting Agendas on which shall be included those matters which the Mayor, Councilmembers, boards, commissions, City Auditor, and Charter Officers deem to be of such nature that no debate, prolonged discussion, or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

It is the policy of the Council that the Mayor or Councilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of Consent Calendar items can be minimized.

C. Information Reports Called Up for Discussion

Reports for Information designated for discussion at the request of the Mayor or any Councilmember shall be added to the appropriate section of the Action Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The Agenda will indicate that at the request of the Mayor or any Councilmember a Report for Information may be acted upon by the Council.

D. Written Communications

Written communications from the public will not appear on the Council Agenda as individual matters for discussion but will be distributed as part of the Council Agenda Packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the Agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council Agenda to the Council to be reproduced in the "Communications" section of the Council Packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. The Mayor or a Councilmember may refer a communication to the City Manager for action, if appropriate, or prepare a Consent or Action item for placement on a future Agenda.

Communications related to an item on the Agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.D.5.

E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, and prior to opening the public hearing, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by first the appellant and then the applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons

supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

The Presiding Officer will request that persons wishing to speak line up at the podium to be recognized or raise their hand on the videoconference platform, to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

F. Work Sessions

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent Agenda under the Action portion of the Council Agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak line up at the podium or raise their hand on the videoconference to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

G. Protocol

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

V. PROCEDURAL MATTERS

A. Persons Authorized to Sit at Tables

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

B. Decorum

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council.

C. Enforcement of Decorum

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the Presiding Officer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

D. Precedence of Motions

When a question or motion is before the Council, no motion shall be entertained except:

1. To adjourn;
2. To fix the hour of adjournment;
3. To lay on the table;
4. For the previous question;
5. To postpone to a certain day;
6. To refer;
7. To amend;
8. To substitute; and
9. To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to amend or substitute, shall be put to a vote without debate.

E. Robert's Rules of Order

Robert's Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall supersede.

F. Rules of Debate

1. **Presiding Officer May Debate.**
   The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

2. **Getting the Floor - Improper References to be avoided.**
   Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themself to the question under debate.

3. **Interruptions.**
   A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

4. **Privilege of Closing Debate.**
   The Mayor or Councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the Mayor or Councilmember moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

5. **Motion to Reconsider.**
   A motion to reconsider any action taken by the Council may be made only during the same session such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by a member on the prevailing side, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

6. **Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**
   Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

G. Debate Limited

For the Consent Calendar, the Mayor and Councilmembers will initially have up to five minutes each to make comments. After all members of the Council have spoken (or passed) and after public comment, members will each have two additional minutes to discuss the Consent Calendar.

For non-Consent items, the Mayor and Councilmembers will have five minutes each to make initial comments on an Agenda Item. After every Councilmember has spoken or declined and after public comment, Councilmembers will each have another five minutes per person to address an item. Debate may be extended beyond a second round of Council comments by a majority vote (5 votes).

Time will toll during staff answers to questions; Councilmembers are urged to ask their questions of city staff before the meeting or in writing.

H. Motion to Lay on Table

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

I. Division of Question

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

J. Addressing the Council

Under the following headings of business, unless the presiding officer rules otherwise, any interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

1. **Written Communications.**
   Interested parties or their authorized representatives may address the Council in the form of written communications in regard to matters of concern to them by submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.D.5.

2. **Public Hearings.**
   Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

3. **Public Comment.**
   Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

K. Addressing the Council After Motion Made

When a motion is pending before the Council, no person other than the Mayor or a Councilmember shall address the Council without first securing the permission of the presiding officer or Council to do so.

L. Use of Cellular Phones and Electronic Devices

The use of cell phones during City Council meetings is discouraged for the Mayor and Councilmembers. While communications regarding Council items should be minimized, personal communications between family members and/or caregivers can be taken outside in the case of emergencies. In order to acknowledge differences in learning styles and support tactile learners, note-taking can continue to be facilitated both with a pen and paper and/or on electronic devices such as laptop computers and tablets.

The use of cell phones during Closed Session Meetings is explicitly prohibited for the Mayor and Councilmembers.

VI. FACILITIES

A. Meeting Location Capacity

Attendance at Council meetings shall be limited to the posted seating capacity of the meeting location. Entrance to the meeting location will be appropriately regulated by the City Manager on occasions when capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the meeting room except to address the Council, and sitting on the floor shall not be permitted.

B. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the Board Room.

C. Amplified Sound, Signs, Objects, and Symbolic Materials

Amplified sound devices such as bullhorns, megaphones, portable sound systems, and similar devices are prohibited within the meeting location during Council meetings.

Objects and symbolic materials such as signs and banners are permitted in the meeting location provided that they do not interfere with the cameras that broadcast the meeting, obstruct the view of other attendees, or create a fire or safety hazard.

Any type of stick, pole, or similar object is prohibited in the meeting location during Council meetings.

D. Fire Safety

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

E. Overcrowding

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the meeting location has reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.

F. Format of Meetings

The City Council may conduct regular meetings or special meetings held at the School District Boardroom in the hybrid format with both in-person and virtual participation as provided for in the Brown Act, and as noticed on the meeting Agenda. Council meetings at other locations may be conducted in the hybrid format if technologically feasible.

APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

Purpose
To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

Objective
A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

Section 1 – Lead Commission
The City Council designates the following commissions as the 'Lead Commissions' in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

Board of Library Trustees

Parks, Recreation & Waterfront Commission – Parks, recreation centers, camps, plazas, public open spaces, and public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

Transportation and Infrastructure Commission – Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

Section 2 – General Policy
A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.

B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.

C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.

D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.

E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:

A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.

B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.

C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.

D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.

E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.

F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.

B. The honoree has a record of outstanding service to their community.

C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

Section 5 –Procedures for Naming or Renaming of Public Facilities

A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
    1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.

B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
    1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.

C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
    1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination.

D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.
    1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.

E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

APPENDIX B. GUIDELINES FOR CITY COUNCILMEMBER/MAYOR MAJOR ITEMS

Requirements for City Councilmember/Mayor Major Items are provided in Chapter III.C.2 of the City Council Rules of Procedure and Order. These guidelines further explain the requirements and are intended to assist in the preparation of fully researched and documented items that are likely to be eligible to move forward in the legislative process as determined by the Agenda & Rules Committee.

_____

1. **Title**
   A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

2. **Consent/Action/Information Calendar**
   Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

3. **Recommendation**
   Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

   Common action options include:
   - Adopt first reading of ordinance
   - Adopt a resolution
   - Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
   - Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
   - Referral to a Commission or to a Standing or Ad Hoc Council Committee
   - Referral to the budget process
   - Send letter of support
   - Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
   - Designate members of the Council to perform some action

4. **Summary Statement/ "Current situation and its effects"**
   A short resume of the circumstances that give rise to the need for the recommended action(s).
   - Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
   - Example (fictional):
     Winter rains are lasting longer than expected. Berkeley's winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season,

hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley's winter shelters open until the end of April, and refers to the Budget Process $40,000 to cover costs of an additional two months of shelter operations.

5. Background

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

6. Review of Existing Plans, Programs, Policies and Laws

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan
- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan
Review of similar legislation previously introduced/passed by Council
Review of County, State and Federal laws/policies/programs/plans, if applicable

7. **Actions/Alternatives Considered**
    - What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
    - What solutions/measures are recommended by **advocates, experts, organizations**?
    - What is the range of actions considered, and what are some of their major pros and cons?
    - Why were other solutions not as feasible/advisable?

8. **Consultation/Outreach Overview and Results**
    - Review/list external and internal stakeholders that were consulted
        - **External**: constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
        - **Internal**: staff who would implement policies, the City Manager and/or Deputy CM, Department Heads, City Attorney, City Clerk, etc.
    - What reports, articles, books, websites and other materials were consulted?
    - What was learned from these sources?
    - What changes or approaches did they advocate for that were accepted or rejected?

9. **Rationale for Recommendation**

    A clear and concise statement as to whether the item proposes actions that:
    - Conform to, clarify or extend existing Plans, Programs, Policies and Laws
    - Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
    - Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
    - Create an exception to existing Plans, Programs, Policies and Laws
    - Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

    Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented, but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

10. **Implementation, Administration and Enforcement**

    Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

11. Environmental Sustainability and Climate Impacts

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

12. Fiscal Impacts

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

13. Outcomes and Evaluation

State the specific outcomes expected, if any (i.e., *"it is expected that 100 homeless people will be referred to housing every year"*) and what reporting or evaluation is recommended.

14. Contact Information

15. Attachments/Supporting Materials

Attachment 2

The Berkeley City Council
Rules of Procedure and Order

Adopted by Resolution No. ~~71,174~~##,###–N.S.

Effective ~~January 22, 2024~~[Date]

2180 Milvia Street, Berkeley, CA 94704 ● Tel: (510) 981-6900 ● TDD: (510) 981-6903 ● Fax: (510) 981-6901
E-Mail: clerk@berkeleyca.gov Website: http://www.berkeleyca.gov

Table of Contents

I. DUTIES 4

A. Duties of Mayor 4
B. Duties of Councilmembers 4
C. Motions to be Stated by Chair 4
D. Decorum by Councilmembers 4
E. Voting Disqualification 4
F. Requests for Technical Assistance and/or Reports 5

II. MEETINGS 6

A. Call to Order - Presiding Officer 6
B. Roll Call 6
C. Quorum Call 6
D. Council Meeting Conduct of Business 6
E. Adjournment 7
G. City Council Schedule and Recess Periods 7
H. Pledge of Allegiance to the Flag 8
I. Ad Hoc Subcommittees 8

III. AGENDA 109

A. Declaration of Policy 109
B. Definitions 109
C. Procedure for Bringing Matters Before City Council 1211
D. Packet Preparation and Posting 2016
E. Agenda Sequence and Order of Business 2117
F. Closed Session Documents 2218
G. Regulations Governing City Council Policy Committees 2319

IV. CONDUCT OF MEETING 2924

A. Comments from the Public 2924
B. Consent Calendar 3427
C. Information Reports Called Up for Discussion 3427
D. Written Communications 3428
E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters 3528
F. Work Sessions 3629
G. Protocol 3629

V. PROCEDURAL MATTERS 3730

A. Persons Authorized to Sit at Tables 3730
B. Decorum 3730
C. Enforcement of Decorum 3730
D. Precedence of Motions 3730
E. Robert's Rules of Order 3831
F. Rules of Debate 3831
G. Debate Limited 3932
H. Motion to Lay on Table 3932
I. Division of Question 4032
J. Addressing the Council 4032
K. Addressing the Council After Motion Made 4033
L. Use of Cellular Phones and Electronic Devices 4033

VI. FACILITIES 4134

A. Meeting Location Capacity 4134
B. Alternate Facilities for Council Meetings..... 4134
C. Signs, Objects, and Symbolic Materials ..... **Error! Bookmark not defined.**
D. Fire Safety 4134
E. Overcrowding..... 4134

APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES..... 4335

APPENDIX B. GUIDELINES FOR DEVELOPING & WRITING COUNCIL AGENDA ITEMS 4638

~~**APPENDIX C. TEMPORARY RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS THROUGH VIDEO CONFERENCE DURING THE COVID-19 EMERGENCY..... 5143**~~

I. DUTIES

A. Duties of Mayor

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. In the Mayor's absence, the Vice President of the Council (hereafter referred to as the Vice-Mayor) shall preside.

B. Duties of Councilmembers

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

C. Motions to be Stated by Chair

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

D. Decorum by Councilmembers

While the Council is in session, the City Council will practice civility and decorum in their discussions and debate. Councilmembers will value each other's time and will preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council, use personal, impertinent or slanderous remarks, nor disturb any other member while that member is speaking or refuse to obey the orders of the presiding officer or the Council, except as otherwise provided herein.

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak. The Presiding Officer may set a limit on the speaking time allotted to Councilmembers during Council discussion.

The presiding officer has the affirmative duty to maintain order. The City Council will honor the role of the presiding officer in maintaining order. If a Councilmember believes the presiding officer is not maintaining order, the Councilmember may move that the Vice-Mayor, or another Councilmember if the Vice-Mayor is acting as the presiding officer at the time, enforce the rules of decorum and otherwise maintain order. If that motion receives a second and is approved by a majority of the Council, the Vice-Mayor, or other designated Councilmember, shall enforce the rules of decorum and maintain order.

E. Voting Disqualification

No member of the Council who is disqualified shall vote upon the matter on which the member is disqualified. Any member shall openly state or have the presiding officer announce the fact and nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be

decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to recuse themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

F. Requests for Technical Assistance and/or Reports

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

II. MEETINGS

A. Call to Order - Presiding Officer

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting Agenda and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair. In the absence of the two officers specified in this section, the Councilmember present with the longest period of Council service shall preside.

B. Roll Call

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

C. Quorum Call

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

D. Council Meeting Conduct of Business

The ~~agenda~~Agenda for the regular business meetings shall include the Order of Business described in Chapter III.F.~~following: Ceremonial Items (including comments from the City Auditor if requested); Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, Old Business, New Business); Information Reports; and Communication from the Public.~~ Presentations and workshops may be included as part of the Action Calendar. The Chair will determine the order in which the item(s) on Action will be heard.~~ with the consent of Council.~~

Commented [NML1]: Eliminates redundancy within the document. Chapter III.F. is more detailed.

Commented [NML2]: Per Council action on 5/7/24.

Three ~~(3)~~ or more members of the City Council must agree to pull an item from the Consent or Information Calendar for it to move to Action. Absent at least three members concurring, the item will stay on the Consent or Information Calendar.

Commented [NML3]: Process moved here from Appendix C

~~and, w~~With respect to Consent items, the Mayor or Councilmembers will be allowed to record their aye, nay or abstain votes on individual items or the entire Consent Calendar prior to the vote on the Consent Calendar. However, if three or more Councilmembers object to a Consent item by expressing their intent to abstain or vote no, the item shall be moved from Consent to Action.

Commented [NML4]: Per Council action on 5/7/24.

Moving an item from the Action Calendar to the Consent Calendar requires the unanimous consent of the entire City Council.

~~Upon request by the Mayor or any Councilmember, any item may be moved from the Consent Calendar or Information Calendar to the Action Calendar. Unless there is an objection by the Mayor or any Councilmember, the Council may also move an item from the Action Calendar to the Consent Calendar.~~

A public hearing that is not expected to be lengthy may be placed on the ~~agenda~~Agenda for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council's regular meeting schedule is heavily booked, the Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the ~~agenda~~Agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Except at meetings at which the budget is to be adopted, no public hearing may commence later than 10:00 p.m. unless there is a legal necessity to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing.

The Council will endeavor to inform meeting attendees of the approximate time for high interest items. In addition, the Council will make best efforts to determine if items should be carried over to future meetings earlier in the meeting rather than later.

Commented [NML5]: Per Council action on 5/7/24.

E. Adjournment

No Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific Agenda Items to be covered and shall specify in which order these items shall be handled.

Any items not completed at a regularly scheduled Council meeting may be continued to an Adjourned Regular Meeting by a two-thirds majority vote of the Council.

F. Unfinished Business

Any items not completed by formal action of the Council, and any items not postponed to a date certain, shall be considered Unfinished Business. All Unfinished Business shall be referred to the Agenda & Rules Committee for scheduling for a Council meeting that occurs within 60 days from the date the item last appeared on a Council ~~agenda~~Agenda. The 60 day period is tolled during a Council recess.

G. City Council Schedule and Recess Periods

Pursuant to the Open Government Ordinance, the City Council shall hold a minimum of twenty-four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.

Regular meetings of the City Council shall be held generally two to three Tuesdays of each month except during recess periods; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

Regular City Council meetings shall begin no later than 6:00 p.m.

A recess period is defined as a period of time longer than 21 days without a regular meeting of the Council.

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the Agenda & Rules Committee meeting for the last regular meeting before a Council recess and this authority shall extend up to the date of the Agenda & Rules Committee meeting for the first regular meeting after the Council recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

H. Pledge of Allegiance to the Flag

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the Ceremonial Calendar will be the Pledge of Allegiance.

I. Ad Hoc Subcommittees

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Councilmembers may be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from residents, related commissions, and other groups, as appropriate to the charge or responsibilities of such subcommittee. Ad hoc subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

~~Subcommittees shall conduct their meetings in locations that are open to the public and meet accessibility requirements under the Americans with Disabilities Act. Meetings may be held at privately owned facilities provided that the location is open to all that wish to attend and that there is no requirement for purchase to attend. Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular Council meetings except that subcommittee agendas may be posted with 24-hour notice. The public will be permitted to comment on agenda items~~

Commented [NML6]: Ad hoc committees are not legislative bodies under the Brown Act. These requirements have been repealed for commissions and need to be repealed for the Council for consistency.

~~but public comments may be limited to one minute if deemed necessary by the Committee Chair. Agendas and minutes of the meetings must be maintained and made available upon request.~~

Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

~~Ad hoc subcommittees may convene a closed session meeting pursuant to the conditions and regulations imposed by the Brown Act.~~

III. AGENDA

A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the ~~agenda~~Agenda of the meeting and posted in accordance with Section III.E~~D~~.2. Exceptions to this rule are limited to circumstances listed in Section III.E~~D~~.4.b and items continued from a previous meeting and published on a revised ~~agenda~~Agenda.

B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the ~~agenda~~Agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by the Mayor or any Councilmember, ~~the City Manager~~a Charter Officer, the Auditor, or any board/commission/committee created by the City Council or City Charter, or any Report For Information which may be acted upon if the Mayor or a Councilmember so requests. For purposes of this section, appeals shall be considered action items. All information from ~~the City Manager~~a Charter Officer concerning any item to be acted upon by the Council shall be submitted as a report on the ~~agenda~~Agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney~~-~~-client communication concerning a litigation matter. Council Aagenda Iitems are limited to a maximum of four Authors and Co-Sponsors, in any combination that includes at least one Author.

   Authors must be listed in the original item as submitted by the Primary Author. Co-Sponsors may only be added ~~in the following manner:~~ by the Primary Author (1) at the Agenda Committee meeting where the item is placed on a Council ~~agenda~~Agenda; or (2) after the item has been placed on a Council ~~agenda~~Agenda, through the Supplemental process, or (3) at the Council meeting where the item appears on the Agenda~~. for action.~~

   - ~~In the original item as submitted by the Primary Author~~
   - ~~In a revised item submitted by the Primary Author at the Agenda & Rules Committee~~
   - ~~By verbal request of the Primary Author at the Agenda & Rules Committee~~
   - ~~In a revised item submitted by the Primary Author in Supplemental Reports and Communications Packet #1 or #2~~
   - ~~By verbal or written request of the Mayor or any Councilmember at the Policy Committee meeting or meeting of the full Council at which the item is considered~~

2. ~~Agenda items shall contain all relevant documentation, including the information listed below:~~

   a) ~~A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;~~

Commented [NML7]: Per discussion at Agenda & Rules on 7/8/24; replaces text immediately below

Commented [NML8]: Moved to C. below

~~b) Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;~~

~~c) Recommendation of the report's Primary Author that describes the action to be taken on the item, if applicable;~~

~~d) Fiscal impacts of the recommendation;~~

~~e) A description of the current situation and its effects;~~

~~f) Background information as needed;~~

~~g) Rationale for recommendation;~~

~~h) Alternative actions considered;~~

~~i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items);~~

~~j) Person or persons to contact for further information, with telephone number;~~

~~k) Additional information and analysis as required. It is recommended that reports include the points of analysis in Appendix B - Guidelines for Developing and Writing Council Agenda Items.~~

2. "Author" means the Mayor or other Councilmembers who actually authored an item by contributing to the ideas, research, writing or other material elements.

3. "Primary Author" means the Mayor or Councilmember listed first on the item. The Primary Author is the sole contact for the City Manager with respect to the item. Communication with other Authors and Co-Sponsors, if any, is the responsibility of the Primary Author.

4. "Co-Sponsor" means the Mayor or other Councilmembers who wish to indicate their strong support for the item, but are not Authors, and are designated by the Primary Author to be ~~co-sponsor~~Co-Sponsors of the Ccouncil ~~agenda item~~Agenda Item.

5. "Agenda" means the compilation of the descriptive titles of Aagenda Iitems submitted to the City Clerk, arranged in the sequence established in Section III.F~~E~~ hereof.

6. "Packet" means the ~~agenda~~Agenda plus all of its corresponding ~~agenda item~~Agenda Items.

7. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:

a) A work stoppage or other activity which severely impairs public health, safety, or both exists;

b) A crippling disaster, which severely impairs public health, safety or both exists.

b)c) –Notice of the Council's proposed consideration of any such ~~emergency matter~~Emergency Matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.

8. "Continued Business" means Items carried over from a prior ~~agenda~~Agenda of a meeting occurring ~~less than~~ 11 or fewer days earlier.

9. "Old Business" means Items carried over from a prior ~~agenda~~Agenda of a meeting occurring more than 11 days earlier.

10. "Charter Officer" means the City Manager, City Attorney, and the Director of Police Accountability.

11. "Major Item" means an Agenda Item with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts submitted by the Mayor or any Councilmember.

Commented [NML9]: Per discussion at Agenda & Rules on 7/8/24

9.12. "Regular Item" means any Agenda Item not classified as a Major Item.

C. Standards for Agenda ~~i~~Items

Commented [NML10]: Moved here from above

1. ~~Agenda item~~Agenda Items, other than Major Items submitted by the Mayor or any Councilmember, shall contain all relevant documentation, including the information listed below:

i. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;

ii. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;

iii. Recommendation of the report's ~~Primary A~~author that describes the action to be taken on the item, if applicable;

iv. Fiscal impacts of the recommendation;

v. A description of the current situation and its effects;

vi. Background information as needed;

vii. Rationale for recommendation;

viii. Alternative actions considered;

ix. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items);

x. Person or persons to contact for further information, with telephone number;

xi. Additional information and analysis as may be required.

xii. Environmental sustainability and climate impacts.

It is recommended that Regular Item reports also include, to the extend relevant, the points of analysis in Major Council Item Standards ~~at~~in Section C.~~(~~2~~)~~.

2. Major Items submitted by the Mayor or any Councilmember shall contain all relevant documentation, including the information listed below and more fully described in Appendix B, Guidelines for City Councilmember/Mayor Major Items:

Commented [NML11]: Moved here from Appendix B

i. Title

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

ii. Consent/Action/Information Calendar

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

iii. Recommendation

A c~~C~~lear, succinct statement of actions to be taken. More lengthy/detailed actions can be detailed within the item and incorporated by reference.

iv. Summary Statement/Current Situation and its effects

A short resume of the circumstances that give rise to the need for the recommended actions.

v. Background

A full discussion of the history, circumstances and concerns to be addressed by the item.

vi. Review of Existing Plans, Programs, Policies and Laws

Review, identification, and discussion of relevant/applicable City of Berkeley, State, and other relevant Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from, or run contrary to them.

vii. Actions/Alternatives Considered

A listing of solutions/measures that other jurisdictions, ~~or~~ advocates, experts, or organizations have studied or adopted to address the same or similar subject

matter, the range of actions considered, and the reasons why those solutions/measures are proposed to be adopted, modified, or rejected.

viii. Consultation/Outreach Overview and Results

Review/listing of external and internal City of Berkeley stakeholders that were consulted and reports, articles, books, websites and other materials that were consulted and discussion of approaches that were accepted, modified, or rejected.

ix. Rationale for Recommendation

A clear and concise statement as to whether the item proposes actions that (a) conform to, clarify or extend, (b) make major or minor changes/amendments, (c) create an exception, or (d) reverse/go contrary to existing City of Berkeley Plans, Programs, Policies and Laws, or (e) create largely or entirely new Plans, Programs, Policies or Laws.

x. Implementation, Administration and Enforcement

A discussion of how the recommended action would be implemented, administered and enforced by the City of Berkeley.

xi. Environmental Sustainability and Climate Impacts

A discussion of the impacts of recommended actions, if any, on the environment and the recommendation's relationship to the City's Climate Action, Resilience, and other sustainability goals.

xii. Fiscal Impacts

A review of the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as expected or potential direct and indirect costs.

xiii. Outcomes and Evaluation

A statement of the specific outcomes expected and what reporting and/or evaluation is recommended to ensure the outcomes are being achieved.

xiv. Contact Information

xv. Attachments/Supporting Materials

D. Procedure for Bringing Matters Before City Council

1. **Persons Who Can Place Matters on the Agenda.**
   Matters may be placed on the ~~agenda~~Agenda by the Mayor or any Councilmember, ~~the City Manager,~~ the Auditor, Charter Officers, or any board/commission/committee created by the City Council, ballot measure, or the City Charter. All items are subject to review, referral, and scheduling by the Agenda & Rules Committee pursuant to the rules and limitations contained herein. The Agenda & Rules Committee shall be a standing committee of the City Council.

The Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the ~~agenda~~Agenda of that City Council meeting. Pursuant to BMC Section 1.04.080, if the 15th day prior to the Council meeting falls on a holiday, the Committee will meet the next business day. The Agenda & Rules Committee ~~packet~~Packet, including a draft ~~agenda~~Agenda and reports from the Mayor and Councilmembers, the Auditor, and Commission ~~reports~~ shall be distributed by 5:00 p.m. four days before the Agenda & Rules Committee meeting.

The Agenda & Rules Committee shall have the powers set forth below.

a) **Regular Items Authored by the Mayor, or a Councilmember~~, or the Auditor~~.**

Commented [NML12]: Auditor moved to paragraph (c) below with the consent of the Auditor

As to ~~item~~Regular Items authored by the Mayor~~,~~ or a Councilmember~~, or the Auditor~~, the Agenda & Rules Committee shall review the item and may take the following actions:

i. Refer the item to a commission for further analysis (Primary Author may decline and request Policy Committee assignment).

ii. Refer the item to the City Manager for further analysis (Primary Author may decline and request Policy Committee assignment).

iii. Refer the item back to the Primary Author for requested amendments, adherence to required form, or for additional analysis, as required in Section III.C~~B~~.1~~2~~ (Primary Author may decline and request Policy Committee assignment).

iv. Refer the item to a Policy Committee.

v. Schedule the item for the ~~agenda~~Agenda under consideration or one of the next three ~~full~~regular Council ~~agenda~~Agendas.

b) Major Items ~~Authored by the Mayor, a Councilmember, or the Auditor.~~

The Agenda & Rules Committee retains the authority to designate which Agenda Items are classified as Major Items. With regards to Major Items, the Agenda & Rules Committee shall review the item and may take the following actions:

~~vi.~~i. Return the item to the Author if the committee determines that the item is not substantially compliant with Chapter III.C.2 and the guidelines in Appendix B.

ii. Refer the item to a policy committee and send a notice to the Budget & Finance Committee if the item contains a budget referral.

iii. Schedule the item for the Council Agenda under consideration.

iv. Schedule the item for one of the susequent three Council Agendas or a special meeting.

v. Refer the item to a commission with the consent of the Primary Author.

Commented [NML13]: Per discussion at Agenda & Rules on 7/8/24 to create a process for the new category of "Major Items"

c) For referrals of Regular Items under Chapter III.D~~C~~.1.a.i, ii, or iii, the Primary Author must inform the City Clerk within 24 hours of the adjournment of the Agenda & Rules Committee meeting whether they prefer to:

1) re-submit the item for a future meeting with modifications as suggested by the Agenda & Rules Committee; or

2) withdraw~~pull~~ the item completely; or

3) re-submit the item with revisions as requested by the Agenda & Rules Committee within 24 hours of the adjournment of the Agenda & Rules Committee meeting for the Council ~~agenda~~Agenda under consideration; or

4) accept the referral of the Agenda & Rules Committee in sub paragraphs III.~~C~~D.1.a. i, ii, or iii, or request Policy Committee assignment.

If the Primary Author requests a Policy Committee assignment, the item will appear on the next draft ~~agenda~~Agenda presented to the Agenda & Rules Committee for assignment.

In the event that the City Clerk does not receive guidance from the Primary Author of the referred item within 24 hours of the Agenda & Rules Committee's adjournment, the item will appear on the next draft ~~agenda~~Agenda for consideration by the Agenda & Rules Committee.

Items ~~held~~ being resubmitted for a future meeting to allow for modifications will be placed on the next available Council meeting ~~agenda~~Agenda at the time that the revised version is submitted to the City Clerk.

~~c)~~d) **Items Authored by ~~the City Manager~~Charter Officers and the Auditor.**

The Agenda & Rules Committee shall review agenda descriptions of items authored by ~~the City Manager~~Charter Officers and the Auditor. The Committee can recommend that the matter be referred to a commission, to a Policy Committee, or back to the ~~City Manager~~Charter Officer or the Auditor for adherence to required form, additional analysis as required in Section III.C.1~~B~~.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the ~~City Manager~~Charter Officer or the Auditor determines that their item ~~matter~~ should proceed notwithstanding the Agenda & Rules Committee's recommendation~~action~~, it will be placed on the ~~agenda~~Agenda as directed by the ~~Manager~~Charter Officer or the Auditor. All Charter Officer and Auditor ~~City Manager~~items placed on the Council ~~agenda~~Agenda against the recommendation of the Agenda & Rules Committee will automatically be placed on the Action Calendar.

d)e) **Items Authored by Boards and Commissions.**

Agenda Items~~Council items~~ submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. The content of commission items is not subject to review by the Agenda & Rules Committee unless referred for policy review to the Agenda & Rules Committee.

i) For a commission item that does not require a companion report from the City Manager, the Agenda & Rules Committee may act on an agendized commission item~~report~~ in the following manner:

1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.

2. Re-schedule the commission report to appear on one of the next three regular Council meeting ~~agenda~~Agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.

3. Refer the item to a Policy Committee for review.

4. Allow the item to proceed as submitted.

ii) For any commission report that requires a City Manager companion report, the Agenda & Rules Committee may schedule the item on a Council ~~agenda~~Agenda. The Committee must schedule the commission item for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the Agenda & Rules Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph e~~c~~.i. above.

f) The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section F~~E~~.

2. Removal of Agenda Items from the Legislative Process

A Primary Author may withdraw their Agenda Item from the legislative process as follows: 1) during the time it is pending at a policy committee by sending written notification to the City Clerk or verbally at the meeting; 2) verbally at the Agenda & Rules Committee meeting when the item appears on a draft Council Agenda; or 3) verbally at the City Council meeting when the item appears on the Council Agenda or in writing through the supplemental process.

Commented [NML14]: Per discussion at Agenda & Rules on 7/8/24

~~2.~~3. **Scheduling Public Hearings Mandated by State, Federal, or Local Statute.**

The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.

3.4. **Submission of Agenda Items.**

a) ~~**City Manager**~~**Charter Officer Items.** Except for Continued Business and Old Business, as a condition to placing an item on the ~~agenda~~Agenda, ~~agenda item~~Agenda Items from departments, including ~~agenda item~~Agenda Items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.

b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and ~~City~~ Councilmembers is 5:00 p.m. on Monday, 22 days before each regular Council meeting.

c) **Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the Author~~sponsor~~ and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by ~~the City Manager~~a Charter Officer, the Auditor, Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published ~~agenda~~Agenda.

The Primary Author of the report shall bring any reports submitted as Time Critical to the meeting of the Agenda & Rules Committee. Time Critical items must be accompanied by complete reports and statements of financial implications. If the Agenda & Rules Committee finds the matter to meet the definition of Time Critical, the Agenda & Rules Committee may place the matter on the Agenda on either the Consent or Action Calendar.

d) **Timelines.** The City Clerk may not accept any ~~agenda item~~Agenda Item after the adjournment of the Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring ~~less than~~ 11 or fewer days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.

4.5. **Submission of Supplemental and Revised Agenda Material.**

Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an ~~agenda item~~Agenda Item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:

a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for publiccitizen review or City Councilmember evaluation.

b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for publiccitizen review or City Council evaluation.

c) After 12:00 p.m. one calendar day prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 4240 copies of the supplemental/revised material to the City Clerk for distribution at the meeting and submitting the material electronically to the City Clerk. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for publiccitizen review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the agenda itemAgenda Item in order for the material to be considered.

Commented [NML15]: For web posting so that virtual attendees have access

5.6. Submission of Late Urgency Items Pursuant to Government Code Section 54954.2(b)

Late Urgency Items are items proposed for submission to the Council Agenda pursuant to Government Code Section 54954.2(b)

All items to be submitted for consideration for addition to an agendaAgenda as Late Urgency Items shall be accompanied by a cover sheet that includes 1) boxes to check for the Author to affirm whether the item is submitted under the Emergency or Immediate Action Rule (and a short explanation of what is required to meet each rule, as well as the vote threshold required for the item to be placed onto the agendaAgenda by the City

Council); 2) a disclaimer in BOLD 14pt. CAPS stating that the item is not yet agendized and may or may not be accepted for the ~~agenda~~Agenda as a Late Urgency Item, at the City Council's discretion according to Brown Act rules; 3) a prompt requiring the ~~author~~Author to list the facts which support consideration of the item for addition to the ~~agenda~~Agenda as either an Emergency or Immediate Action item; and 4) a copy of the City Attorney memo on Late Urgency Items.

Late Items must be submitted to the City Clerk no later than 12:00 p.m. (noon) the day prior to the meeting.

All complete Late Items submitted by the deadline will be distributed with Supplemental Communication Packet #2 by 5:00 p.m. the day before the Council meeting. A Late Item is not considered "complete" and will not be distributed unless submitted with the required cover sheet, filled out in a complete manner.

Very Late Urgency Items of an extremely urgent nature (e.g., earthquake, severe wildfire, pandemic) may be submitted for addition to the ~~agenda~~Agenda after the deadline of 12:00 p.m. the day before the meeting to accommodate unforeseeable, extreme and unusual circumstances. A Very Late Urgency Item will be distributed at the Council meeting prior to any vote to add it to the ~~agenda~~Agenda and the Presiding Officer may provide an appropriate break to allow Councilmembers and the public to review the item before voting on whether to add it to the ~~agenda~~Agenda and possibly again, at the Presiding Officer's discretion, before the item is voted on.

The required cover sheet should be included with the Very Late Urgency Item unless extremely exigent circumstances underlie the Very Late Urgency Item submission and a written cover sheet could not be prepared (for example, power is out and printing or emailing is not possible), in which case the individual "walking in" the item should be ready to provide all required information verbally at the meeting before a vote is taken to add or not add the item to the Agenda.

~~6.~~7. Scheduling a Presentation.

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda. The Agenda & Rules Committee may request a presentation by staff in consultation with the City Manager.

E. Packet Preparation and Posting

1. **Preparation of the Packet.**

   Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the ~~packet~~Packet, which shall include the ~~agenda~~Agenda plus all its corresponding ~~agenda item~~Agenda Items. No item shall be considered if not included in the ~~packet~~Packet, except as provided for in Section III.D.5.~~C.4~~ and Section III.~~D~~E.4.

2. **Distribution and Posting of Agenda.**

a) The City Clerk shall post each ~~agenda~~Agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each ~~agenda~~Agenda of a special meeting at least 24 hours prior to~~in advance of~~ the meeting ~~in~~on the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each ~~agenda~~Agenda.

b) The City Clerk shall also post ~~agenda~~Agendas and annotated ~~agenda~~Agendas of all City Council meetings and notices of public hearings on the City's website.

c) No later than 11 days prior to a regular meeting, copies of the ~~agenda~~Agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

3. **Distribution of the Agenda Packet.**
The Agenda Packet shall consist of the Agenda and all supporting documents for ~~agenda item~~Agenda Items. No later than 11 days prior to a regular meeting, the City Clerk shall:

a) distribute the Agenda Packet to each member of the City Council;

b) post the Agenda Packet to the City's website;

c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and

d) make the Agenda Packet available to members of the press.

4. **Failure to Meet Deadlines.**
a) The City Clerk shall not accept any ~~agenda item~~Agenda Item or revised ~~agenda item~~Agenda Item after the deadlines established.

b) Matters not included on the published ~~agenda~~Agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:

- A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.78.

- Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the ~~agenda~~Agenda as required by law.

c) Matters listed on the printed ~~agenda~~Agenda but for which supporting materials are not received by the City Council on the eleventh day prior to said meeting as part of the ~~agenda~~Agenda ~~packet~~Packet, shall not be discussed or acted upon.

~~E.~~F. Agenda Sequence and Order of Business

The Council ~~agenda~~Agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Land Acknowledgement Statement, Comments from the City Manager, Comments from the City Auditor [if requested], Non-Agenda Public Comment, Public Comment by Employee Unions)
    a) The Land Acknowledgement Statement and Public Comment from Employee Unions are regularly agendized only for the first regular meeting of each month.

~~1.~~2. Consent Calendar

~~2.~~3. Action Calendar
    a) Appeals
    b) Public Hearings
    c) Continued Business
    d) Old Business
    e) New Business

~~3.~~4. Information Reports

~~4.~~5. Non-Agenda Public Comment

~~5.~~6. Adjournment

~~6.~~7. Communications

Action items may be reordered at the discretion of the Chair. ~~with the consent of Council.~~

The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in this section.

~~F.~~G. Closed Session Documents

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.

2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session

Commented [NML16]: Per discussionn at Agenda & Rules on 7/8/24 – for clarity.

meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.

3. Removal of confidential materials from a binder is prohibited.

4. Duplication of the contents of a binder by any means is prohibited.

5. Confidential materials shall be retained in the binders for at least two years.

6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.

~~G.~~H. Regulations Governing City Council Policy Committees

1. Legislative Item Process

All ~~agenda item~~Agenda Items begin with submission to the Agenda & Rules Committee.

~~Full Council~~Exempt Items ~~Track~~

Regular Items under this category submitted by the Mayor or Councilmembers are exempt from Agenda & Rules Committee discretion to refer them to a Policy Committee. Items in this category may be submitted for the ~~agenda~~Agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of ~~Full Council Track~~Exempt Iitems are listed below.

a. ~~Items submitted by the City Manager and City Auditor~~
b. ~~Items submitted by Boards and Commissions~~
c. Position Letters and Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
~~d. Position Letters and/or Resolutions of Support/Opposition~~
~~e.~~d. Donations from the Mayor and Councilmember District Office Budgets
~~f.~~e. Referrals to the Budget Process that are not related to a Major Item
~~g.~~f. Proclamations
~~h.~~g. Sponsorship of Events
~~i.~~h. Information Reports
~~j.~~i. Presentations from Outside Agencies and Organizations
~~k.~~j. Ceremonial Items
~~l.~~k. Committee and Regional Body Appointments

The Agenda & Rules Committee has discretion to determine if an item submitted by the Mayor or a Councilmember ~~falls under a Full Council~~ is classified as an Exempt Item ~~Track exception or if it will be processed as a Policy Committee~~ or if the item is subject to Policy Committee review ~~Track item.~~

~~Policy Committee Track~~ Major Items ~~Track~~

Items submitted by the Mayor or Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the Agenda & Rules Committee on a draft City Council ~~agenda~~Agenda.

The Agenda & Rules Committee must ~~refer an~~take action on an item as prescribed in Chapter III.D. ~~to a Policy Committee~~ at the first meeting that the item appears before the Agenda & Rules Committee. The Agenda & Rules Committee may only assign the item to a single Policy Committee, except that an item meeting the definition of a Major Item that also includes a budget referral may be referred to both the Budget & Finance Committee in the form of a notice that a budget referral is under

Commented [NML17]: Changes in this section are primarly related to the new definitaiton of Major Items and Regular Items as well as the amended process for the Agenda & Rules Committee in Chapter III.D.

Commented [NML18]: This is already covered in Chapter III.D.1.c.

Commented [NML19]: This is not covered in Chapter III.D.1.d.

Commented [NML20]: No change in process, just reworded with new terms

consideration at another Committee, and one other Policy Committee for subject matter review.

~~For a Major Item Policy Committee Track item, the Agenda & Rules Committee, at its discretion, may either route item directly to 1) the Council Aagenda currently under consideration, 2) one of the next subsequent three full Council Agendas for a Regular Meeting of the City Council (based on completeness of the item, lack of potential controversy, minimal impacts, etc.), or 3) to a Policy Committee.~~

Commented [NML21]: These actions are now enshrined in Chapter III.D.1.b.

Time Critical ~~Track~~Items

A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published ~~agenda~~Agenda.

The Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

Time Critical items ~~submitted on the Full Council Track deadlines,~~ that would otherwise be assigned to a ~~the~~ Policy Committee ~~Track~~, may bypass Policy Committee review if determined to be time critical. If such an item is deemed not to be time critical, it may be referred to a Policy Committee.

Time Critical items ~~on the Full Council Track or Policy Committee Track~~ that are submitted at a meeting of the Agenda & Rules Committee may go directly on a C~~c~~ouncil ~~agenda~~Agenda if determined to be time critical.

2. Council Referrals to Policy Committees

The full Council may refer any ~~agenda item~~Agenda Item to a Policy Committee by majority vote.

3. Participation Rules for Policy Committees Pursuant to the Brown Act

a. The quorum of a three-member Policy Committee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.

b. Two Policy Committee members may not discuss any item that has been referred to the Policy Committee outside of an open and noticed meeting.

c. Notwithstanding paragraph (b) above, two members of a Policy Committee may be listed as Authors or Co-Sponsors on an item provided that one of the Authors or Co-Sponsors will not serve as a committee member for consideration of the item, and shall not participate in the committee's

discussion of, or action on the item. For purposes of the item, the appointed alternate, who also cannot be an Author or Co-Sponsor, will serve as a committee member in place of the non-participating Author or Co-Sponsor.

d. All three members of a Policy Committee may not be Authors or Co-Sponsors of an item that will be heard by the committee.

e. Only one Author or Co-Sponsor who is not a member of the Policy Committee may attend the committee meeting to participate in discussion of the item.

f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an Author who is not a member of the committee is present to participate in the discussion of their item, no other non-committee member Councilmembers, nor the Mayor, may attend as observers.

g. An item may be considered by only one Policy Committee before it goes to the full Council.

4. Functions of the Policy Committees

Committees shall have the following qualities/components:

a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting ~~agenda~~Agendas will be posted at least 72 hours in advance of the meeting.
b. Minutes shall be available online.
c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.
e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.
f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.
g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.

h. Committees will review items for completeness in accordance with Section III.C.1 and III.C.2~~B.2~~ of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.
i. Reports leaving a Policy Committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.
j. Per Brown Act regulations, any revised or supplemental materials must be direct revisions or supplements to the item that was published in the ~~agenda~~Agenda ~~packet~~Packet.

Items referred to a Policy Committee from the Agenda & Rules Committee or from the City Council must be agendized for a committee meeting within 60 days of the referral date.

Within 120 days of the referral date, either (1) the committee Chair may accept the Primary Author's request, either in writing, or in person at a meeting of the committee, that the item remain in committee until a date certain (more than one extension may be requested by the Primary Author); or (2) the committee may vote to send the item to the Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below. The Committee Chair shall report any extension granted outside of a meeting to the Committee and the City Clerk by email or verbally at the next Committee meeting.

1. Positive Recommendation (recommending Council pass the item as proposed),
2. Qualified Positive Recommendation (recommending Council pass the item with some changes),
3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's recommendation will be included in a separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a C~~c~~ity board or commission.

The Primary Author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate C~~c~~ity staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and recommendations originating from the Policy Committee are submitted to the City Clerk by the members of the committee.

If a Policy Committee does not take final action by the 120-day deadline, the item is returned to the Agenda & Rules Committee and appears on the next available Council ~~agenda~~Agenda. The Agenda & Rules Committee may leave the item on the ~~agenda~~Agenda under consideration or place it on the next Council ~~agenda~~Agenda. Items appearing on a City Council ~~agenda~~Agenda due to lack of action by a Policy Committee may not be referred to a Policy Committee and must remain on the full Council ~~agenda~~Agenda for consideration.

Policy Committees may add discussion topics that are within their purview to their ~~agenda~~Agenda with the concurrence of a majority of the Committee. These items are not subject to the 120-day deadline for action.

Once the item is voted out of a Policy Committee, the final item will be resubmitted to the agenda process by the Primary Author, and it will return to the Agenda & Rules Committee on the next available ~~agenda~~Agenda. The Agenda & Rules Committee may leave the item on the ~~agenda~~Agenda under consideration or place it on the following Council ~~agenda~~Agenda. The Agenda & Rules Committee may agendize the item on the Consent Calendar or Action Calendar.~~Only items that receive a Positive Recommendation can be placed on the Consent Calendar.~~

Commented [NML22]: Per discussion at Agenda & Rules on 7/8/24 to allow for more discretion to place items returning from committee on Consent

The Primary Author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the deadline for final committee action is 45 days from the date the committee approves expedited review.

5. Number and Make-up of Policy Committees

Six committees are authorized, each comprised of three Councilmembers, with a fourth Councilmember appointed as an alternate. Each Councilmember and the Mayor will serve on two committees. The Mayor shall be a member of the Agenda and Rules Committee. The committees are as follows:

1. Agenda and Rules Committee
2. Budget and Finance Committee
3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

The Agenda & Rules Committee shall establish the Policy Committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All standing Policy Committees of the City Council are considered "legislative bodies" under the Brown Act and must conduct all business in accordance with the Brown Act.

6. Role of City Staff at Committee Meetings

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

I. Agenda Items Authored by Former Mayors and Councilmembers

Commented [NML23]: New policy based on discussion at Agenda & Rules on 7/8/24

Upon the date that the elected official leaves office, all Agenda Items in the legislative process for which the former official is the Primary Author shall be placed on the next available draft Council Agenda to be reviewed by the Agenda & Rules Committee. The Agenda & Rules Committee shall then place the items on the Council Agenda under consideration or the next Council Agenda.

At the Council meeting where the items appear on the Agenda, the Mayor or any Councilmember may assume primary authorship of any item authored by the former official. The Council may then, by motion and vote, take any legislative action permitted under the Rules of Procedure.

If any of the items from the former official are not assumed by the Mayor or any Councilmember, the Council may then, by motion and vote, take any legislative action permitted under the Rules of Procedure, except that the item may not be referred to a policy committee.

Commented [NML24]: From discussion at Agenda & Rules on 8/26/24

IV. CONDUCT OF MEETING

A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- At the first regular meeting of the month, a period of public comment reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.
- Public comment on the Consent and Information Calendars.
- Public comment on the Action Calendar at the onset of the Action calendar with the exception of appeals, public hearings, and quasi-judicial matters requiring public comment for due process purposes (if invoked by the Presiding Officer).
- Public comment on Aaction items by those who did not speak in the earlier Action Calendar public comment period, any appeals, public hearings, and/or other quasi-judicial matters requiring extended public comment for due process purposes as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Except in the case of public comment by employee unions, speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

With respect to public comment by employee unions, each union's allocated time may be shared between more than one representative, and representatives and other members of unions may speak during other public comment periods in the same manner as members of the public.

If ten or fewer persons are interested in speaking on an individual Actionagenda Iitem, each speaker may speak for two minutes. If there are more than ten persons interested in speaking on an item, the Presiding Officer may limit the public comment for all speakers on the item to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Commented [NML25]: Moved here as these rules are intended to cover all types of public comments

Commented [NML26]: Stated above, no need to repeat.

This procedure also applies to public hearings except those types of public hearings specifically provided for in this chapter.~~section, below.~~

The Presiding Officer has the discretion to reduce speaker time if needed in order to allow the orderly conduct of the meeting, subject to the consent of a majority of the City Council.

Commented [NML27]: From Appendix C

In order to inform members of the public of their place in the speaker's queue, the Presiding Officer will call the names of 5 speakers at a time.

Commented [NML28]: From Appendix C

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry, or unless the individual is speaking with respect to a public hearing, a quasi-judicial matter, and/or any other item requiring extended public comment as a matter of due process.

1. Public Comment on Non-Agenda Matters.

Commented [NML29]: This section moved here to mirror the order of business on the agenda

Immediately following Ceremonial Matters and the City Manager Comments and prior to reserved public comment by employee unions, up to ten persons will be selected ~~by lottery~~ to address matters not on the Council A~~a~~genda. If five or fewer persons ~~submit speaker cards for the lottery~~are identified to provide non-agenda comment, each person selected will be allotted two minutes each. If more than five persons ~~submit speaker cards for the lottery, up to ten persons will be~~are selected to address matters not on the Council ~~agenda~~Agenda, ~~and~~ each person selected will be allotted one minute each.

In-person attendees~~Persons~~ wishing to address the Council on matters not on the Council ~~agenda~~Agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to the moment that the Presiding Officer calls for public comment on non-agenda items.~~commencement of that meeting.~~ Remote attendees must raise their hand in the videoconference application when the Presiding Officer calls for non-agenda speakers. The first five raised hands on the videoconference application will be selected to speak and the first five cards drawn at the meeting will be selected to speak. The number of in-person and remote speakers selected may be adjusted by the Presiding Officer if fewer than five speakers from either format are identified.

Commented [NML30]: Revised to account for hybrid meetings.

Commented [NML31]: Per discussion at Agenda & Rules on 7/8/24 to facilitate public participation

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the ~~agenda~~Agenda. Speaker cards are not required for this second round of public comment on non-agenda matters. Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers. ~~by subject~~. The Presiding Officer will generally request that persons wishing to speak, line up at

Commented [NML32]: Per discussion at Agenda & Rules on 7/8/24 – not current or even recent practice

the podium to be recognized or raise their hand on the videoconference application to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate. ~~given the number of speakers.~~

~~Pursuant~~ ~~to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agendized business remains unfinished at 11:00 p.m.~~ If the meeting is automatically adjourned at 11:00 p.m., or the expiration of any extension after 11:00 p.m., ~~it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event,~~ the meeting shall be automatically extended for up to fifteen ~~(15)~~ minutes ~~for~~to hear public comment on non-agenda items.

Commented [NML33]: Per discussion at Agenda & Rules on 7/8/24

Commented [NML34]: Language is simplified and removed repition from other sections.

2. **Public Comment on Consent Calendar and Information Items.**
The Council will first determine whether to move items on the ~~agenda~~Agenda for "Action" or "Information" to the "Consent Calendar," or move "Consent Calendar" items to "Action." Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent."

   The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. No additional items can be moved onto the Consent Calendar once public comment has commenced.

   At any time during, or immediately after, public comment on Information and Consent items, the Mayor or any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

   For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

3. Public Comment on Action Items.

After the initial ten minutes of public comment on non-agenda items, reserved public comment by employee unions, public comment on Cconsent and iInformation items, and adoption of the Consent Calendar, the public may comment on each remaining item listed on the Agenda for action as the item is taken up.

At the discretion of the Presiding Officer, with the consent of the Council, there may be a public comment period for one or several of the Action Calendar items at the beginning of the Action Calendar. Speaking time during this comment period is subject to the standard rules for public comments in Chapter IV.A. Speakers may speak to multiple items, but may only speak once during this period. This provision is not applicable to ~~the public may comment on each remaining item listed on the agenda for action. Public comment will occur for each Action item—excluding~~ public hearings, appeals, and/or quasi-judicial matters. Attendees that speak on an action item at the scheduled public comment period may not speak again when the action item is taken up by the Council.~~—in separate but consecutive public comment periods before the Action Calendar is discussed by Council and staff and as the item is taken up. The Presiding Officer will open and close the public comment period for each Action Item, and each period will occur based on the order of the items on the agenda, or based on the discretion of the Presiding Officer.~~

Commented [NML35]: Per discussion at Agenda & Rules Committee this is a re-working of the previous language adopted by Council in 2023.

During the public comment period for each Action Item, the Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and raise their hand on the videoconference application to determine the number of persons interested in speaking onat that item.~~time.~~

~~If ten or fewer persons are interested in speaking on an individual Action Item, each speaker may speak for two minutes. If there are more than ten persons interested in speaking on an item, the Presiding Officer may limit the public comment for all speakers on the item to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.~~

~~This procedure also applies to public hearings except those types of public hearings specifically provided for in this section, below.~~

4. Appeals Appearing on Action Calendar.

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of a proposed lien (nuisance abatement/special assessment) lien, the appellant shall have seven minutes to comment.

Commented [NML36]: Clarification based on BMC language

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council ~~agenda~~Agenda.

~~**5. Public Comment on Non-Agenda Matters.**~~

Commented [NML37]: Moved above

~~Immediately following Ceremonial Matters and the City Manager Comments and prior to reserved public comment by employee unions, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.~~

~~The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.~~

~~Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.~~

~~For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.~~

~~Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agendized business remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.~~

6. **Ralph M. Brown Act Pertaining to Public Comments.**
   The Brown Act prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the ~~agenda~~Agenda. However, the Council may refer a matter to the City Manager.

B. Consent Calendar

There shall be a Consent Calendar on all regular meeting ~~agenda~~Agendas on which shall be included those matters which the Mayor, Councilmembers, boards, commissions, City Auditor, and Charter Officers~~City Manager~~ deem to be of such nature that no debate, prolonged discussion, or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

It is the policy of the Council that the Mayor or Councilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of ~~c~~Consent ~~c~~Calendar items can be minimized.

~~Consent Calendar items may be moved to the Action Calendar by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.~~

Commented [NML38]: Moved to Chapter II.D.

C. Information Reports Called Up for Discussion

Reports for Information designated for discussion at the request of the Mayor or any Councilmember shall be added to the appropriate section of the Action Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The ~~agenda~~Agenda will indicate that at the request of the Mayor or any Councilmember a Report for Information may be acted upon by the Council.

D. Written Communications

Written communications from the public will not appear on the Council ~~agenda~~Agenda as individual matters for discussion but will be distributed as part of the Council ~~agenda~~Agenda ~~packet~~Packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the ~~agenda~~Agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council ~~agenda~~Agenda to the Council to be reproduced in the "Communications" section of the Council ~~packet~~Packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. The Mayor or a Councilmember may refer a communication to the City Manager for action, if appropriate, or prepare a ~~c~~Consent or ~~a~~Action item for placement on a future ~~agenda~~Agenda.

Communications related to an item on the ~~agenda~~Agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.D~~C~~.5~~4~~.

E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, and prior to opening the public hearing, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by first the appellant and then the applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a

Commented [NML39]: Codifies long-standing practice

public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

The Presiding Officer will request that persons wishing to speak~~,~~ line up at the podium to be recognized or raise their hand on the videoconference platform,~~and~~ to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

F. Work Sessions

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent ~~agenda~~Agenda under the Action portion of the Council ~~agenda~~Agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak~~,~~ line up at the podium or raise their hand on the videoconference to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

G. Protocol

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

V. PROCEDURAL MATTERS

A. Persons Authorized to Sit at Tables

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

B. Decorum

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council.

C. Enforcement of Decorum

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the Ppresiding Oofficer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

D. Precedence of Motions

When a question or motion is before the Council, no motion shall be entertained except:

1. To adjourn;
2. To fix the hour of adjournment;
3. To lay on the table;
4. For the previous question;
5. To postpone to a certain day;
6. To refer;
7. To amend;
8. To substitute; and
9. To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to amend or substitute, shall be put to a vote without debate.

E. Robert's Rules of Order

Robert's Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall supersede.

F. Rules of Debate

1. **Presiding Officer May Debate.**
   The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

2. **Getting the Floor - Improper References to be avoided.**
   Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themself to the question under debate.

3. **Interruptions.**
   A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

4. **Privilege of Closing Debate.**
   The Mayor or Councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the Mayor or Councilmember moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

5. **Motion to Reconsider.**
   A motion to reconsider any action taken by the Council may be made only during the same session such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by a member on the prevailing side, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

6. **Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**
   Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

G. Debate Limited

For the Consent Calendar, the Mayor and Councilmembers will initially have up to five minutes each to make comments. After all members of the Council have spoken (or passed) and after public comment, members will each have two additional minutes to discuss the Consent Calendar.

For non-Consent items, the Mayor and Councilmembers will have five~~two~~ minutes each to make initial comments on an ~~agenda item~~Agenda Item., ~~except for the author of an agenda item who will have five minutes to initially present the item.~~ After every Councilmember has spoken or declined and after public comment, Councilmembers will each have another five minutes per person to address an item. Debate may be extended beyond a second round of Council comments by a majority vote (5 votes).

Time will toll during staff answers to questions; Councilmembers are urged to ask their questions of city staff before the meeting or in writing.

~~1. Consideration of each matter coming before the Council shall be limited to 20 minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of Information Reports; provided that either of the following two not debatable motions shall be in order:~~

~~a) A motion to extend consideration which, if passed, shall commence a new twenty-minute period for consideration; or~~

~~b) If there are one or more motions on the floor, a motion for the previous question, which, if passed by a 2/3 vote, shall require an immediate vote on pending motions.~~

~~2. The time limit set forth in subparagraph 1 hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.~~

~~3. In the interest of expediting the business of the City, failure by the Chair or any Councilmember to call attention to the expiration of the time allowed for consideration of a matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any Councilmember may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in Section D hereof is made and is passed.~~

H. Motion to Lay on Table

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may

Commented [NML40]: Per Council direction on 5/7/24

Commented [NML41]: Per discussion at Agenda & Rules on 7/8/24 – eliminates redundancy in this paragraph.

Commented [NML42]: This obsolete "20-minute rule" language is replaced with the language immediately above from Appendix C

be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

I. Division of Question

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

J. Addressing the Council

Under the following headings of business, unless the presiding officer rules otherwise, any interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

1. **Written Communications.**
   Interested parties or their authorized representatives may address the Council in the form of written communications in regard to matters of concern to them by submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.D.5.~~C.4.~~

2. **Public Hearings.**
   Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

3. **Public Comment.**
   Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

K. Addressing the Council After Motion Made

When a motion is pending before the Council, no person other than the Mayor or a Councilmember shall address the Council without first securing the permission of the presiding officer or Council to do so.

L. Use of Cellular Phones and Electronic Devices

The use of cell phones during City Council meetings is discouraged for the Mayor and Councilmembers. While communications regarding Council items should be minimized, personal communications between family members and/or caregivers can be taken outside in the case of emergencies. In order to acknowledge differences in learning styles and support tactile learners, note-taking can continue to be facilitated both with a pen and paper and/or on electronic devices such as laptop computers and tablets.

The use of cell phones during Closed Session Meetings is explicitly prohibited for the Mayor and Councilmembers.

VI. FACILITIES

A. Meeting Location Capacity

Attendance at Ccouncil meetings shall be limited to the posted seating capacity of the meeting location. Entrance to the meeting location will be appropriately regulated by the City Manager on occasions when capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the meeting room except to address the Council, and sitting on the floor shall not be permitted.

B. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the Board Room.

C. Amplified Sound, Signs, Objects, and Symbolic Materials

Amplified sound devices such as bullhorns, megaphones, portable sound systems, and similar devices are prohibited within the meeting location during Council meetings.

Objects and symbolic materials such as signs and banners are permitted in the meeting location provided that they do not interfere with the cameras that broadcast the meeting, obstruct the view of other attendees, or create a fire or safety hazard.

Any type of stick, pole, or similar object is prohibited in the meeting location during Council meetings.

D. Fire Safety

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

E. Overcrowding

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the meeting location has reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.

F. Format of Meetings

Commented [NML43]: Per Council direction on 5/7/24

The City Council may conduct regular meetings or special meetings held at the School District Boardroom in the hybrid format with both in-person and virtual participation as provided for in the Brown Act, and as noticed on the meeting Agenda. Council meetings at other locations may be conducted in the hybrid format if technologically feasible.

APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

Purpose
To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

Objective
A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

Section 1 – Lead Commission
The City Council designates the following commissions as the 'Lead Commissions' in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

Board of Library Trustees

Parks~~, and~~ Recreation & Waterfront Commission – Parks, recreation centers, camps, plazas~~, and~~ public open spaces, and public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

Transportation and Infrastructure ~~Public Works~~ Commission – Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

~~Waterfront Commission – Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.~~

Commented [NML44]: Moved above due to commission consolidation

Section 2 – General Policy
A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

Section 3 – Criteria for Naming of Public Facilities
When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an

established park), or, the renaming of an existing public facility the following criteria shall be applied:

A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
B. The honoree has a record of outstanding service to their community
C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

Section 5 –Procedures for Naming or Renaming of Public Facilities

A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
    1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
    1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
    1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination

D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.
    1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

APPENDIX B. GUIDELINES FOR ~~DEVELOPING AND WRITING~~ CITY COUNCIL~~MEMBER~~/~~MAYOR MAJOR~~ ~~AGENDA~~ ITEMS

~~These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the Primary Author of an item provide "additional analysis" if the item as submitted evidences a "significant lack of background or supporting information" or "significant grammatical or readability issues."~~

~~These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt Authors to consider presenting items with as much relevant information and analysis as possible.~~

~~Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:~~

~~2. Agenda items shall contain all relevant documentation, including the following as Applicable:~~

~~a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;~~
~~b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;~~
~~c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);~~
~~d. Fiscal impacts of the recommendation;~~
~~e. A description of the current situation and its effects;~~
~~f. Background information as needed;~~
~~g. Rationale for recommendation;~~
~~h. Alternative actions considered;~~
~~i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);~~
~~j. Person or persons to contact for further information, with telephone number. If the Primary Author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.~~

Commented [NML45]: Eliminated here – redundant with text in the body of the ROP

~~Guidelines for City Council Items:~~ Requirements for City Council~~member~~/Mayor Major Items are provided in ~~Section [XXX]~~Chapter III.C.2 of the City Council Rules of Procedure and Order. These guidelines further explain the requirements and are intended to assist in ~~the~~ preparation of fully researched and documented items that are likely to be ~~eligible to move forward in the legislative process as determined deemed complete~~ by the Agenda ~~and~~& Rules Committee~~. in [process].~~

~~1. Title~~
~~2. Consent/Action/Information Calendar~~
~~3. Recommendation~~
~~4. Summary Statement/Current situation and its effects~~
~~5. Background~~
~~6. Review of Existing Plans, Programs, Policies and Laws~~
~~7. Actions/Alternatives Considered~~
~~8. Consultation/Outreach Overview and Results~~
~~9. Rationale for Recommendation~~
~~10. Implementation, Administration and Enforcement~~
~~11. Environmental Sustainability~~
~~12. Fiscal Impacts~~
~~13. Outcomes and Evaluation~~
~~14. Contact Information~~
~~15. Attachments/Supporting Materials~~

---

1. **Title**
   A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

2. **Consent/Action/Information Calendar**
   Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

3. **Recommendation**
   Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

   Common action options include:
   - Adopt first reading of ordinance
   - Adopt a resolution
   - Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
   - Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
   - Referral to a Commission or to a Standing or Ad Hoc Council Committee
   - Referral to the budget process

- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

4. Summary Statement/ "Current situation and its effects"

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):
  Winter rains are lasting longer than expected. Berkeley's winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley's winter shelters open until the end of April, and refers to the Budget Process $40,000 to cover costs of an additional two months of shelter operations.

5. Background

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

6. Review of Existing Plans, Programs, Policies and Laws

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan

- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan
- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan
Review of similar legislation previously introduced/passed by Council
Review of County, State and Federal laws/policies/programs/plans, if applicable

7. **Actions/Alternatives Considered**
   - What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
   - What solutions/measures are recommended by **advocates, experts, organizations**?
   - What is the range of actions considered, and what are some of their major pros and cons?
   - Why were other solutions not as feasible/advisable?

8. **Consultation/Outreach Overview and Results**
   - Review/list external and internal stakeholders that were consulted
     - **External**: constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
     - **Internal**: staff who would implement policies, the City Manager and/or ~~d~~Deputy CM, Department Heads, City Attorney, City Clerk, etc.
   - What reports, articles, books, websites and other materials were consulted?
   - What was learned from these sources?
   - What changes or approaches did they advocate for that were accepted or rejected?

9. **Rationale for Recommendation**

A clear and concise statement as to whether the item proposes actions that:
- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws

- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented, but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

10. **Implementation, Administration and Enforcement**
    Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

11. **Environmental Sustainability and Climate Impacts**
    Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

12. **Fiscal Impacts**
    Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

13. **Outcomes and Evaluation**
    State the specific outcomes expected, if any (i.e., *"it is expected that 100 homeless people will be referred to housing every year"*) and what reporting or evaluation is recommended.

14. **Contact Information**

15. **Attachments/Supporting Materials**

APPENDIX C. TEMPORARY RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS THROUGH VIDEO CONFERENCE DURING THE COVID-19 EMERGENCY

Commented [NML46]: Relevant portions have been moved to the body of the document.

Mayor and Councilmember Speaking Time on Agenda Items

For the Consent Calendar, the Mayor and Councilmembers will initially have up to five minutes each to make comments. After all members of the Council have spoken (or passed) and after public comment, members will each have two additional minutes to discuss the Consent Calendar.

For non-Consent items, the Mayor and Councilmembers will have two minutes each to make initial comments on an agenda item, except for the author of an agenda item who will have five minutes to initially present the item. After every Councilmember has spoken or declined and after public comment, Councilmembers will each have another five minutes per person to address an item. Debate may be extended beyond a second round of Council comments by a majority vote (5 votes).

Time will toll during staff answers to questions; Councilmembers are urged to ask their questions of city staff before the meeting or in writing.

Procedure for Pulling Items from Consent or Information Calendar

Three (3) members of the City Council must agree to pull an item from the Consent or Information Calendar for it to move to Action. Absent three members concurring, the item will stay on Consent or Information Calendar and, with respect to Consent items, the Mayor or Councilmembers will be allowed to record their aye, nay or abstain votes on individual items or the entire Consent Calendar.

Moving an item from the Action Calendar to the Consent Calendar requires the unanimous consent of the entire City Council.

Public Comment Speaking Time

Commented [NML47]: Relevant portions have been moved to the body for the Rules of Procedure.

With the exception of prescribed times in the Rules of Procedure for public hearings and public comment by employee unions, the amount of time for each speaker during public comment is limited to two minutes maximum and that speakers can only address an agenda item once, however the Presiding Officer has the discretion to reduce speaker time if needed in order to allow the orderly conduct of the meeting, subject to the consent of a majority of the City Council. Speakers may yield their time for a maximum of four minutes per individual. If a speaker wishes to yield their time, they must indicate so when called on by the Presiding Officer and state who they are yielding their speaker time to. The Presiding Officer will keep a list with the names and amount of time yielded to individuals.

In order to inform members of the public of their place in the speaker's queue, the Presiding Officer will call the names of 5 speakers at a time.

Public Comment on Non-Agenda Matters will be conducted in the order of hands raised on the Zoom platform, and will be limited to either the first 10 speakers during the initial round of Non-Agenda public comment, as well as all hands raised during the closing round of Non-Agenda public comment at the conclusion to the meeting, until such time that the

Commented [NML48]: This paragraph is only applicable to virtual-only meetings, which are currently not permitted under the Brown Act.

~~meeting adjourns. If there are five or fewer speakers with hands raised for Public Comment on Non-Agenda Matters, each speaker will have two minutes to address the City Council. If there are more than five speakers with their hands raised then speaker time will be limited to one minute per person. The procedure for selection of Non-Agenda speakers prescribed in the Rules of Procedure by random draw is suspended for videoconference meetings where there is no physical meeting location.~~

Office of the City Manager

INFORMATION CALENDAR
September 24, 2024

To: Honorable Mayor and Members of the City Council

From: LaTanya Bellow, Interim City Manager

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

Subject: LPO NOD: 2000 Kala Bagai Way, LMSAP2024-0002

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that "a copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting."

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for the subject City Landmark property. This action is subject to a 15-day appeal period, which began on September 10, 2024

BACKGROUND

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. For Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by September 24, 2024 Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must then rule on the designation within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY & CLIMATE IMPACTS
Landmark designation and discretionary alteration reviews by LPC and staff provide opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION
The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION
There are no known fiscal impacts associated with this action.

CONTACT PERSON
Fatema Crane, Principal Planner, Planning and Development, 510-981-7410
Desiree Dougherty, Assistant Planner, Planning and Development, 510-981-7431

Attachments:
1: Notice of Decision – 2000 Kala Bagai Way, LMSAP2024-0002

LANDMARKS PRESERVATION COMMISSION

Notice of Decision

DATE OF BOARD DECISION: July 8, 2024
DATE NOTICE MAILED: September 9, 2024
APPEAL PERIOD EXPIRATION: September 24, 2024
EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): September 25, 2024[1]

2000 Kala Bagai Way – The Shattuck Square Building

Structural Alteration Permit #LMSA2024-0002 to install two new illuminated wall signs and to replace seven awnings on the exterior of a designated City Landmark building.

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following request:

- **Structural Alterations Permit:**
  - **Applicant:** Jin Lee, Lee's Signs, Inc.
    845 E. 10th St.
    Oakland, CA 94606
  - **Property Owner:** Mike Maffia
    411 Borel Ave, Suite 650
    San Mateo, CA 94402

1 Pursuant to BMC Chapter 3.24, the City Council may "certify" any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
#LMSAP2024-0002
2000 Kala Bagai Way
September 9, 2024

ZONING DISTRICT: Downtown Mixed-Use Core District (C-DMU Core)

ENVIRONMENTAL REVIEW STATUS: Categorically exempt from further environmental review pursuant to CEQA Guidelines Section 15061.(b)(3) Review for Exemptions.
.

The application materials for this project is available online at:
https://berkeleyca.gov/construction-development/land-use-development/zoning-projects or
https://permits.cityofberkeley.info/CitizenAccess/Default.aspx

---

FINDINGS AND CONDITIONS OF APPROVAL AND APPLICATION MATERIALS ARE ATTACHED TO THIS NOTICE

COMMISSION VOTE: 7-0-0-1

YES: CRANDALL, ENCHILL, FINACOM, MONTGOMERY, ORBUCH, SCHWARTZ, TWU

NO: NONE

ABSTAIN: NONE

ABSENT: LEUSCHNER

TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):
To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
   a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of Chapter 3.24.
2. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
   a. The basic fee for persons other than the applicant is $1,500. This fee may be reduced to $500 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less. Signatures

collected per the filing requirement in BMC Section 3.24.300.A may be counted towards qualifying for the reduced fee, so long as the signers are qualified. The individual filing the appeal must clearly denote which signatures are to be counted towards qualifying for the reduced fee.

b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is $500, which may not be reduced.
c. The fee for all appeals by Applicants is $6,000.

3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the landmark permit will be final on the first business day following expiration of the appeal period.

NOTICE CONCERNING YOUR LEGAL RIGHTS:

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision 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 Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission 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 ninety (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 ninety (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, your appeal of this decision must include the following information:

   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.

PUBLIC COMMENT:

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.

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Desiree Dougherty, at (510) 981-7431 or ddougherty@berkeleyca.gov. All project application materials may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, 3rd Fl., during regular business hours.

ATTACHMENTS:

1. Findings for Approval
2. Application Materials



ATTEST: _____
Fatema Crane, Secretary
Landmarks Preservation Commission

cc: City Clerk

Applicant:	Jin Lee, Lee’s Signs, Inc., 845 E. 10th St., Oakland, CA 94606
Property Owner:	Mike Maffia, 411 Borel Ave, Suite 650, San Mateo, CA 94402

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
#LMSAP2024-0002
2000 Kala Bagai Way
September 9, 2024
Page 5 of 5

ATTACHMENT 1, PART 2

FINDINGS AND CONDITIONS

FINDINGS REQUIRED UNDER CEQA

1. The project is categorically 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 15331 of the CEQA Guidelines ("Historic Resource Restoration/Rehabilitation"). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, and (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5.

FINDINGS RELATED TO THE SECRETARY OF THE INTERIOR'S STANDARDS

Regarding the Secretary of the Interior's Standards (SOI) for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. The proposed project does not require a change of use. The property will retain its historic commercial use.

2. The project will retain the historic character and architectural design of the property and will not remove any distinctive materials or alter the features that characterize the property.

3. The new signage and awnings will not resemble or replicate designs from the property's historic period and will not result in a false sense of historical development.

4. Changes to the property that may have acquired significance in their own right are not affected by this project.

5. Distinctive materials, features, finishes, and construction techniques, or examples of craftsmanship that characterize this property, such as the detailing of the upper windows and trim banding, will be substantially retained and preserved with this project.

6. As conditioned herein, if deteriorated historic features will be affected by this request, then they would be repaired or replaced to match the materials, design, and finishes of the original items

7. The applicant does not propose chemical or physical treatments. However, standard conditions of Structural Alteration Permit approval would require any chemical or physical treatments to be undertaken using the gentlest means possible.

8. The project does not have the potential to affect any archaeological resources because the applicant proposes no excavation.

9. The proposed upgrades are designed with complimentary, high-quality materials in simplified, contemporary style employing colors and finishes that harmonize with the historic design elements of the building. Owing to these aspects, new work will be sufficiently differentiated from the historic design.

10. If the proposed improvements were removed in the future, they would not permanently impair the integrity or essential form of the subject building.

FINDINGS REQUIRED UNDER LANDMARKS PRESERVATION ORDINANCE

1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that the proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve the characteristics and features specified in the designation for this property. Specifically:

    A. The proposed project will not adversely affect the architectural design of this City Landmark, the Shattuck Square Building. The signs and awning are mounted in locations that fit within the architectural features of the building.

    B. The proposed project will not affect the special character of the subject property, which lies in the cast concrete detailing around the second story windows and in the commercial storefronts. The alterations will continue to support the historic commercial context of the building and will be installed in such a way that would not affect the integrity of the historic structure if removed in the future.

STANDARD CONDITIONS

The following conditions, as well as all other applicable provisions of the Landmarks Preservation Ordinance, apply to this Permit:

1. Conditions 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 Permit, under the title 'Structural Alteration 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; 8-1/2" by 11" sheets are not acceptable.

2. Plans and Representations Become Conditions

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

3. Subject to All Applicable Laws and Regulations

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Zoning Adjustments Board or Zoning Officer, Building and Safety Division, Public Works Department and other affected City divisions and departments.

4. Exercise and Lapse of Permits

A. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.

B. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

5. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn,

set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

6. 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.

7. 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.

8. 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 CEQA Guidelines Section 15064.5 (e)(1) . If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to Health and Safety Code Section 7050.5(c), 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.

9. 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.

ADDITIONAL CONDITIONS

The following additional conditions are attached to this Permit:

10. No changes can be made to these approved plans without prior approval.

11. CITY PERMITS. This Structural Alteration Permit (SAP) approval is contingent upon approval of the requisite Use Permit and Public Work Permit for the project scope.

12. PLANS COMPLIANCE. Construction and building permit plans shall substantially conform to the Structural Alteration Permit (SAP) project plans dated/received May 06, 2024.

13. REPAIR AND REPLACEMENT OF CHARACTER-DEFINING FEATURES. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old or historic feature in design, color, texture, and, where possible,

materials. Replacement of missing features shall be substantiated by documentary and physical evidence.

14. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.

15. **COLORS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit color and materials information for review and approval by Landmarks staff, in coordination with the LPC Chair as needed.

16. **DETAILS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit sign and awning details for review and approval by the Landmarks plan checker.

17. **SIGNAGE.** Prior to Landmarks plan checker sign-off of the building permit set of drawings, the applicant shall submit complete signage details, including colors, materials, letter heights, dimensions, placement on building, and installation details. All materials will be matte unless otherwise noted. All non-temporary signage and awnings not previously approved and not listed in this application are prohibited.

18. **LIGHTING.** Prior to Landmarks plan checker sign-off of the building permit set of drawings, the applicant shall submit lighting details showing all existing and proposed site and building lighting. Exterior lighting, including for signage, shall be downcast and not cause glare on the public right-of-way and adjacent parcels.

19. The applicant shall be responsible for identifying and securing all applicable permits from the Building and Safety Division and all other affected City divisions/departments prior to the start of work.

20. The applicant is responsible for complying with all the above conditions. Failure to comply with any condition could result in construction work being stopped, issuance of citations, as well as further review by the Landmarks staff, which may modify or impose additional conditions, or revoke approval.

21. All building permit drawings and subsequent construction shall substantially conform to the approved plans as outlined in Condition #1. Any modifications must be reviewed by the Landmarks plan checker to determine whether the modification requires approval.

22. The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified

herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.



PHOTO OF EXISTING CONDITION OF SIGN AWNINGS



EXISTING AWNINGS HEIGHT, DEPTH & FRAME SIZE



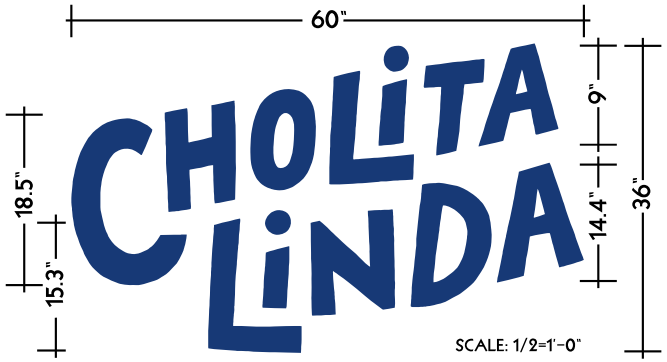
EXISTING SIGN DEMENSIONS

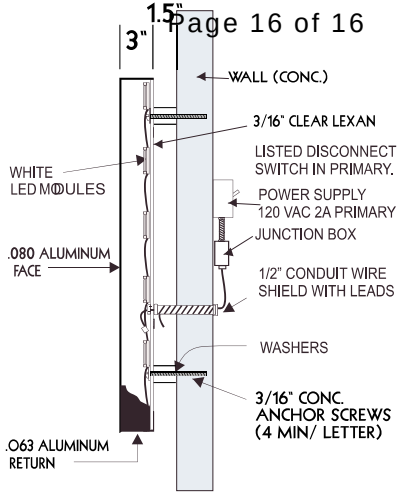


PROPOSED SIGN DEMENSIONS

SIGNAGE FOR "CHOLITA LINDA"

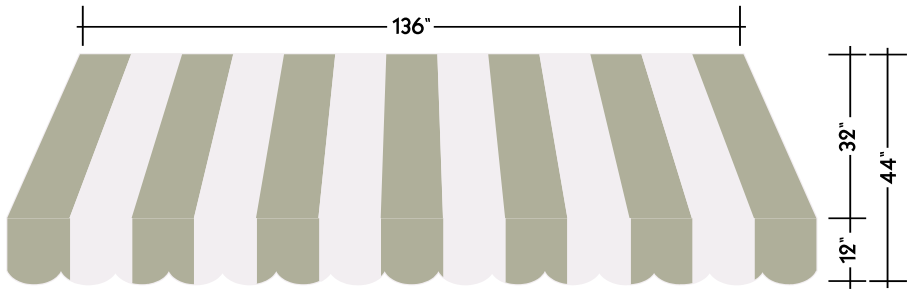
(36"HT. 60" ILLUM. INDIVIDUAL REVERSED CHANNEL, HALO-LIT)





LETTERS SECTION

REPLACEMENT NEW FABRIC ON EXISTING FRAMES



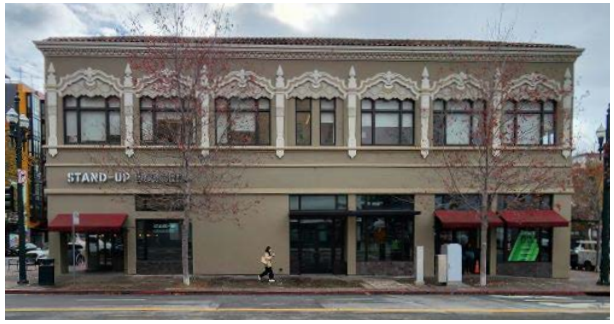
COLORS & MATERIALS

FABRIC - 12"WIDE MANHATTHAN FOG (SUNBRELLA # 4876.0000)

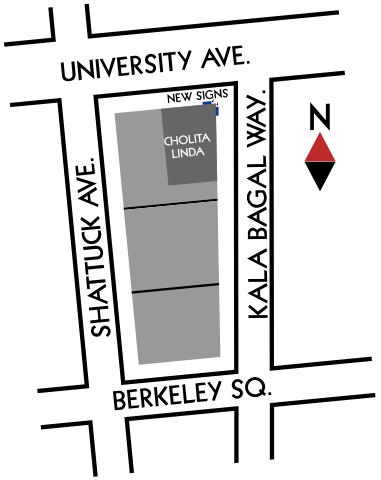


EXISTING VIEW KALA BAGAI WAY.

REMOVAL EXISTING SIGNS



UNIVERSITY AVE.



PLAN VIEW



PROPOSED VIEW KALA BAGAI WAY. ELEVATION



UNIVERSITY AVE. ELEVATION

PROJECT APPLICANT	
CHOLITA LINDA	
2000 KALA BAGAI WAY. BERKELEY, CA 94704	
MURAT SOZERI	510-692-3762
	JUN.24.2024

LEE'S SIGNS
State Lic. # 556289 Owner: Jin H. Lee
845 E. 10th Street Oakland, CA 94606
Tel: 510.452.1420 Fax: 510.452.0177

Office of the City Manager

INFORMATION CALENDAR
September 24, 2024

To: Honorable Mayor and Members of the City Council

From: LaTanya Bellow, Interim City Manager

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

Subject: LPO NOD: 2227 Parker Street, #LMIN2024-0001

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.160, which requires that "a copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting."

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has designated the subject property as a Structure of Merit. This action is subject to a 15-day appeal period that began on September 10, 2024.

BACKGROUND

BMC/LPO Section 3.24.190 allows the Council to review any action of the Commission in granting or denying Landmark, Structure of Merit, or Historic District status. For Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by September 24, 2024. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must then rule within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY & CLIMATE IMPACTS
Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION
The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION
There are no known fiscal impacts associated with this action.

CONTACT PERSON
Fatema Crane, Principal Planner, Planning and Development Department, 510-981-7413
Allison Riemer, AICP, Associate Planner, Planning and Development, 510-981-7433

Attachments:
1: Notice of Decision – 2227 Parker Street, #LMIN2024-0001

LANDMARKS PRESERVATION COMMISSION

Notice of Decision

DATE OF BOARD DECISION: July 8, 2024
DATE NOTICE MAILED: September 9, 2024
APPEAL PERIOD EXPIRATION: September 24, 2024
EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): September 25, 2024[1]

2227 Parker Street – Frank A. Davis House

Landmark application #LMIN2024-0001 for City Landmark or Structure of Merit designation status for a house and workshop built circa 1877 (APN: 055-1829-007-00)

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following request:

- **Structure of Merit designation**

Applicant: Petition of 91 Berkeley Residents
Wanda Mulcahy, Application Author
2222 Parker Street
Berkeley, CA 94704

Property Owner: Sylvia Sussman Trust c/o Julie Menack
5111 Telegraph Avenue #102
Oakland, CA 94609

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

1 Pursuant to BMC Chapter 3.24, the City Council may "certify" any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Permit becomes effective the day after the certification deadline has passed.

ENVIRONMENTAL REVIEW STATUS: Categorically exempt from further environmental review pursuant to CEQA Guidelines Section 15061.(b)(3) Review for Exemptions.

The application materials for this project is available online at:
https://berkeleyca.gov/construction-development/land-use-development/zoning-projects or
https://permits.cityofberkeley.info/CitizenAccess/Default.aspx

---

FINDINGS AND CONDITIONS OF APPROVAL AND APPLICATION MATERIALS ARE ATTACHED TO THIS NOTICE

COMMISSION VOTE: 7-0-0-1

YES: CRANDALL, ENCHILL, FINACOM, MONTGOMERY, ORBUCH, SCHWARTZ, TWU

NO: NONE

ABSTAIN: NONE

ABSENT: LEUSCHNER

TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):
To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
   a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of Chapter 3.24.
2. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
   a. The basic fee for persons other than the applicant is $1,500. This fee may be reduced to $500 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less. Signatures collected per the filing requirement in BMC Section 3.24.300.A may be counted towards qualifying for the reduced fee, so long as the signers are qualified. The

individual filing the appeal must clearly denote which signatures are to be counted towards qualifying for the reduced fee.

b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is $500, which may not be reduced.

c. The fee for all appeals by Applicants is $6,000.

3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the landmark permit will be final on the first business day following expiration of the appeal period.

NOTICE CONCERNING YOUR LEGAL RIGHTS:

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision 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 Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission 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 ninety (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 ninety (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, your appeal of this decision must include the following information:

   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.

PUBLIC COMMENT:

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.

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Allison Riemer, at (510) 981-7433 or ariemer@berkeleyca.gov. All project application materials may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, 3rd Fl., during regular business hours.

ATTACHMENTS:

1. Findings for Approval
2. Application Materials



ATTEST: _____
Fatema Crane, Secretary
Landmarks Preservation Commission

cc: City Clerk

Application Author:	Wanda Mulcahy, 2222 Parker St., Berkeley, CA 94704
Property Owner:	Sylvia Sussman Trust, c/o Julie Menack, 5111 Telegraph Avenue #102, Oakland, CA 94609
Interested Parties:	Will Toft via wtoft@yahoo.com; Michael Stephens via

michael@michaelstephens.net

Attachment 1, Part 2

Findings

JULY 8, 2024

2227 Parker Street – Frank A. Davis House

Landmark application #LMIN2024-0001 for the consideration of City Landmark or Structure of Merit designation status for a house and workshop built circa 1877 (APN: 055-1829-007-00)

PROJECT DESCRIPTION

Structure of Merit designation of the property at 2227 Parker Street, Frank A. Davis House.

CEQA FINDINGS

1. The project is found to be exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15061.b.3 of the CEQA Guidelines (activities that can be seen with certainty to have no significant effect on the environment).

LANDMARK PRESERVATION ORIDNANCE FINDINGS

2. Pursuant to Berkeley Municipal Code (BMC) Section 3.24.110.B.2(d) of the Landmarks Preservation Ordinance, the Commission finds that the subject property meets the designation criteria for Structure of Merit (SOM) status because it has historical significance to the City and/or to its neighborhood, block, street frontage, or group of buildings. The property exhibits evident cultural, historical and educational value from its period of significance, which began in the 1870s and lasted until the end of World War II; the property and the two extant buildings date to the earliest period of the City's history and feature the intact, historical site plan of its farmstead origin and retain a similar mix of uses, including residential and work space.

FEATURES TO BE PRESERVED

1. This Structure of Merit designation shall apply to the subject property and the following features of the site shall be preserved:
    - Site plan: location and arrangement of structures and planted areas with permeable surfaces
    - Two extant buildings
    - Underground well, excluding well cap

Ordinance #4694 N.S.

REVISED

LANDMARK APPLICATION

Frank A. Davis House

1. **Street Address:** 2227 Parker Street
   County: Alameda **City:** Berkeley **ZIP:** 94704

2. **Assessor's Parcel Number:** 55-1829-7
   Dimensions: 135' x 75'
   Cross Streets: between Fulton and Ellsworth

3. **Is property on any survey?** Berkeley Urban Conservation Survey

4. **Application for Landmark Includes:** House and property, including the workshop and barn that run across the back of the lot, and the remains of the 75-100 feet-deep well.

5. **Historic Name:** Frank A. Davis House
   Commonly Known Name: 2227 Parker Street

6. **Date of Construction:** 1877
   Factual: Yes
   Source information: 1878 Berkeley Tax Assessment Records mention improvements to the value of $100. (See Appendix I) Also, Lyndon Comstock states the house was here in 1877 (On Parker Street: The Evolution of a Berkeley Neighborhood 1855-1965 p. 185)

7. **Architect:** None—Homestead buildings

8. **Builder**: Frank A. Davis

9. **Style:** Pioneer Homestead

10. **Original Owner**: Frank. A. Davis
    Original Use: Residence, workshop/barn and well

11. **Present Owner**: Sylvia Sussman/Sylvia Sussman Trust

1.

12. Present Use: Four residential units and artist's studio

13. Current Zoning: R-2A

14. Present Condition of Property: Good.

Most of the features of the workshop and barn are original.

Many original features of the home have been preserved.

Foundations of the well and imprint of the former water tower on the exterior rear wall of the house remain.

15. Is Property Endangered: Yes. Property is currently on the market.

16. Description:

Frank A. Davis' home and the tool and die workshop/carriage-house barn are two-storey, wood-framed structures.

The house is set back from the sidewalk about 25 feet behind the front garden, and what was the original workshop and later a barn are behind the home and back garden, running along the north side of the lot . (Appendix 2: Sanborn maps 1903 and 1911, and Photographs) Total square footage of both buildings is 3,575 square feet, which sit on a 10,125 square-foot lot.

There is a 75-100 foot-deep covered well, with the foundations and several courses of brick masonry of an original water tower located behind the house.

The House

The main body of the house is rectangular, with a recessed, gable-roofed extension and small porch on the west side. The pitch of the hip roof is very shallow, looking almost flat from the street. The siding is mainly V-

channel, the side extension to the west having rustic channel siding. The windows on the front and east side have the original narrow, two-over-two, double-hung sash with aprons underneath and flat moldings around. Also at the front is a small, leaded glass window lighting the interior staircase. At the back, on the second floor, there is a small deck projecting on the east side, extending from the narrow, roofed verandah, with a staircase leading to the back garden. Also at the back, on the west side, there is a small extension with a sloping roof.

The rear wall of the house retains segments that directly adjoined and supported a water tank above the well, having a noticeable outward cant, and the second floor wall is constructed with its stud work outside the cladding boards. (see Photographs)

The house was extensively remodeled into apartments around 1921 by Frank's daughter, Jean. (Interview with Lyndon Comstock, March 27, 1980)

The property has been re-painted white in the last five years in what, judging from the attached photographs, appeared to be the original color. This is the same color as it was during the lifetime of Frank Davis' daughter, who died at the age of 92 in 1981.

The Workshop and Barn

This building retains the original rustic channel wood siding, slant roof and gable, and two of the oval windows on the ground floor. The original footprint of the property remains the same.

There is a second-floor apartment constructed prior to 1920, as the 1920 census indicates a family living there. (Comstock, p. 191, Appendix 8) A staircase leads up to the apartment. An artist's studio and storage occupy the ground floor.

The Well/Water Tower

The 75-100 feet-deep well is located directly behind the rear wall of the house. The original timber superstructure, wooden water tank, and windmill (see Sanborn maps of 1903 and 1911 and Photographs) no longer exist.

However, there remains a brick masonry foundation stem wall, measuring approximately 20 feet by 20 feet, directly abutting the house foundation at the north side of the house. Several courses of brick are visible above grade level and a brick abutment on the foundation's western wall and a concrete pier are visible on the inside of the northeast corner. (see Appendix 7. Report of Aaron Goldstein, R.A.)

17. History:

The Frank A. Davis property is of significant historical and social value in the South Campus area of Berkeley. (For a more detailed discussion, see Significance section of this application). So much so, that an old photograph of the workshop and what are probably Frank Davis' parents feature on the cover page of Lyndon Comstock's book On Parker Street: The Evolution of a Berkeley Neighborhood 1855-1965 (see Photos) and he devotes an entire Appendix to 'Frank Davis' Tool & Die Business.'

The Property

On October 21,1876 Frank A. Davis acquired at the Blake Tract auction three of the Blake Tract lots on Parker Street, between Fulton and Ellsworth, for $215 each. These were lots 48, 49 and 50 on the Blake tract map. (See Appendix 3).

By 1877 the Davis homestead had been built on lot 48, now 2227 Parker Street (Appendix 1) This was **the first home on the block** and according to Comstock (p,8) **possibly anywhere along Parker Street**.

With the exception of 2225 Parker Street, which Comstock states was built shortly after the Davis house in 1877, the block was free of development until the 1890s, when the house at 2217 Parker was built. The rest of the block was not developed further until the early twentieth century.

By 1886-88, there was already a mature orchard on the property (Photographs). Frank Davis' daughter, Jean, revealed in her interview with Comstock 'He'd been here a long time because he homesteaded the place.' She spoke of the large orchard containing pears of several varieties,

prunes, strawberries, grapes, peaches and two beehives. They had a horse, buggy and a cow. The surrounding area consisted of more orchards and tulle meadows due to the proximity of Derby Creek. Half a block east, at the corner of Parker and Ellsworth, a bridge crossed a tributary of Derby Creek. The streets were unpaved, and if you didn't walk, you had a choice of horseback or railcar. Even by the 1890s, when Jean was a small child, there were 'No sidewalks, just walked in the dust' in this part of town. (Comstock interview)

Residential development in the area was sparse. Berkeley was not incorporated as a town until 1878; even then, Parker Street was just beyond the city boundary.

The workshop behind the house was there by at least 1882, as the July 18,1882 *Berkeley Daily Advocate* announced that Frank Davis had established his tool and die workshop on the property.

Frank Davis sunk a brick-lined **well** and built an unenclosed wood water tower measuring 20 feet by 20 feet at its base and between 32 and 45 feet in height. The Sanborn map of 1903 indicates a 32 foot-tall water tower; the Sanborn map of 1911 (Appendix 2) shows a great increase in height to 45 feet. (Jean Davis recalled her young brother climbed into the wheel one day for a ride around to the great alarm of their mother, Amelia. Amelia's fear of the tower falling during an earthquake [Davis/Comsmtock Interview] and no doubt the incident above, led to her having it taken down.)

<u>The Man and his Enterprise</u>

Frank A. Davis, a 28 year-old tool and die maker from Massachusetts, moved to San Francisco with his parents, Van Ness and Mary Davis, and grandmother in 1875. They lived at 723 Union Street, where Frank also conducted his business with his father, Van Ness, a blacksmith. (The family retained a business in San Francisco until 1906, when the property was destroyed by the earthquake.)

By 1876 Frank Davis sought to move his family and expand his business to the East Bay and, as noted above, this is when the Parker Street property was purchased.

An article in the July 8, 1882 *Berkeley Daily Advocate* (p.3) reported that both Frank Davis and his father were 'experienced mechanics in this line .... They make dies of every description used in the manufacture of boots and shoes, from the sole of an infant to the heel of old age. Dies for cloth, paper, or rubber are also made to order. They also manufacture knives of all kinds.'

The pattern molds used in casting the dies were handmade by Frank Davis. After casting, the dies were ground and polished. The knives were principally paring knives used by fruit canneries. Five men were employed.

The same article continues: **'We are glad to see works of this kind started here and fostered by large manufacturers, who have heretofore solely depended upon the eastern states for stock and implements to work it up.'** (emphasis added)

Later that year, the November 18, *1882 Berkeley Daily Advocate* noted that "the die-cutting shop of Frank A. Davis, owing to an increase in business, is about to be enlarged by the erection of an additional building. Mr. Davis has lately received from Boston an immense grindstone six feet in diameter, which is one of the largest of the kind in California. It is used for grinding and sharpening dies ..." (emphasis added)

Ten years later, the 1892 holiday edition of the *Berkeley Daily Advocate* contained an advertisement (Appendix 4) for Frank Davis' tool & die business. An accompanying article contained the following:

'While we regard the educational institutions of Berkeley as pre-eminent its strong characteristic both at home and abroad, yet to its manufacturing and mercantile enterprises we must look for much of its stability and prosperity as a growing and destined-to-be grand city. And to such men as Mr. Davis who has devoted eleven years of the best portion of his life in building up an enterprise and putting into it the earnings of a lifetime, the gratitude of the whole people is due.' (emphasis added)

The Man and his Family

Frank Davis married Amelia Crowther in 1893. Lyndon Comstock has the following history of the family:

'Amelia Crowther was already the mother of two young children when her husband was killed in a quarry accident near their home in Lancashire, England in 1890. She had previously met Frank Davis when she was living in Canada in the 1880s, and Frank was visiting there, before her marriage to William Crowther. Frank wrote to her after her husband's death, inviting her to California and promising to adopt her children as his own if she would marry him. Amelia and the children arrived in New York on the Umbria in November 1893, where Frank promptly married her.

In December 1893, Amelia arrived in Berkeley with her daughter Jennie (Jean), then six, and son Harry, three, to live with her new husband and his parents.' (Comstock, p. 50).

Jean Davis remembered her stepfather fondly: 'My mother had met Mr. Davis when she was in Canada. He was a very, very nice man. Quiet. And he was in love with her then. But she was just a widow, you know.'

Her husband was recognized as a Berkeley pioneer. Judging by an obituary printed in the *Berkeley Daily Gazette on October 21, 1925* (Appendix 5), Amelia Davis was similarly regarded. (Interestingly, this article states her home 'was the second house built in Berkeley.') She 'had travelled all over the world and was a resident of Alexandria and Athens for some years. She spoke several foreign languages, Greek, French and some others, as well as being an accomplished musician and writer for eastern publications and magazines during her early life. ... she was married to Frank A. Davis, a man whose family came across the plains in early days and settled in Berkeley when it was just coming on the map.'

By the time she came to Berkeley Amelia had given birth to eleven children, only two of whom were still living, Jean and Harry, 'the others being buried in England, Egypt and Athens.' Amelia does not seem to have been a wealthy woman, and yet had traveled 'all over the world,' was multi-lingual, a published author, and an accomplished musician. Considering the time in

which she was living, even for a woman of wealth, these accomplishments and experiences were exceptional.

Daughter Jean Davis had her own accomplishments to boast of, being one of the few women to graduate from UC Berkeley with a Master's degree in English Literature, her specialty being Shakespeare. Also, given the time in which she was living, as a woman her options for a professional career were limited, and so rather than join academia, she became a teacher. However, it is clear from her interview that she pursued her profession with enthusiasm.

*****

Since Ms. Davis' death in 1982, the property has been owned by Sylvia Sussman, another notable resident of the property at 2227 Parker Street.

Sylvia is a well-regarded local artist, and her works have been exhibited at The Meridian Gallery in San Francisco, the SHOH Gallery in Berkeley, and the Berkeley Art Center, amongst others. A painter and printmaker of atmospheric landscapes, her studio is in what used to be Frank Davis' workshop. She was interviewed by Theresa Rohan, curator, in 2014, and this is available on YouTube: *Sylvia Sussman, Artist.* The video takes place in Ms. Sussman's studio on Parker Street. Also available on YouTube is *The Art of Sylvia Sussman on Corinne's Picks.*

18. Significance:

Architectural and Historical Value

The entire property at 2227 Parker Street is remarkable and worthy of Landmark status as a surviving example of early Homestead development in Berkeley retaining on one lot a Pioneer home built in 1877; a rare early workshop and barn; and an enormous, extremely rare, brick-lined well.

A) **The workshop and barn** is still recognizable as such today, even with the upper-storey modification into an apartment that was made over a hundred years ago. Probably no such structure exists in Berkeley today, and certainly none is a designated Landmark property.

There are less than a dozen Landmarked properties in Berkeley from 1870s-early 1880s, and these are domestic buildings; and only one, the Young-Ghego house on 4th Street (#61 on the Berkeley Architectural Heritage Association website) is designated as a 'Pioneer building.' The entire site at 2227 Parker Street consists of 'Pioneer' structures.

b) **The house**, built in 1877, is the oldest on the block and one of the earliest remaining houses in the city. Its architecture is representative of the vernacular style of pioneer workmen. 'My father built this house,' said Ms. Davis to a neighbor in 1978. The early twentieth century modifications made use of all the original materials, and the main section of the house is easily recognizable in the earliest photographs.

c). **The well**. Please review the detailed report by Aaron Goldstein, RA on the rarity and significance of this well. (Appendix 7) To quote from Goldstein: 'To date, only one other masonry foundation is known in Berkeley. The other example is of a completely different design, and is in an advanced state of deterioration.'

And: 'The fragments are valuable both within the context of the property's history and the architectural corpus of water towers in the urban East Bay and Northern California.'

The foundations of the water tower indicate it had a base of 20' x 20.' The 1911 Dockweiler Report about wells of the East Bay indicates the tank had a capacity of 10,000 gallons, compared with most residential tank houses having 1,000 to 3,000 gallons. This reflects irrigation for the industrial, agricultural and domestic use at the property in addition to the known fact that Davis made water available to neighbors in the vicinity.

To further quote Goldstein: 'A well of this size is itself a tremendous feat of engineering, and its excavation must have required extensive use of shoring and falseworks.'

<u>Cultural and Educational Value</u>

The house and workshop/barn together have great charm and are well

recognized in the neighborhood. The workshop retains most of its original appearance; even the alterations, which don't significantly alter the look of the house, were done a hundred years ago. Mention to anyone in the neighborhood 'the large white house on the 2200 block of Parker' and they will know to which house you are referring.

Historical buildings give citizens that intangible 'sense of place'; unfortunately, many of our buildings in the West, being of wood, have rotted in the desert, been destroyed in earthquakes and fires or carelessly torn down. The ones remaining are precious.

As some of the earliest settlers of the East Bay, Frank Davis and his entire family are representatives of the skill, initiative and energy that it took to build up this burgeoning city. As noted above, Davis was recognized in various local newspaper articles as 'one of the pioneers of Berkeley,' being one of the first residents and developers of local industry, and a well-regarded citizen. He was not particularly rich; his buildings lack the grandeur of the Bartlett House at Blake and Fulton, also built in 1877, but he was an example of the industriousness and skill of settlers whose families came across the Plains.

Davis' manufacturing skills and service to the community in decreasing reliance on imports from the East Coast, and the recognition by his peers for his contributions to the industrial development of Berkeley should not be forgotten.

If Landmarked, this site would be of interesting educational value to local students if the new owners would occasionally conduct tours of the exterior of the buildings and the remains of the well.

We believe this application for the designation of 2227 Parker Street as a City of Berkeley Landmark addresses all the concerns of the our Landmarks Preservation Ordinance, the first line of which reads: 'It is found that structures, sites and areas of special character or special historical, architectural or aesthetic interests or value have been and continue to be unnecessarily destroyed or impaired, despite the feasibility of preserving them.'

19. Photographs:

Page 1. The Frank A. Davis Workshop in approximately 1886-88. Front cover of Comstock, Lyndon, *On Parker Street: The Evolution of a Berkeley Neighborhood 1855-1965.*

Page 2. The Frank A. Davis House, 1886-88 Courtesy of Berkeley Historical Society.
Davis workshop, taken from east, 1888.
Davis water tower, 1904. Courtesy of Tom Dewing.

Page 3. Workshop, May 2024 (already an apartment in 1920).

Page 4. Workshop, ground floor.
Two oval windows, May 2024.

Page 5. Front elevation of house and part of orchard, 1886-88. Courtesy Berkeley Historical Society;
Front elevation of house, May 2024

Page 6. East side of house, May 2024.

Page 7. Frank A. Davis, 1872. Courtesy Tim Cahill.

Page 8. Amelia Davis. Courtesy Tim Cahill.

Page 9. A young Jean Davis. Courtesy Tim Cahill.
Close-up photograph from 1887, ten years after Davis' property was constructed, taken from the Berkeley hills showing sparsity of development in south campus area. North is to the right.

Pages 10-13. Well foundations and supports

11.

20. Bibliography:

Berkeley Daily Advocate, July 2, 1882

Berkeley Daily Advocate, November 18 1882

Berkeley Daily Advocate, *Holiday Issue*, December 1892, p. 24.

Oakland Tribune, October 23, 1876.

Berkeley Daily Gazette, October 21, 1925.

Comstock, Lyndon, *On Parker Street: The Evolution of a Berkeley Neighborhood 1855-1965*

21. Recorder:

Wanda Mulcahy

22. Appendices:

Appendix 1. 1878 Tax Assessment Records and map.

Appendix 2. Sanborn Maps of 1903, 1911 and 1950. These maps show the farmstead extending over the three lots purchased by Mr. Davis in 1877. The present day lot is approximately half the original size.

Appendix 3. Record of sale, Blake Tract, Lots 48, 49 and 50 to Frank A. Davis;
Oakland Tribune, October 23, 1876, 'Great Sale of Real Estate.'

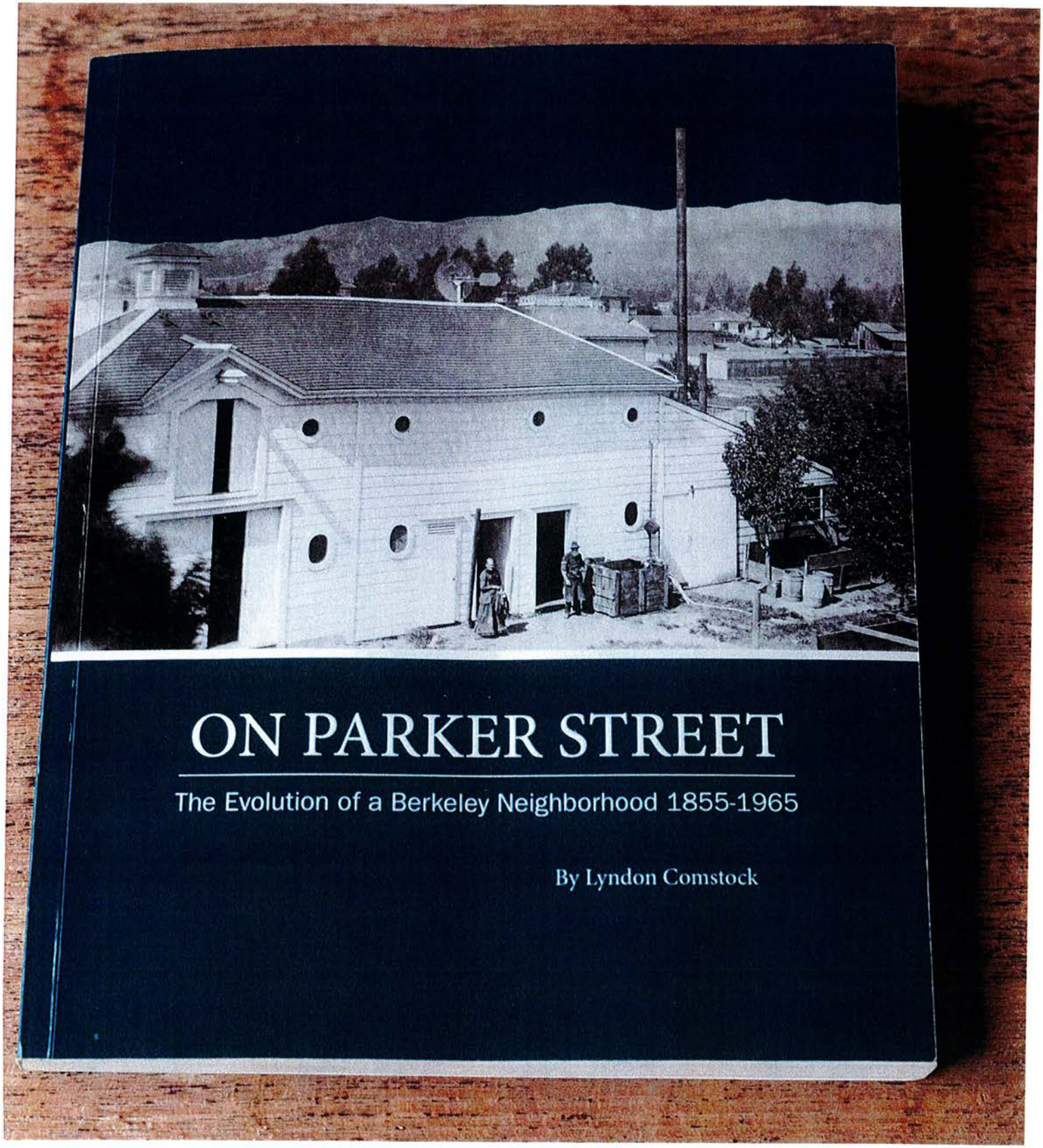
Appendix 4. Advertisement for Davis Tool & Die business

Appendix 5. *Berkeley Daily Gazette*: '*Pioneer Woman Passes,*' October 21, 1925. Obituary of Amelia Davis.

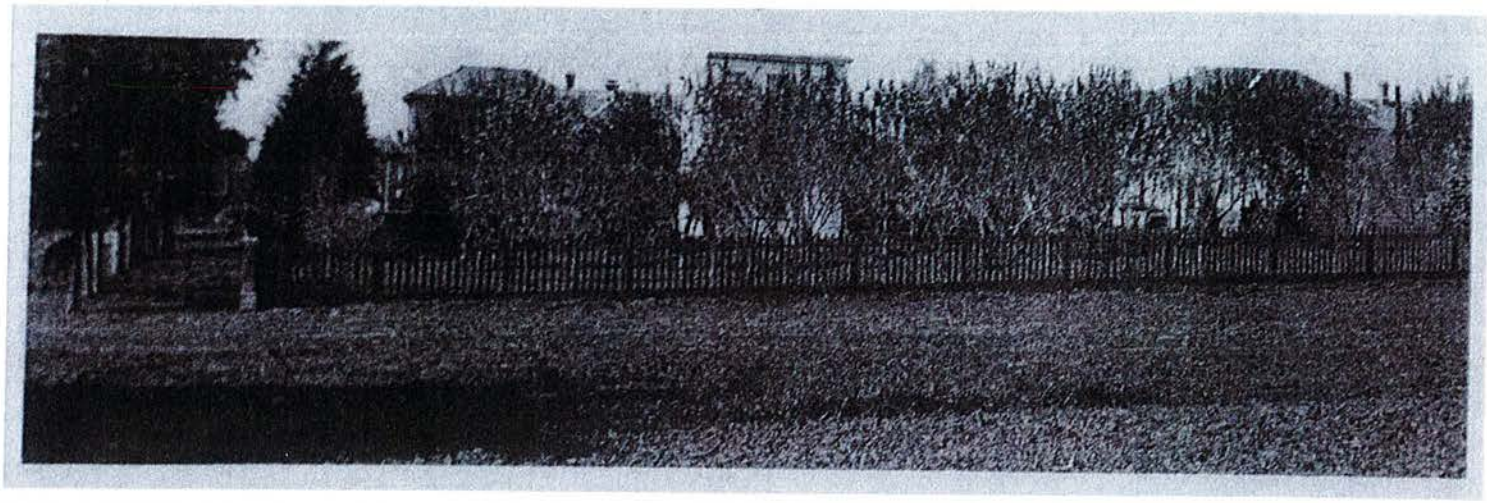
Appendix 6. *Berkeley Daily Gazette:* 'Cat Welfare Body Chooses Officers,' July 23, 1926. Report of a meeting held at 'the home of Miss Jean Davis, 2227 Parker Street.' The officers planned the 'circulation of a petition for a "bigger and better" city pound ...'

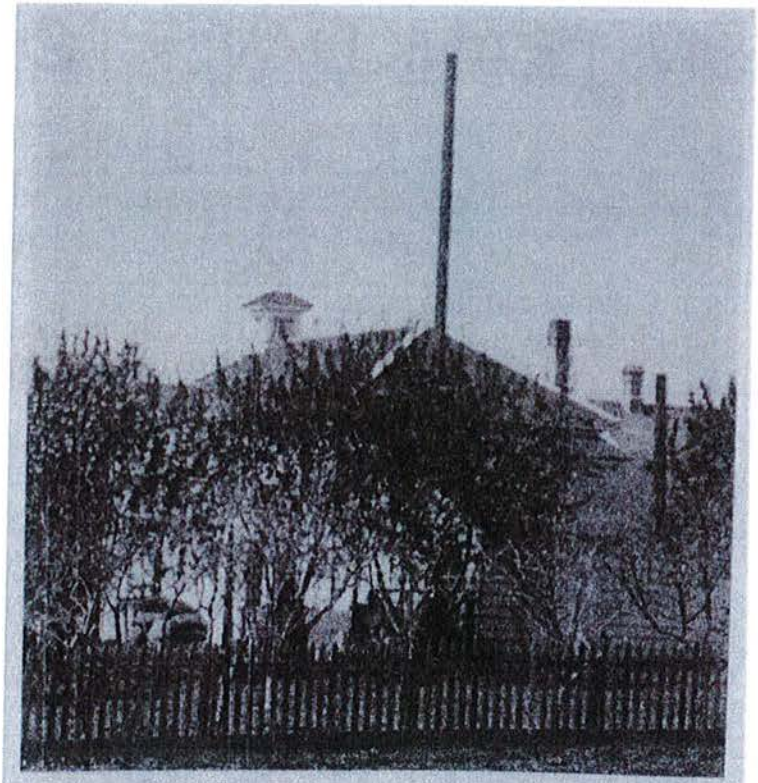
Appendix 7. Report of Aaron Goldstein, RA on the well

Appendix 8. Page 191 from Comstock indicating that according to the 1920 census there were tenants at the 'cottage' behind the main house.


ON PARKER STREET
The Evolution of a Berkeley Neighborhood 1855-1965
By Lyndon Comstock

1.





Davis workshop in 1888



Davis water tower, 1904
Courtesy Tom Dewing

2.



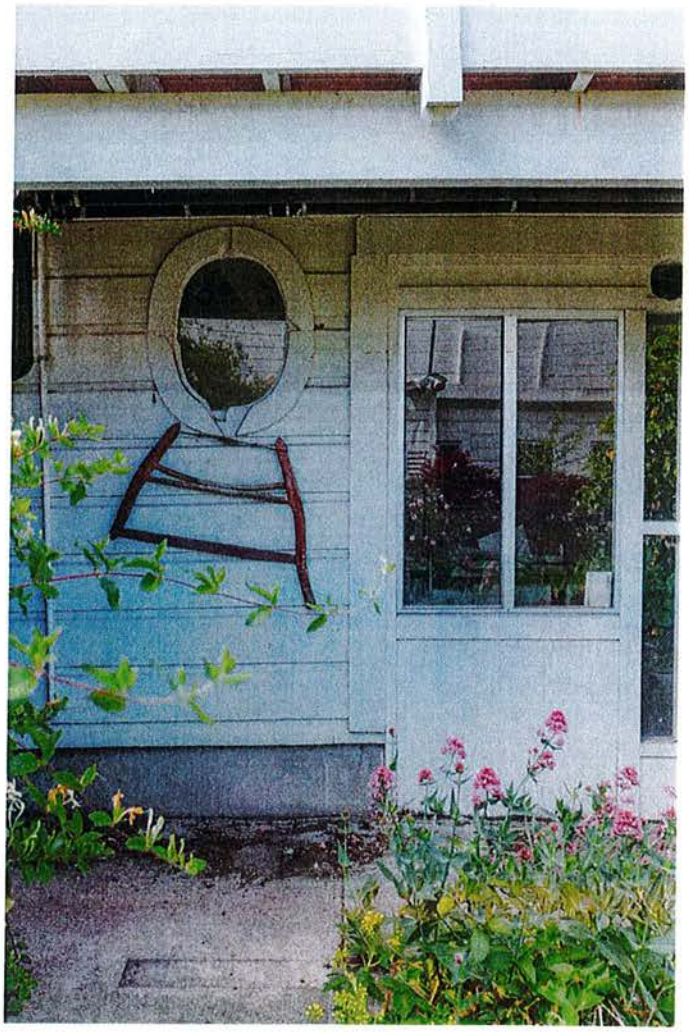
Upper storey – already an apartment in 1920.



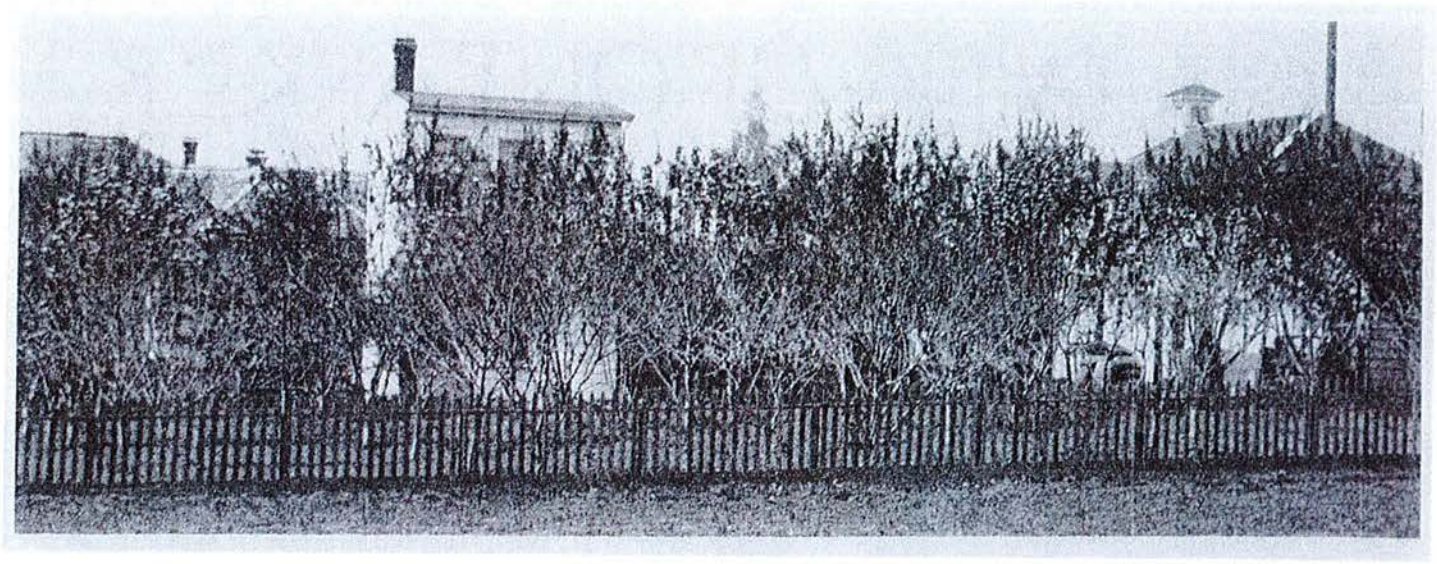
Artist's studio today.







4





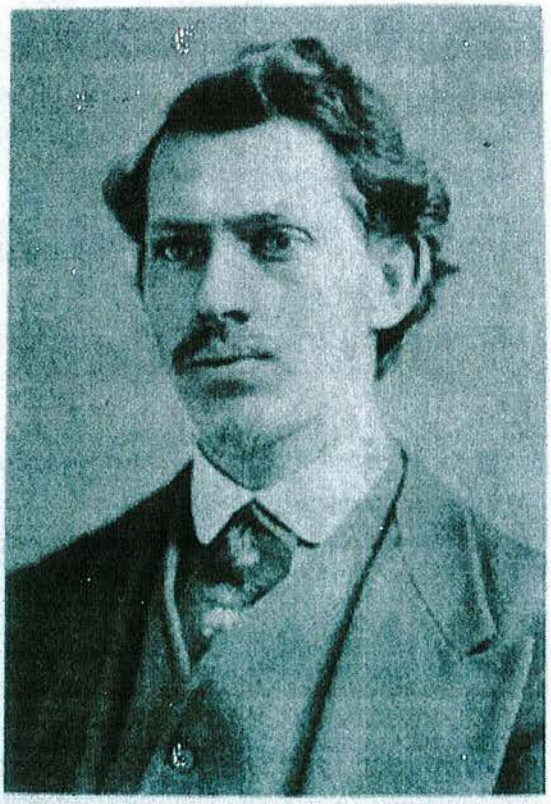
FRONT ELEVATION OF HOUSE

5.



West side of House

6.



Frank A. Davis, 1872

7.



Amelia F. (Browne) (Crowther) Davis

Courtesy Tina Cahill

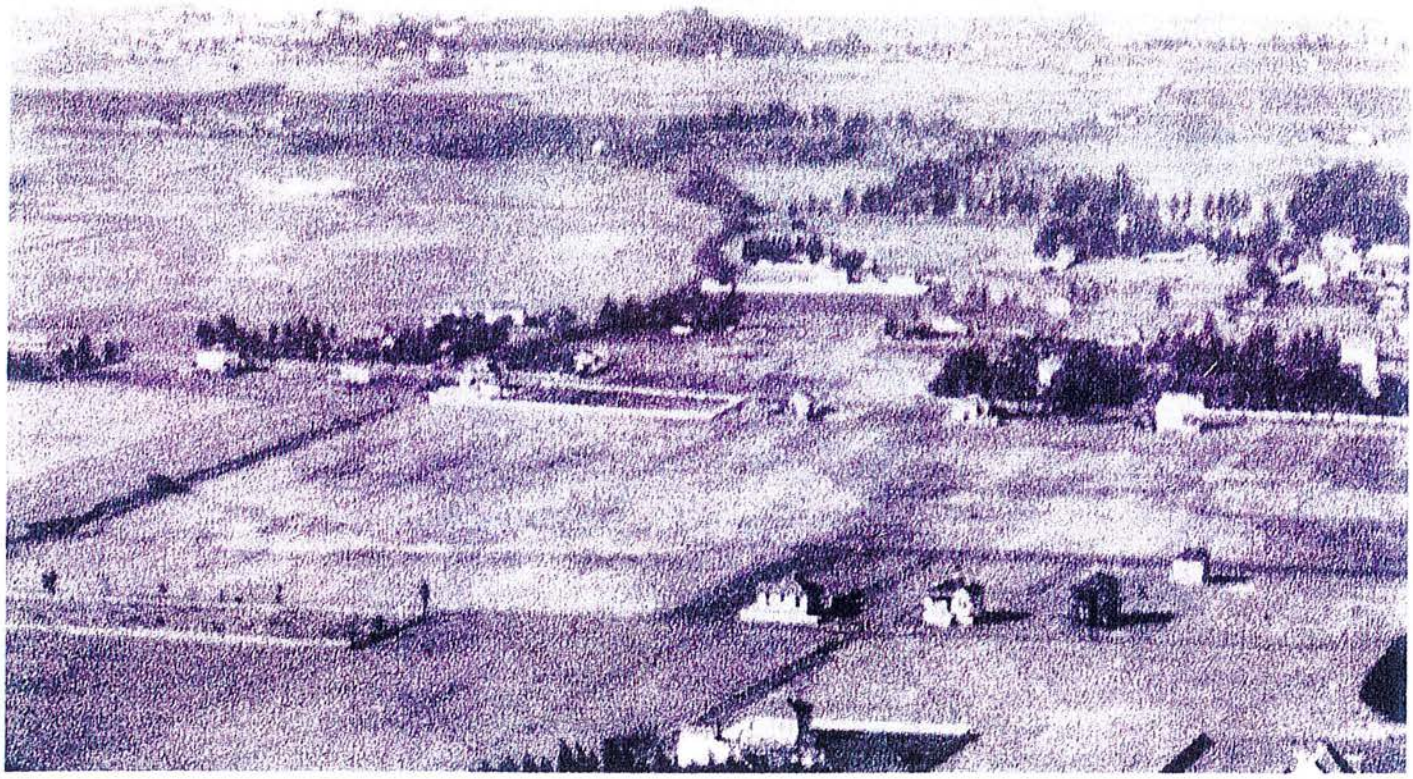


Jean Davis
Courtesy Tim Cahill

Photograph below is taken from the Berkeley hills circa 1887, looking west, showing the sparsity of development in the area even ten years after the Davis property was built.

Telegraph Avenue runs from left to right in the center of the photograph.

The house in the center foreground furthest to the left in a row of three houses, is at 2598 College Avenue, on the northwest corner of Parker & College and is still standing today. (Comstock p. 116)



9.

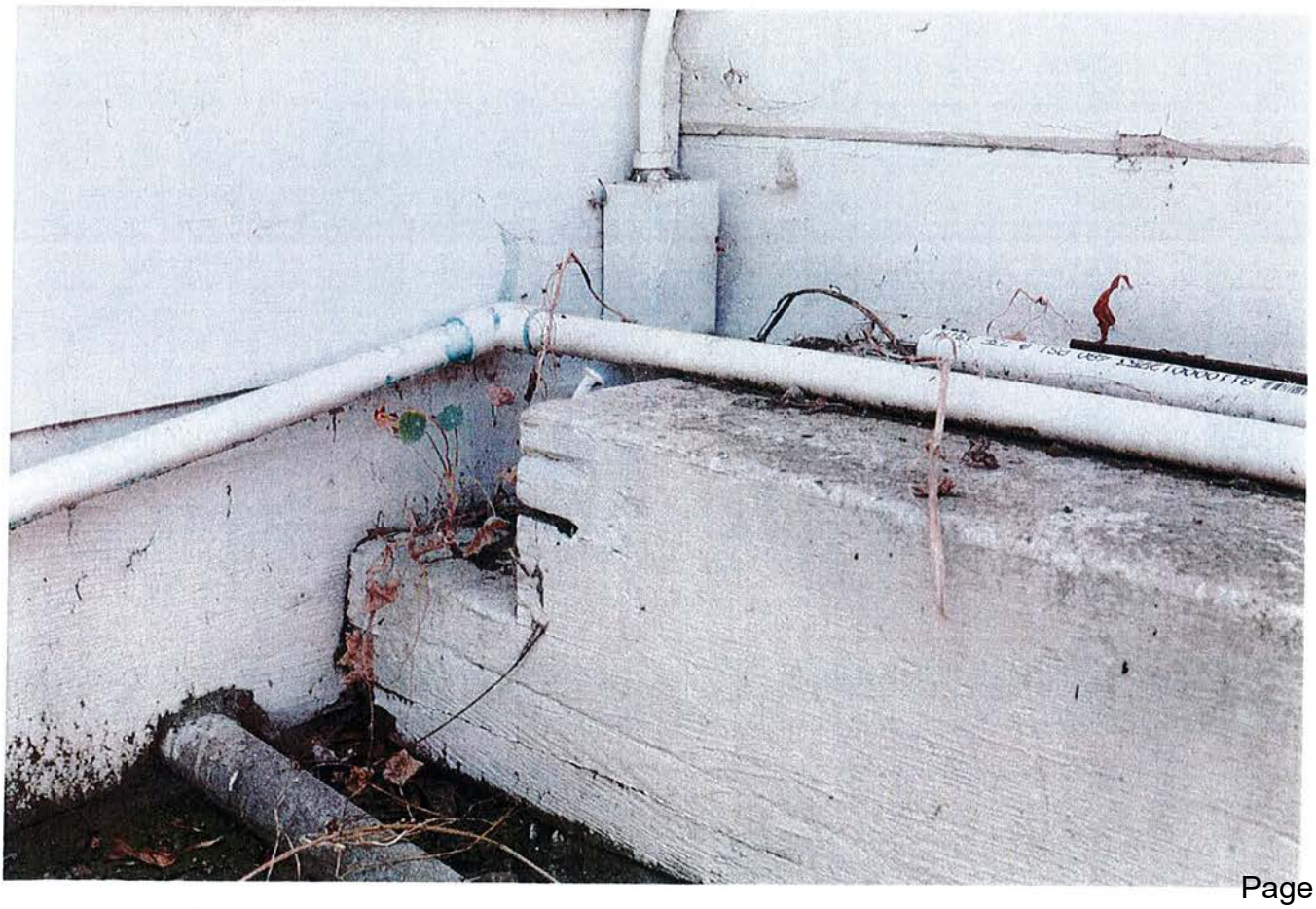


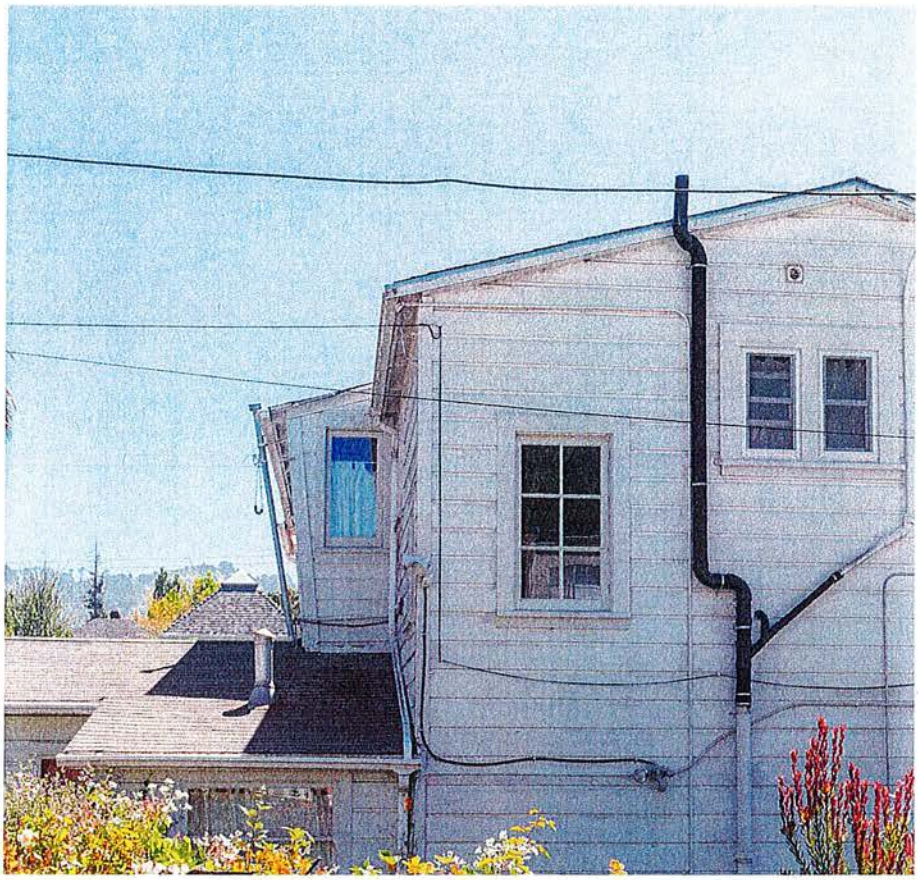
10

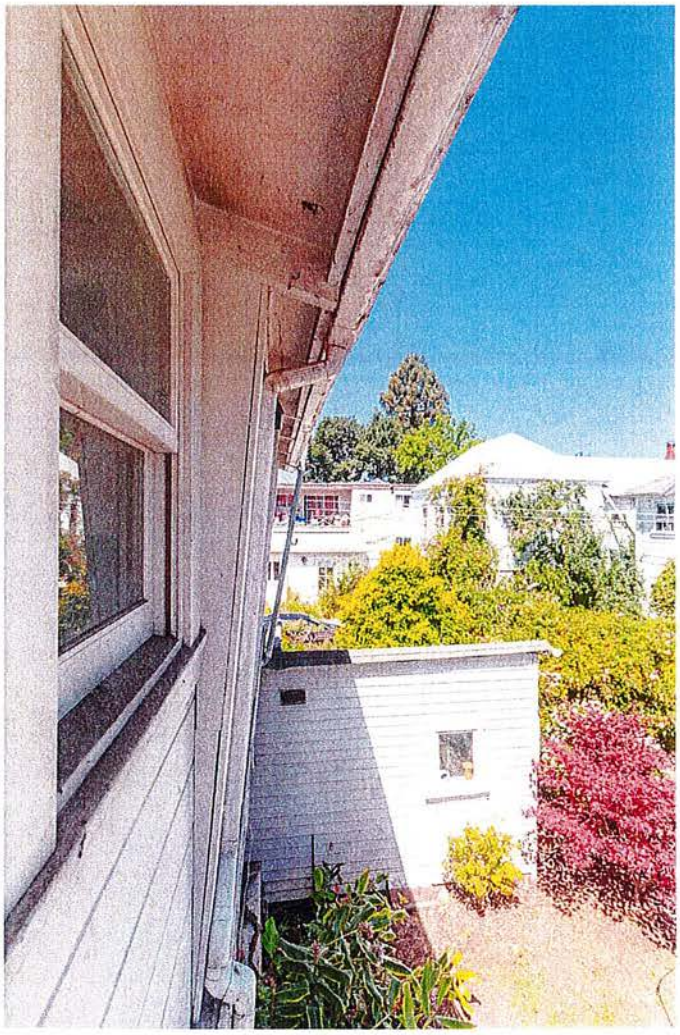












Rear wall of house
Showing sloping studs
to support the water
tower.

Appendix 1 (Comstock, pp. 155 + 156)

VII. SELECTED TAX ASSESSMENT RECORDS

Old Berkeley tax assessment records have several useful pieces of information, in addition to the assessment for property improvements. The owner's name, the patterns in assessed valuations of land, and the mortgage records are also of value. Berkeley tax assessment records are available at the Bancroft Library for each year starting in 1878, the year that Berkeley was incorporated, through 1935. The city limits ended just below Blake Street until 1892.

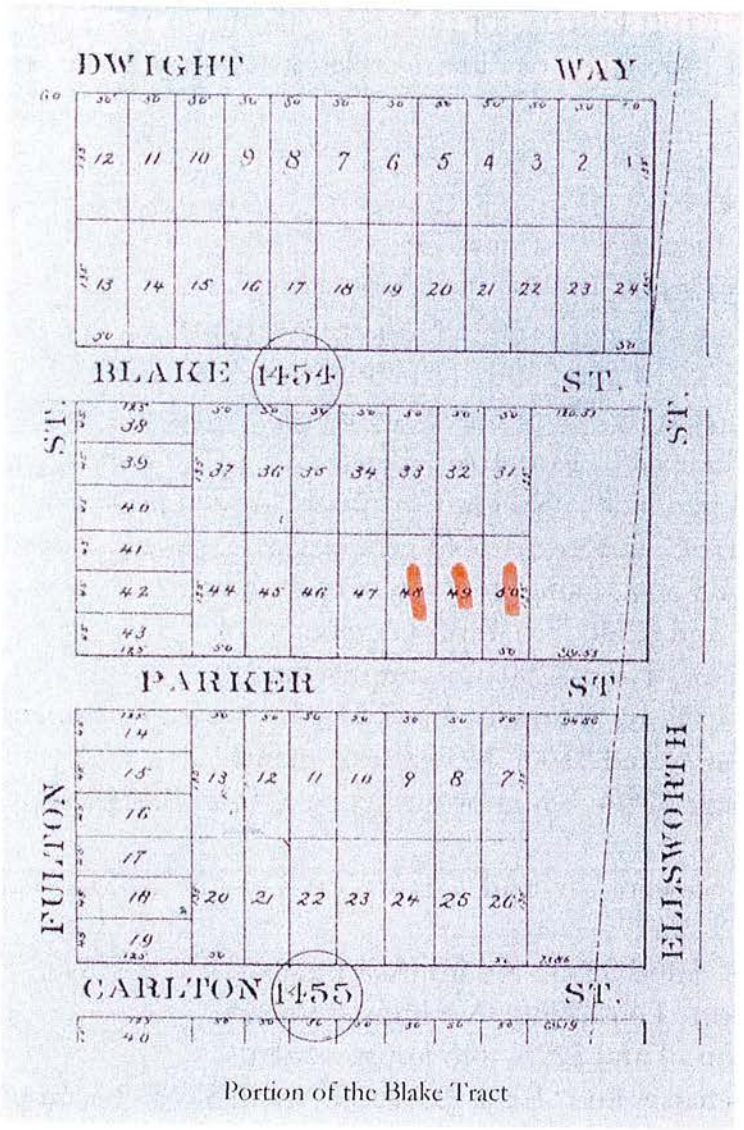
1878

Blake Tract block 1454

Lot 1. Jules Garriot. Land $300. Improvements $2000.
Lots 2, 3. H. Hinkel. Land $500. No improvements.
Lots 4, 5, 6, 7. J. Dewing. Land $1000. No improvements.
Lots 8, 9. James W. Watt. Land $500. No improvements.
Lots 10, 12, 13. A. Bartlett (no lot numbers actually listed). Land $850. Improvements $3000.
Lots 11, 14, 15, 16. Rachael C. Robinson. Land $1000. No improvements.
Lot 17. J. F. Burris. Land $250. No improvements. Added notation: "C. L. Downs"
Lot 17 (appears again). C. L. Downs. No property assessment. Improvements $100.
Lots 18, 19. Hattie G. King. Land $500. No improvements.
Lot 20. S. Morrell. Land $250. No improvements.
Lot 21. Eleanor Stecher. Land $250. No improvements.
Lots 22, 23, 32, 33, 34. F. K. Shattuck. Land $1250. No improvements.
Lot 24. G. W. Wagner. Land $300. No improvements.
Lot 31. H. Snow. Land $250. No improvements. (Note: BAHA shows owner in 1878 as C. Downs.)
Lots 35, 36. J. K. Stewart (he had a store on Dwight & Shattuck). Land $500. No improvements.
Lot 37. Anna Hursh. Land $250. No improvements.
Lots 38-39. S. Marston. Land $550. No improvements.
Lot 40. Eliza Roulston. Land $225. No improvements.
Lot 41, north of the charter line. Eliza Roulston. Land $175. No improvements.
Lot 44, north of the charter line. Cook Stover. Land $75. No improvements.
Lots 45-46, north of the charter line. W. J. Thomson. Land $150. No improvements.

Lot 47, north of the charter line. S. V. Nichols. Land $75. Improvements $50.
Lots 48, 49, 50, north of the charter line. Frank A. Davis. Land $225. Improvements $100.
Parcel at southwest corner of Blake & Ellsworth, to the Leonard Tract line to the east and the charter limits to the south. M. K. Blake. No improvements. (I neglected to note the land assessment for this parcel for 1878. In 1885, that land was assessed for $200 and there were still no improvements.)

Appendix 1

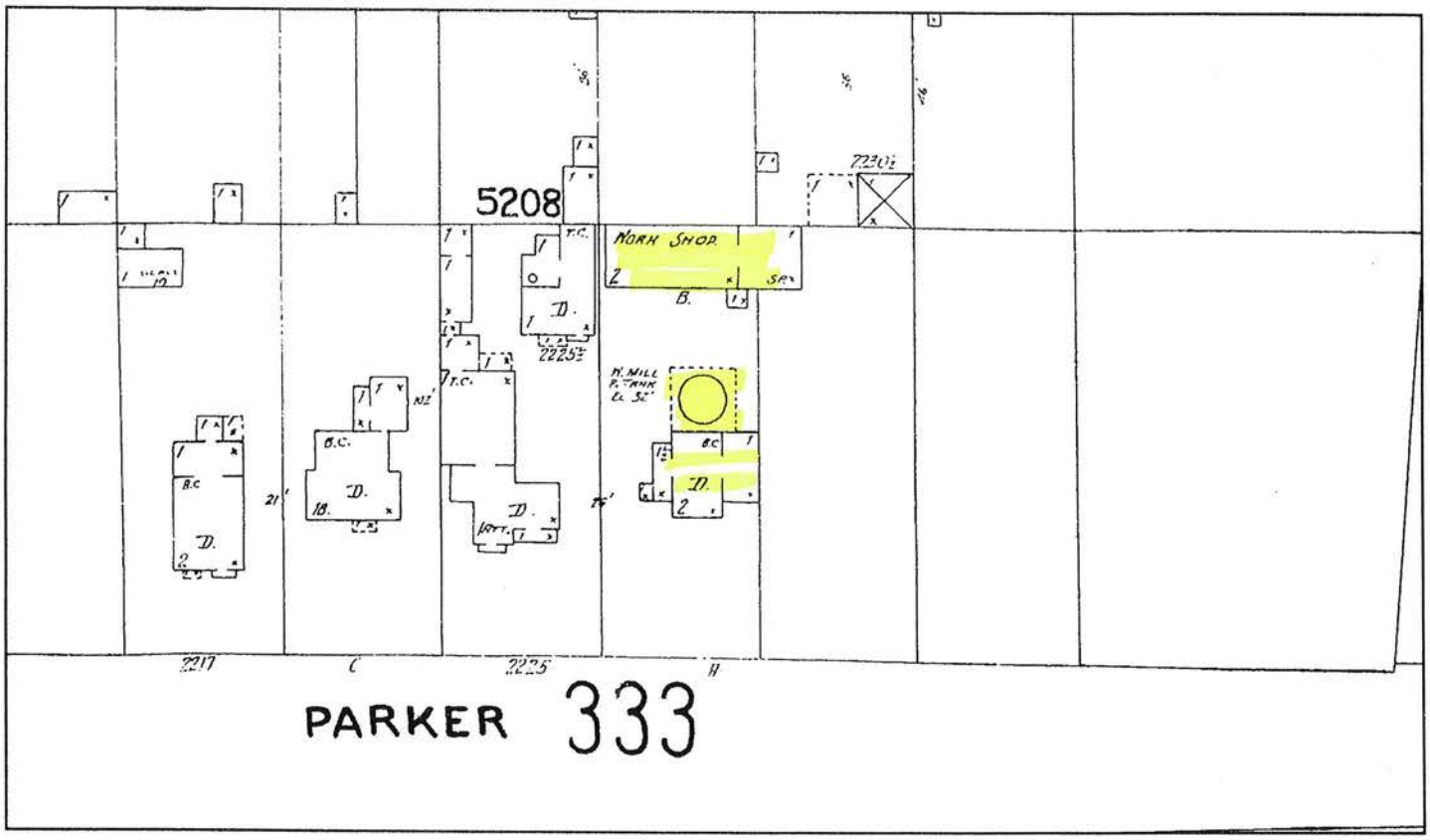


Portion of the Blake Tract

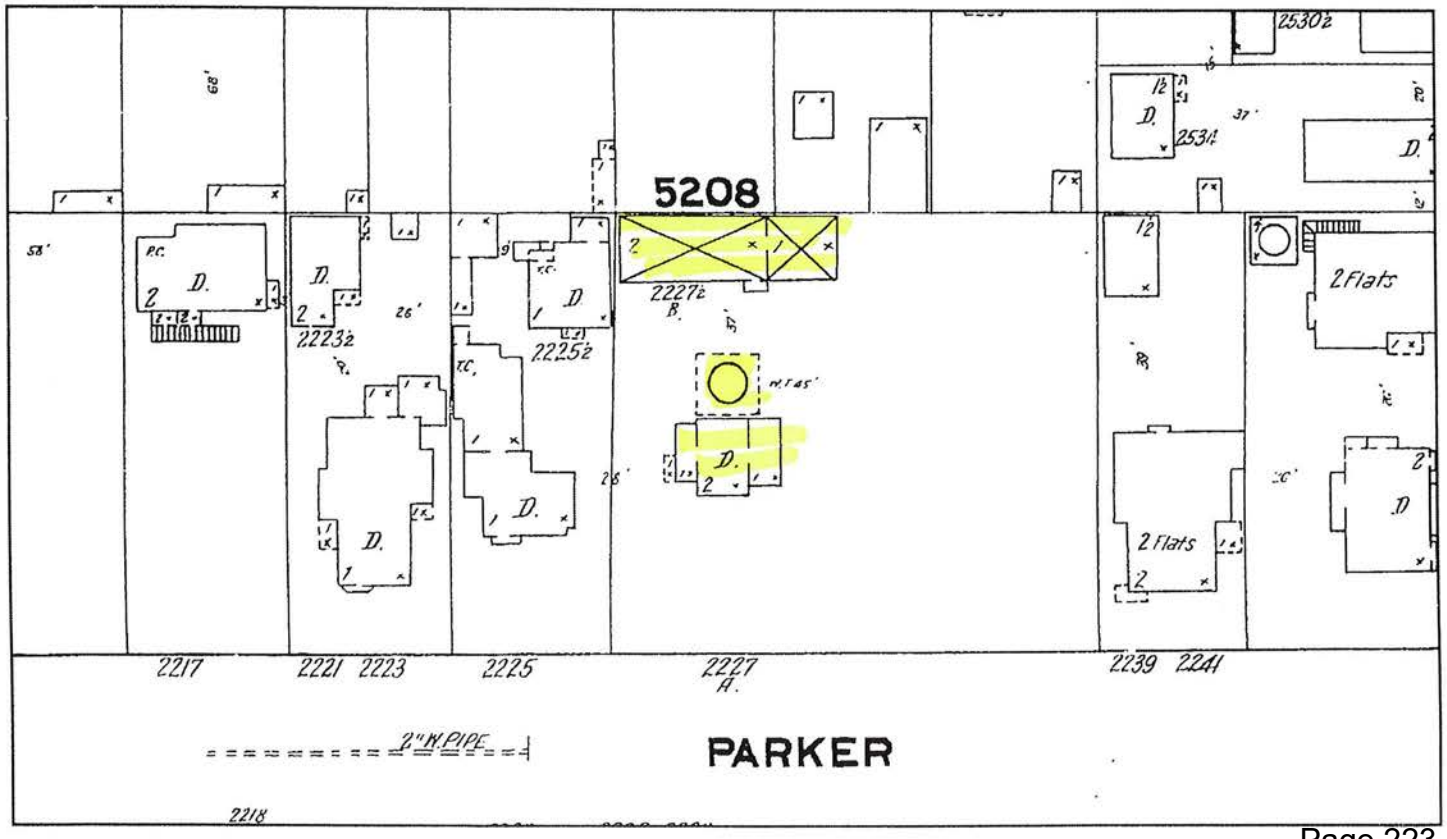
page 2

Appendix 2 P. 1

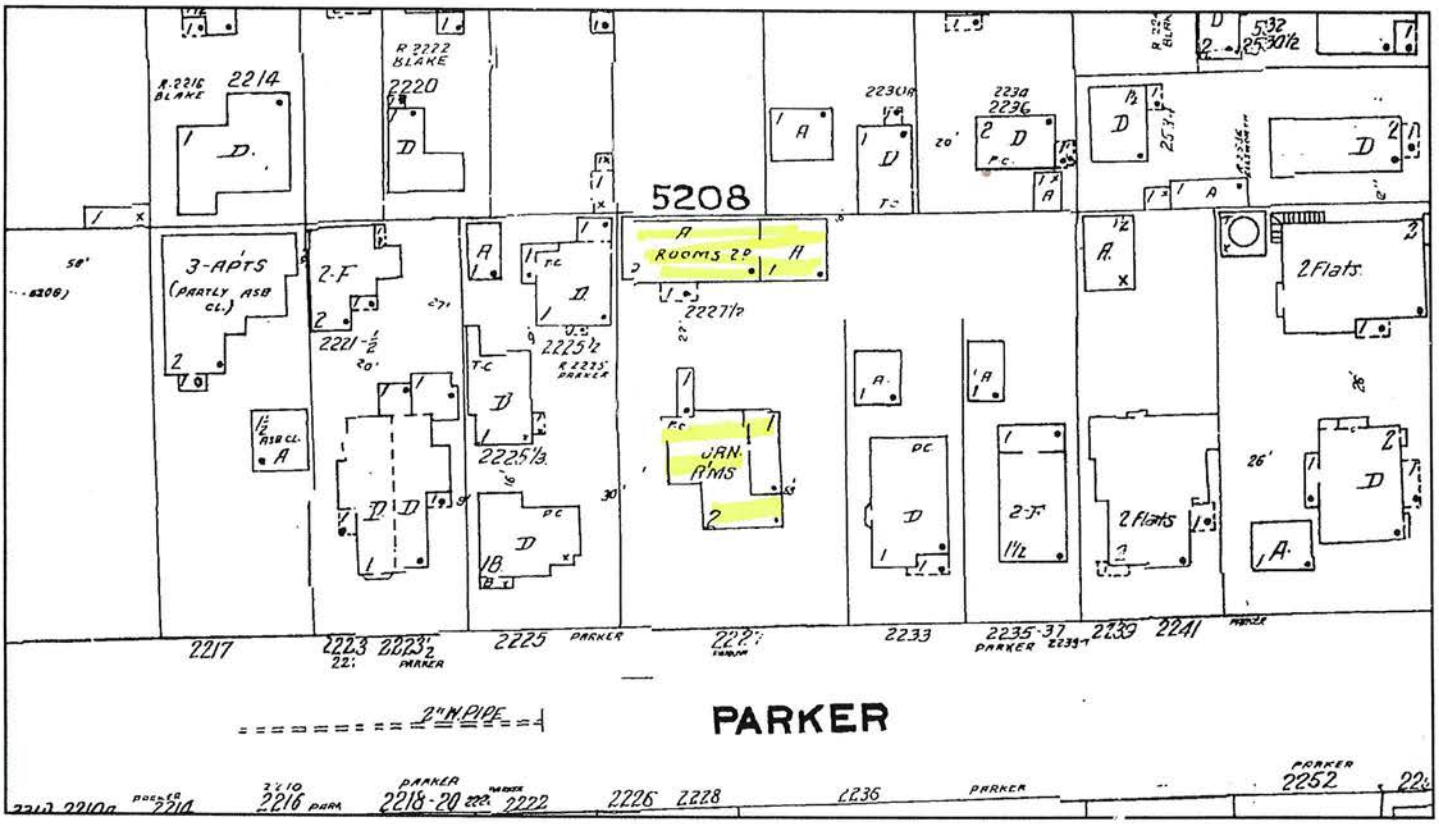
1903 Sanborn Map



1911 Sanborn Map



1950 Sanborn Map



P. 2

Appendix 3. p. 1

VI. (1876) BLAKE TRACT AUCTION: BUYERS IN BLOCK 1454

Block	Lot		
1454	No. 1	Jules Garet	$ 320.00
"	" 2	A. Hinkel	$ 315.00
"	" 3	do do	$ 315.00
"	" 4	J. Durring	$ 320.00
"	" 5	do do	$ 320.00
"	" 6	do do	$ 320.00
"	" 7	do do	$ 320.50
"	" 8	James H. Watt	$ 310.00
"	" 9	do do	$ 310.00
Block	No Lot	Name of Purchaser	Purchase Price
1454	" 11	Rachel L. Robinson	$ 352.50
"	" 12	A. Hinkel	$ 370.00
"	" 13	A. C. Bartlett	$ 310.00
"	" 14	Rachel L. Robinson	$ 300.00
"	" 15	do do do	$ 300.00
"	" 16	do do do	$ 300.00
"	" 17	Alexander Buchanan	$ 290.00
"	" 18	Walter King	$ 290.00
"	" 19	do do	$ 290.00
"	" 20	A. H. Morrell	$ 290.00
"	" 21	Barbara Hahn	$ 290.00
"	" 24	G. W. Waggoner	$ 287.50
"	" 31	W. L. Barry	$ 205.00
"	" 35	John M. Stuart	$ 220.00
"	" 36	" "	$ 220.00
"	" 37	Anna Yourst	$ 225.00
"	" 38	Samuel S. Marston	$ 2[illegible]

"	" 39	do do do	$ 220.00
"	" 40	Celiza Coulstone	$ 220.00
"	" 41	do do	$ 220.00
"	" 42	John McMullen	$ 220.00
"	" 43	do do	$ 220.00
"	" 44	do do	$ 215.00
"	" 45	C. J. Thompson	$ 215.00
"	" 46	do do do	$ 210.00
Block	Lot	Name of Purchaser	Purchase Price
1454	No. 47	S. D. Nichols	$ 210.00
"	" 48	Frank A. Davis	$ 215.00
"	" 49	do do do	$ 215.00
"	" 50	do do do	$ 215.00

Appendix 3. p. 2.

Newspapers by Ancestry
https://www.newspapers.com/image/67570040

Oakland Tribune (Oakland, California) · Mon, Oct 23, 1876 · Page 3

Downloaded on May 7, 2024

BERKELEY.

Olney & Co.'s Great Sale of Real Estate on Saturday.

The announcement that Olney & Co. would dispose of the Blake Tract, near the University, at auction on Saturday, attracted a large attendance of buyers. The size of lots varied from 40 to 50 by 110 and 135 feet. The sales footed up $31,705 and were as follows:

BLOCK A.

Lot No. 1, J. J. Henifin, $1,050; 2, J. J. Henifin, 500; 3, George B. Hitchcock, 475; 4, Joseph Boardman, 525; 5, George B. Hitchcock, 510; 6, George F. Lamson, 700; 7, George F. Lamson, 320; 8, Y. Arago, 310; 9, George F. Lamson, 310; 10, J. E. Thayer, 310; 11, J. E. Thayer, 310; 12, J E Thayer, 350; 13, Charles Babb, 490; 14, A. H. Bailey, 310; 15, A. H. Bailey, 310; 16, A. H. Bailey, 310; 17, T. A. Marston, 380; 18, J. H. Bowers and W. A. Brown, 350; 19, J. J. Henifin, 400. Total block A, $8,220.

BLOCK B.

Lot 1, Wm. Burns, $600; 2, Garratt, 500; 3, Garratt, 500; 4, J. Hinckle, 550; 5, J. J. Henifin, 750; 7, C. Rode, 350, 8, W. Cummings, 340; 9, C. White, 350; 10, W. C. Hoagland, 330; 11, W. A. Brown and J. W. Bowers, 330; 12, W. C. Hoagland, 320; 13, J. P. Taylor, 325; 14, J. P. Taylor, 450. Total Block B, $6,195.

BLOCK 1454.

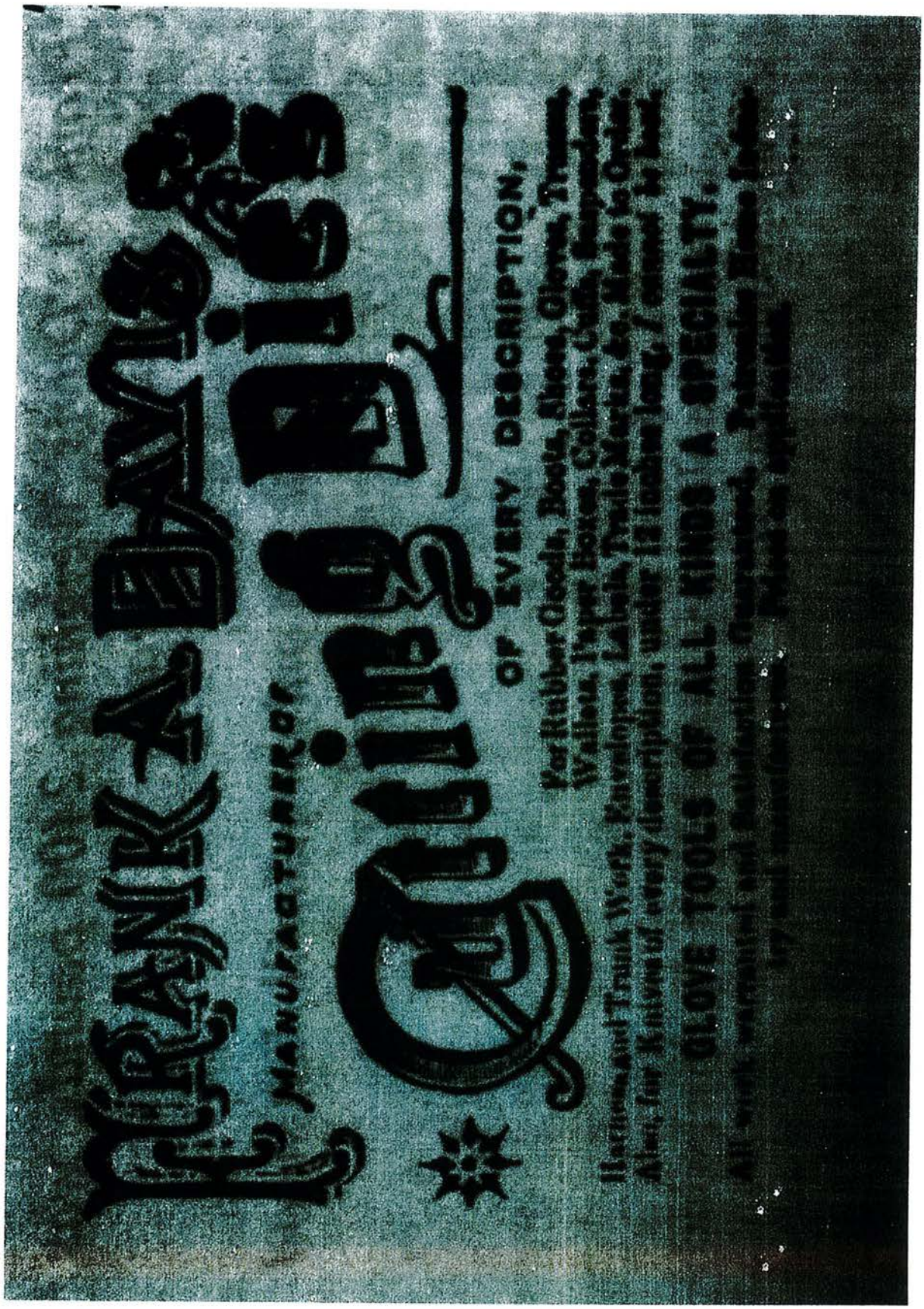
Lot 1, Garratt, 380; 2, H. Henkel, 310; 3, H. Henkel, 310; 4, J. Dewing, 320; 5, J. Dewing, 320; 6, J. Dewing, 320; 7, J. Dewing, 320; 8, J. W. Watt, 310; 9, J. W. Watt, 310; 11, Jacob Bodesto, 320; 12, H. Henkel, 470; 13, A. Bartlett, 310; 14, Julius Robinson, 300; 15, Julius Robinson, 300; 16, Cummings, 300; 17, A. Buchanan, 290; 18, Hattie King, 290; 19, Hattie King, 290; 20, S. F. Morrill, 290; 21, Barbara Hahn, 290; 24, G. W. Wagoner, 287 50; 31, M. S. Barry, 205; 35, J. K. Stewart, 220; 36, J. K. Stewart, 220; 37, Anna Horst, 225; 38, S. A. Marston, 270; 39, S. A. Marston, 230; 40, H. A. Ralston, 230; 41, H. A. Ralston, 220; 42, J. McMullen, 280; 43, J. McMullen, 280; 44, J. McMullen, 215; 45, W. J. Thompson, 215; 46, W. J. Thompson, 210; 47, S. V. Nichols, 210; 48, Frank Davis, 215; 49, Frank Davis, 215; 50, Frank Davis, 215. Total, Block 1454, $10, 392 50.

BLOCK 1455.

Copyright © 2024 Newspapers.com. All Rights Reserved.

Powered by Newspapers.com

Appendix 4


FRANK A. BANKS
JUNK DEALER
OF EVERY DESCRIPTION
ALL KINDS OF TOOLS
CLOSE PRICES

Appendix 5

PIONEER WOMAN PASSES; LIVED HERE 32 YEARS

(Contributed)

"Sunset and evening star
And one clear call for me
And may there be
No moaning of the bar,
When I put out to sea."

On Monday evening at sunset Mrs. Amelia Frances Davis passed away at her residence at 2227 Parker street, where she had lived for 32 years. Her home, since remodeled, was the second house built in Berkeley. The place included several acres and was, indeed, a farm of some pretensions, with cattle and other farm animals, where now, with the exception of a few trees of the old orchard, there are many beautiful residences.

Mrs. Davis was a woman with a remarkable career, having been born in England and married at the age of 15, she traveled practically all over the world and was a resident of Alexandria and Athens for some years. She spoke several foreign languages, Greek, French and some others, as well as being an accomplished musician and writer for eastern publications and magazines during her early life. She lived in Toronto, Canada, before coming to California, where she was married to Frank A. Davis, a man whose family came across the plains in early days, and settled in Berkeley when it was just coming on the map.

Of the eleven children of whom she was the mother, only two are now living, Miss Mary Jean Davis and Harry W. Davis, both of Berkeley, the others being buried in England, Egypt and Athens, where Mrs. Davis lived in her travels over the world. She was a wonderful mother, devoted in all ways to her children and a true and loyal friend to her wide circle of acquaintances.

Her death was the result of complications from which she suffered for a number of years and her end was a peaceful one when she "Put Out to Sea." Her husband preceded her in death by six years.

The funeral service for Mrs. Davis was held this morning from St. Mark's Episcopal church and was attended by a large number of friends who had known her through the many years Berkeley had been her home.

NewspaperArchive by Stored
Berkeley Daily Gazette, October 21, 1925 Pg. 6, Berkeley, California, US
https://newspaperarchive.com/berkeley-daily-gazette-oct-21-1925-p-6/

Appendix 6.

CAT WELFARE BODY CHOOSES OFFICERS

Officers of the "California Cat Welfare Association," organized for the purpose of stimulating humane sentiment for the domesticated house cat and with the ultimate object of securing favorable legislation for the protection of cats, were elected at a recent meeting of the organization at the home of Miss Jean Davis, 2227 Parker Street. They are: Miss Rose Edna Rogers, president; Mrs. Harriet E. Fenton, first vice president; Mrs. M. R. Haley, second vice president; Mrs. Maude Morrow, corresponding secretary; and Mrs. Ede M. Van Duyne, recording secretary.

An immediate work of the association is the circulation of a petition for a "bigger and better" city pound and the employment of additional help for the poundmaster.

The next meeting is scheduled for August 6 at the home of Mrs. Fenton, 2131 Blake Street

NewspaperArchive by Stories

Berkeley Daily Gazette, July 23, 1926 Pg. 3, Berkeley, California, US

Appendix 7

2227 Parker St - Water Tower
Aaron Goldstein, RA
East Bay Urban Tank House Map
2 June 2024

Water Towers - Context

Water towers and tank houses provided Berkeley's primary domestic water supply from the earliest phases of its urbanization until the establishment of East Bay MUD in 1923. These wooden structures used windmills to pump well water into elevated wooden storage tanks, where it could then be delivered under pressure to interior plumbing fixtures. Despite their crucial role in Berkeley's early urban development and ubiquity in the East Bay's urban landscape, tank houses are almost entirely lost and, consequently, are a sparsely-documented and feebly understood part of the East Bay's material culture. Of the hundreds of towers which once stood in Berkeley, perhaps fewer than 30 remain (the author has tracked down and visited 21 at the time of writing, after years of research). Only a small percentage of surviving tank houses retain all of their original components. Redwood water tanks, mass-produced steel windmills, and hand-dug or steam driven cased wells are often in severely deteriorated condition or absent altogether. Every surviving tank house enlarges the body of knowledge of this important vanishing vernacular architecture and its role within the larger domestic economy and urban scene.

The water tower at 2227 Parker St

An unenclosed c. 1890 water tower measuring 20 feet by 20 feet at its base and between 32 and 45 feet in height once stood behind the primary house at 2227 Parker St.

Despite the demolition of the timber superstructure, wooden water tank, and the windmill and its associated plumbing, numerous architectural fragments survive which, together with photographic documentation and map records, make possible a substantial reconstruction of the former tower. The physical remnants, map evidence, and photographic documentation all affirm the presence of an imposing water tower, considerably larger than the domestic towers common at the time the property was first developed.

Physical remnants

Upon an inspection of the location of the former water tower, the following fragments were readily observed:

- A brick masonry foundation stem wall, measuring approximately 20 feet by 20 feet, directly abutting the house foundation to the south of the water tower. Most of the foundation is buried, but several courses of brick are visible above grade at the rear wall of the house. A brick abutment on the foundation's western wall and a concrete pier located on the inside of the northeast corner merit further observation. To date, only one

1.

other masonry foundation is known in Berkeley. The other example is of a completely different design, and is in an advanced state of deterioration.

- A painted redwood sill plate measuring approximately 10" x 12" survives on the tower's south side, directly against the primary residence. A half-lap joint is visible at the sill plate's eastern end. The western end is partially encapsulated within an existing rear addition at the house, but presumably contains a similar half-lap joint. This large sill plate provided a level bearing surface on top of which the tower's timber superstructure could be erected and nailed. The observed timber sill plate is fully consistent with typical water tower joinery throughout Berkeley and the East Bay, However, its large sectional size is atypical and notable, and consistent with a larger-than-average tower supporting nearly 38 tons of water at an elevation of 30 or 40 feet above grade.
- The original hand-dug brick-lined well survives underneath a modern cover. It measures approximately 60 inches in diameter, but the exact diameter could not be verified due to the cover. This is an extremely rare survival, and notable for its size and depth (see Documentation below for further discussion).
- The construction of the exterior rear wall of the primary residence bears the imprint of the former water tower. Segments of the rear wall directly adjoining the tank have a noticeable outward cant, and the second floor wall is constructed with its studwork outside the cladding boards. This is presumably due to the complexity inherent in framing a wall with a water tower in the way. The studs appear to have been raised from the inside of the house and then clad on their interior surface which, though highly unusual, was necessitated by the proximity of the tower.

The variety and rarity of surviving water tower fragments is remarkable. The fragments are valuable both within the context of the property's history and the architectural-archaeological corpus of water towers in the urban East Bay and Northern California. Early masonry foundations almost never survive, and extant examples are frequently inaccessible. It is known that this water tower withstood the 1906 Earthquake, almost certainly while it was in operation and therefore full of water. The performance of an unreinforced brick foundation with no mechanical fastening to the heavy timber superstructure it supported merits further investigation.

The early well is also a significant survival, especially due to its size. Berkeley's brick-lined wells are almost entirely lost, and the art of well-digging is not widely understood.

Documentation

2227 Parker appears on sheet 339 in Vol. III of the 1903 Sanborn Fire Insurance Map for Oakland and sheet 142 in Vol. II of the 1911 and 1950 editions of the Sanborn map for Berkeley. In both maps, the tower is shown as an open-framed structure (indicated by its broken outline) located directly behind the primary residence. The earliest map gives the tower's height as 32 feet, whereas the 1911 map indicates a height of 45'. In this author's experience, the heights given for water towers may vary considerably between map editions and do not always indicate that an enlargement took place. These structures were not always readily accessible, and often

dangerous, and it is possible that the Sanborn surveyors simply recorded their best guess. Further reconstruction from photographs will be required to develop a closer approximation of the tower's actual height.

The plan delineation of the tower corresponds exactly to the actual surviving foundation footprint, both in dimensions and location. The tank is shown with a diameter of approximately 13 feet, which is consistent with a 10,000-gallon capacity tank (whose height would have been around 10 feet).

The 1911 *Report on Sources of Water Supply - Eastern Region of San Francisco Bay* compiled by JH Dockweiler contains an entry for the property's water tower (Key 142 - page 451). It indicates a tank capacity of 10,000 gallons, with 150 gallons being used daily by four persons on a single premises. However, earlier documentation indicates that the tank served numerous premises on the block, which may partly explain its oversized capacity. By way of comparison, most residential tank houses had tanks of 1000 to 3000 gallons in capacity, and often less. Large tank capacity also often signals irrigation for agricultural activity - in this case, the tank provided irrigation for the Davis family's sizable orchard.

The Dockweiler report also gives the depth to the surface of water in the well as 75 feet, but does not indicate the well's total depth. It is the opinion of this author that the well could easily be over 100 feet deep, considerably deeper than the 20 or 30 feet usually encountered in early hand-dug wells. A well of this size is itself a tremendous feat of engineering, and its excavation must have required extensive use of shoring and falseworks.

Photographic Documentation

The water tower at 2227 Parker St appears in a photograph reproduced in *On Parker Street: The Evolution of a Berkeley Neighborhood 1855-1965* (p.53). The structure displays many characteristic features of water tower construction - a three-story braced timber frame with inward-sloping sides and a cantilevering upper platform supported on cantilevering girders. The platform provided maintenance access to all sides of the central tank, as well as anchorage points for the corner windmill, which is visible in the photograph. The windmill was situated directly over the well.

The water tower also exhibits several details which more closely resemble large-scale industrial/agricultural towers than domestic towers. In the typical domestic tower, 'V' braces provide lateral stability at each floor level. The 'V's change direction at each level and almost always point "outwards" at the lowest level, thereby directing lateral forces to the corners. Upon close inspection, the subject tower appears to employ a combination of V-bracing (in the north-south axis) and X-bracing (in the east-west axis). The use of X-bracing within each north-south structural bay was likely to better distribute and therefore counteract the significant lateral loads imposed on the structure, as well as the tendency for the tall corner columns to spread or buckle under loading. A similar structural configuration was employed in an

open-framed tank house serving a nursery on the corner of Addison and Milvia Streets (Berkeley Historical Society 273-190-1940). This tower, also used for large-scale irrigation and approximately the same size at its base, supported two tanks with a total capacity of 20,000 gallons.

Also of note is the style of tank employed at both 2227 Parker and Milvia. Both used tanks with outward-sloping sides, likely to counteract the enormous thrust of the water contained within. This tank type is exceedingly rare, and no surviving East Bay examples are known.

4.

Appendix 8

Graves, farmer, Republican; Mrs. Marjorie W. Graves, housewife, Republican; Mrs. Luella P. Kingsley, housewife, Democrat; Mrs. Alice Shoemaker, housewife, Democrat; Mrs. Marie Ipsen Teather, housewife, Republican. *1940 census:* Mary Jean Davis, no occupation listed, owner, value of house listed as $4500. Harold Keran, 53, a secondary school teacher, and his wife Vera, 22, no occupation listed, $20/month rent. Louis H. Coffin, 24, a commercial note teller at a bank, and his wife Elizabeth, 24, no occupation listed. They were paying $30/month rent. Gladys Gref, 41, single, an art teacher, and her lodger Virginia Dontanville, 23, single, no occupation listed. Paying $22/month rent. *1940 voter roll:* Robert E. Gamble, salesman, Democrat; Mrs. Muriel B. Gamble, housewife, Democrat; Harold C. Keran, teacher, Republican; Mrs. Vera Keran, housewife, Democrat. *1942:* same as 1940. *1944 voter roll:* Mrs. Muriel B. Gamble, housewife, Democrat; Robert E. Gamble, salesman, Democrat; Helmauth Grundig, marine electrician, Democrat; Mrs. Marguerite Grundig, housewife, Democrat. *1953 phone directory:* Mary Jean Davis (listed as 2227½, which is unlikely), John R. Moulton, Helen M. Rudy. *1982 estate distribution:* Mary Jean Davis' estate was distributed September 13, 1982 to her nephew Harry R. Davis and niece Patricia Wagnon.

2227 ½ Parker (the cottage at the rear of the Davis house): *1920 census:* Charles L. Strong, 68, born in New York, a tenant, a house carpenter; his wife Florence A., 53, born in Missouri, no occupation; and their four children, all born in Oklahoma: Denzel D., 20, a machinist at the electric company; Augusta M., 15; Caroline M., 12; and Olive L., 8. *1922 voter roll:* Mrs. Florence A. Strong, housewife, declines to state party. *1926 voter roll:* Mrs. Anna M. Youngren, housewife, Republican; August Youngren, minister, Republican. *1928 voter roll:* Mrs. Evelyn Fulton, housewife, Democrat. *1930 voter roll:* no listings. *1932 voter roll:* George McNeill, gardener, Republican. *1934 voter roll:* same as 1932 plus additional person--Miss Gladys H. Graf, bank clerk, Democrat. *1936 voter roll:* same as 1934 as to Graf. *1938 voter roll:* Miss Gladys Graf, bank clerk, Democrat. *1940 voter roll:* Miss Melanie Dontanville, waitress; Miss Virginia Dontanville, nurse; Miss Gladys Graf, bank clerk, Democrat. *1942 voter roll:* Miss Melanie Dontanville, waitress, Democrat; Mrs. Rieva B. Essene, housewife, Democrat; Miss Gladys Graf, bank clerk, Democrat. *1944 voter roll:* Mrs. Rieva B. Essene, housewife, Democrat.

2228 Parker (part of the Marsh house): This is part of the same house as 2226 Parker. *1910 census:* Maria Bradek (sp?), 38, born in Oregon, a widow, no occupation listed; and her children Anna, 17, Alice, 15; and Grant, 13. *1916 voter roll:* Frederick C. Powell, janitor, Republican; Mrs. Hattie V. Powell, housewife, Republican. *1918 voter roll:* Grace A. Wood, teacher, Democrat; Muriel Wood, student, Democrat; Mrs. Sarah E. Wood, nurse, Democrat; James Wood, carpenter, Republican. *1920 voter roll:* same as 1918 as to James, Muriel, and Sarah Wood except Muriel & Sarah have changed to Republican registration. *1920 census:*

PLANNING & DEVELOPMENT
Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.6903 Fax: 510.981.7420 Email: Planning@cityofberkeley.info

DATE STAMP HERE
MAY 16 2024
CITY OF BERKELEY
RECEIVED
DEPARTMENT OF PLANNING AND DEVELOPMENT

Landmarks Application Form

For: ___ Alteration / Sign Permit
X Landmark Designation

Effective April 3, 2013

Intake Planner _____

Project Address: 2227 PARKER ST, BERKELEY Zone: R2-A

Project Description: A pioneer homestead property. One of the first properties in the area. (1877)

Date Use Permit or Zoning Permit was applied for: _____

Associated Permit number: _____

- **Property Owner Name** (Print) Sylvia Sussman / Sylvia Sussman Trustees
  Owner's Mailing Address: 2227 PARKER ST., BERKELEY, CA 94704
  Daytime Phone # _____ E-mail: _____
- **Applicant Name** (Print) ❑ **SAME as Above**: WANDA MULCAHY
  Applicant's Mailing Address: 2222 PARKER ST, BERKELEY 94704
  Daytime Phone # 510-409-6054 E-mail: vanmulcahy@hotmail.com

Under penalties of perjury, I certify that the information above and in any attachments hereto, is true and accurate to the best of my knowledge.

Applicant Signature: W. Mulcahy Date: 5/16/24

Owner's Signature: _____ Date: _____

Does the project include:	No	Yes	Handout / Application Requirement
1. Demolition of, or exterior modifications to, a designated City of Berkeley landmark, structure of merit, or structure in a historic district?	❑	❑	Refer to the "Landmark Preservation Commission: Structural Alteration Permit and Design Review Submittal Requirements"
2. Application to designate a landmark, structure of merit or historic district?	❑	X	Refer to the "Landmark, Structure of Merit or Historic District Designation Form"

PLANNING & DEVELOPMENT
Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.9603 Fax: 510.981.7420 Email: Planning@ci.berkeley.ca.us

LANDMARK PRESERVATION COMMISSION

Landmark, Structure of Merit or Historic District Petition Form

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate the property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions of Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we are residents of the City of Berkeley at the addresses indicated.

1
Name: Anthony Buffington Bruce (Please Print)
Address: 6 Encina Place City: Berkeley Zip: 94705
Signature: Anthony Buffington Bruce Date: 3-14-2024

2
Name: Eugenia A. Kashima (Please Print)
Address: 2539 Fulton City: Berkeley Zip: 94704
Signature: Eugenia A Kashima Date: 3/18/24

3
Name: Gale Garcia (Please Print)
Address: 2538 Fulton St. City: Berkeley Zip: 94704
Signature: Gale Garcia Date: 3/18/24

4
Name: James A. Grandison (Please Print)
Address: 2611 Ashby Avenue City: Berkeley Zip: 94705
Signature: James A. Grandison Date: 3/27/24

5
Name: Diana S Perry (Please Print)
Address: 2630 Fulton St. City: Berkeley Zip: 94704
Signature: Diana S Perry Date: 3/30/24

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST., BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate th property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we a residents of the City of Berkeley at the addresses indicated.

6. Name: ANN HULTING TASHJIAN (Please Print)
Address: 3031 CLAREMONT AVE City: ~~BERKELEY~~ Zip: 94705
Signature: Ann Hulting Tashjian Date: 6 MAY 2024

7. Name: DICKRAN TASHJIAN (Please Print)
Address: 3031 Claremont Ave City: Berkeley Zip: 94705
Signature: Dickran Tashjian Date: 6/May/24

8. Name: Roy Allen (Please Print)
Address: 2216 Parker St City: Berkeley Zip: 94704
Signature: Roy Allen Date: 14/May/24

9. Name: Olivia Absey-Allen (Please Print)
Address: 2216 Parker St City: Berkeley Zip: 94704
Signature: Olivia Absey-Allen Date: 5/14/24

10. Name: Julie Absey (Please Print)
Address: 2216 Parker St. City: Berkeley Zip: 94704
Signature: Julie Absey Date: 5/14/2024

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate the property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions of Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we are residents of the City of Berkeley at the addresses indicated.

11. Name: Michael Kirkish (Please Print)
Address: 2212 Carleton St City: Berkeley Zip: 94704
Signature: [signature] Date: 4/6/2024

12. Name: Virgus Streets (Please Print)
Address: 1614 Walnut St City: Berkeley Zip: 94709
Signature: [signature] Date: 5-06-2024

13. Name: Karen Hagedorn (Please Print)
Address: 2019 Vine St. City: Berkeley Zip: 94709
Signature: [signature] Date: 5/7/2024

14. Name: MAUREEN BECK (Please Print)
Address: 1602 WALNUT City: Berkeley Zip: 94709
Signature: [signature] Date: 5-7-24

15. Name: Ursula Schulz (Please Print)
Address: 1623 Walnut City: Berkeley Zip: 94709
Signature: [signature] Date: 5-7-24

Name of Property:	FRANK A. DAVIS HOME + WORKSHOP
Street Address(es) of Property:	2227 PARKER ST., BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate th property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we a residents of the City of Berkeley at the addresses indicated.

16. Name: RIAN BOGLEY (Please Print)
Address: 2124 WARD St. City: Berkeley Zip: 94705
Signature: [signature] Date: MAY 7/2024

17. Name: KRIS KARGO (Please Print)
Address: 2411 PARKER ST City: BERKELEY Zip: 94704
Signature: [signature] Date: 5/7/2024

18. Name: DOUGLAS M. VUREK (Please Print)
Address: 2411 PARKER ST. City: BERKELEY Zip: 94704
Signature: Douglas M. Vurek Date: MAY 7, 2024

19. Name: Dylan Hawk (Please Print)
Address: 2410 Parker St City: Berkeley Zip: 94704
Signature: [signature] Date: 5/7/2024

20. Name: SUSAN JAMART (Please Print)
Address: 1417 ALLSTON WAY City: BERKELEY Zip: 94702
Signature: [signature] Date: 5.7.24

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST., BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate th property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions c Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we ar residents of the City of Berkeley at the addresses indicated.

Name: Arthur Schmidt (Please Print)

21. Address: 3100 Wheeler St City: Berkeley Zip: 94705
Signature: Arthur Schmidt Date: 5/6/24

Name: Chrisdy Shick (Please Print)

22. Address: 2919 Fulton St. City: Berkeley Zip: 94705
Signature: Date: 5/6/24

Name: AMY C. LUCAS (Please Print)

23. Address: 2631 Benvenue Ave #8 City: BERKELEY Zip: 94704
Signature: Date: 5/6/24

Name: Paul Robins (Please Print)

24. Address: 2424 Oregon St City: Berkeley Zip: 94705
Signature: Date: 5/6/24

Name: Alan Dimen (Please Print)

25. Address: 2907 Benvenue Ave City: Berkeley Zip: 94705
Signature: Date: 5-6-24

Name of Property:	FRANK A. DAVIS HOME + WORKSHOP
Street Address(es) of Property:	2227 PARKER ST., BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate th property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we a residents of the City of Berkeley at the addresses indicated.

26. Name: Kristin Roberts (Please Print)
Address: 2700 Webster #4 City: Berkeley Zip: 94705
Signature: Date: 5/6/23

27. Name: Anna Lagasca (Please Print)
Address: 2615 Derby City: Berkeley Zip: 94705
Signature: Date: 5/6/23

28. Name: Susan Beery (Please Print)
Address: 2722 Derby City: Berkeley Zip: 94705
Signature: Date: 5/6/24

29. Name: Kaila Lan (Please Print)
Address: 2920 Deakin St, Apt 3 City: Berkley Zip: 946 94705
Signature: Date: 05/06/24

30. Name: CHRISTINA GREEN (Please Print)
Address: 2631 BENVENUE AVE Apt. 2 City: BERKELEY Zip: 94704
Signature: Christina Green Date: 5-6-24

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate the property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions of Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we are residents of the City of Berkeley at the addresses indicated.

30. Name: STEPHANI LESH (Please Print)
Address: 1120 Carleton St City: Berkeley Zip: 94707
Signature: Stephanie Lesh Date: 5/7/24

31. Name: giorgia Neidorf (Please Print)
Address: 1833 Berryman St. City: Berkeley Zip: 94703
Signature: Date: 5.6.24

32. Name: Rosamond Andrews (Please Print)
Address: 640 Spruce St. City: Berkeley Zip: 94707
Signature: R C Date: 5/6/24

33. Name: Frances Grahamjones (Please Print)
Address: 1624 Bonita Ave. City: Berkeley Zip: 94709
Signature: Frances Grahamjones Date: 5/6/24

34. Name: Karen Streets (Please Print)
Address: 1614 Walnut City: Berkeley Zip: 94709
Signature: Karen Streets Date: 5-6-24

Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.9603 Fax: 510.981.7420 Email: Planning@ci.berkeley.ca.us

Name of Property:	FRANK A. DAVIS HOME + WORKSHOP
Street Address(es) of Property:	2227 PARKER ST., BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate th property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we a residents of the City of Berkeley at the addresses indicated.

36. Name: PATRICIA MOK (Please Print)
Address: 1249 ROSE STREET City: BERKELEY Zip: 94702
Signature: Patricia Mok Date: 5/6/24

37. Name: Juliana Loretto (Please Print)
Address: 1249 Rose street City: Berkeley Zip: 94702
Signature: Juliana Loretto Date: 5/6/24

38. Name: Ken Loretto (Please Print)
Address: 1249 Rose St City: Berkeley Zip: 94702
Signature: K Loretto Date: 5/6/24

39. Name: Ernest Machen (Please Print)
Address: 2136 Ward City: Berkeley Zip: 94705
Signature: E/H Machen Date: 5/6/24

40. Name: RON BOGLEY (Please Print)
Address: 424 Ward St. City: Berkeley Zip: 94705
Signature: Ron Bogley Date: May 6, 2024

Name of Property:	FRANK A. DAVIS HOME + WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate th property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we a residents of the City of Berkeley at the addresses indicated.

41. Name: Malgorzata Gnidzien (Please Print)
Address: 2124 Ward St. City: Berkeley CA Zip: 94705
Signature: [signature] Date: 6th May/2024

42. Name: SUZETTE CURRAN (Please Print)
Address: 2615 BENVENUE City: Berkeley CA Zip: 94704
Signature: [signature] Date: 5/6/2024

43. Name: CAROLYN A. CURRAN (Please Print)
Address: 2615 BENVENUE City: Berkeley Zip: 94704
Signature: [signature] Date: 5/6/2024

44. Name: Susan Mickiewicz (Please Print)
Address: 2225 Apt C Parker St City: Berkeley Zip: 94704
Signature: [signature] Date: 5/6/2024

45. Name: STEVEN SCHONBORN (Please Print)
Address: 2225 B Parker St City: Berkeley Zip: 94704
Signature: [signature] Date: 5/6/2024

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provision Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we residents of the City of Berkeley at the addresses indicated.

46. Name: Elizabeth Amberg (Please Print)
Address: 2240 Blake #205 City: Berkeley Zip: 94704
Signature: Elizabeth Amberg Date: 5, 5, 24

47. Name: Amrit Singh. (Please Print)
Address: 2607 Acf. 201 City: Berkeley Zip: 94704
Signature: Amrit Singh Date: 5,5 24

48. Name: Anthony Lafferty (Please Print)
Address: 2225 Parker St City: Berkeley Zip: 94704
Signature: Anthony Lafferty Date: 05/05/24

49. Name: Linda P. Rosen (Please Print)
Address: 2328 Carleton St. City: Berkeley Zip: 94704
Signature: Linda P. Rosen Date: 05/05/24

50. Name: Prudence A. Polivka (Please Print)
Address: 2227 Parker St. Apt 4 City: Berkeley Ca Zip: 94704
Signature: Prudence Polivka Date: 5/5/24

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provision Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we residents of the City of Berkeley at the addresses indicated.

51. Name: Brent Martin (Please Print)
Address: 3411 Crane Wy City: Oakland Zip: CA.
Signature: Brent C Martin Date: 5/5/24

52. Name: Dan McKenzie # 3A (Please Print)
Address: 2229 Parker St City: Berkeley Zip: 94704
Signature: Dan McKenz Date: 5/5/24

53. Name: Sylvia Sussman (Please Print)
Address: 2229 Parker st apt 4 City: Berkeley Zip: 94704
Signature: Sylvia Sussman Date: 4/5/24

54. Name: William Toft (Please Print)
Address: 2227 Parker St City: Berkeley Zip: 94704
Signature: Date: 5/5/24

55. Name: LINDA PETERSEN (Please Print)
Address: 2225 Parker St City: BERKELEY Zip: 94704
Signature: Linda Petersen Date: 5/5/24

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provision Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we residents of the City of Berkeley at the addresses indicated.

56. Name: Timothy Todd Gavinski (Please Print)
Address: 2225 Parker St Unit A City: Berkeley CA Zip: 94704
Signature: Date: 5/5/2024

57. Name: ANTHONY ABEL (Please Print)
Address: 2227 PARKER ST UNIT 2 City: BERKELEY Zip: 94704
Signature: Date: 5/5/2024

58. Name: Helen Bergstrom (Please Print)
Address: 2227 Parker St Unit 2 City: Berkeley Zip: 94704
Signature: Helen Bergstrom Date: 5/5/2024

59. Name: Vicki Oswald (Please Print)
Address: 2224 Blake St. City: Berkeley Zip: 94704
Signature: Vicki K. Oswald Date: 5/5/2024

60. Name: Grace Hoogerhyde (Please Print)
Address: 2149 blake street City: Berkeley Zip: 94704
Signature: Date: 5/5/2024

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provision Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we residents of the City of Berkeley at the addresses indicated.

61. Name: Trevor Greenan (Please Print)
Address: 2420 Fulton St City: Berkeley Zip: 94704
Signature: Date: 5/5/24

62. Name: A. Partos (Please Print)
Address: 2208 Blake City: Berkeley Zip: 94704
Signature: Date: 5/5/24

63. Name: Donald Wells (Please Print)
Address: 2531 Fulton St City: Berkeley Zip: 94704
Signature: Date: 5/5/24

64. Name: Benjamin Spilman (Please Print)
Address: 2542 Fulton St. City: Berkeley Zip: 94704
Signature: Date: 5/5/24

65. Name: Miriam Spilman (Please Print)
Address: 2542 Fulton St. City: Berkeley Zip: 94704
Signature: Date: 5/5/24

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provision Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we residents of the City of Berkeley at the addresses indicated.

66. Name: ARIADNE FELLOWS-MANNION (Please Print)
Address: 2233 Parker St City: Berkeley Zip: 94704
Signature: [signature] Date: 5/5/24

67. Name: LAWRENCE FELLOWS-MANNION (Please Print)
Address: 2233 PARKER ST City: BERK, Zip: 94704
Signature: [signature] Date: 5/5/2024

68. Name: Wendy Cosgrove (Please Print)
Address: 2222 Blake St City: Berkely Zip: 94704
Signature: [signature] Date: 5/5/2024

69. Name: [redacted] Christine EVERETT (Please Print)
Address: 2222 BLAKE ST City: Berkely Zip: 94704
Signature: [signature] Date: 5/5/2024

70. Name: Jeffrey Rindels (Please Print)
Address: 2550 Ellsworth City: BERK Zip: 94704
Signature: [signature] Date: 5/5/24

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provision Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we residents of the City of Berkeley at the addresses indicated.

71. Name: Marija Hillis (Please Print)
Address: 2147 Parker St City: Berkeley Zip: 94704
Signature: Marija Hillis Date: 5/5/24

72. Name: Seumas Mulcahy (Please Print)
Address: 2222 Parker St. City: Berkeley Zip: 94704
Signature: Date: 5/5/24

73. Name: LISA SIMONS (Please Print)
Address: 2212 Carleton St City: Berkeley Zip: 94704
Signature: Lisa Simons Date: 5/6/2024

74. Name: Jennifer Peterson (Please Print)
Address: 2225 Parker st City: Berkeley Zip: 94704
Signature: Date: 5/7/202

75. Name: (Please Print)
Address: 2221/2 PARKER ST City: BERKELEY Zip: 9470
Signature: Date: 5/7/202

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST., BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisior Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we residents of the City of Berkeley at the addresses indicated.

76. Name: Elias S. Myers (Please Print)
Address: 2307 Piedmont Ave City: Berkeley Zip: 94704
Signature: [signature] Date: 5/07/2024

77. Name: Pen Zoe Yildirim-Stanley (Please Print)
Address: 2535 Channing Way City: Berkeley Zip: 94704
Signature: [signature] Date: 5/7/24

78. Name: Clara Mangali (Please Print)
Address: 2232 Blake St. City: Berkeley Zip: 94704
Signature: [signature] Date: 5/7/24

79. Name: Jessica Velasco (Please Print)
Address: 2610 Regent St City: Berkeley Zip: 94704
Signature: [signature] Date: 5/7/24

80. Name: Tiffani Yuson (Please Print)
Address: 2601 Warring St City: Berkeley Zip: 94720
Signature: [signature] Date: 5/7/24

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provision Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we residents of the City of Berkeley at the addresses indicated.

81. Name: Samuel Desta (Please Print)
Address: 3014 San Pablo Ave City: Berkeley, CA Zip: 94702
Signature: Sml Date: 5,6,2024

82. Name: Evelyn Gutierrez (Please Print)
Address: 2240 Blake St City: Berkeley Zip: 94704
Signature: Evelyn Gutierrez Date: 05/07/2

83. Name: DAVID ROWLAND (Please Print)
Address: 2717 HILLEGASS AVE City: BERKELEY Zip: 94705
Signature: David Rowland Date: MAY 7 '24

84. Name: Max Holmes (Please Print)
Address: 2301 Haste St City: Berkeley Zip: 94704
Signature: Date: 5/7/24

85. Name: Lila Voci (Please Print)
Address: 2821 Hillegass Ave City: Berkeley Zip: 94705
Signature: Lila Voci Date: 5/7/24

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate the property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions of Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we are residents of the City of Berkeley at the addresses indicated.

Name: MICHAEL T. ORR
Please Print

86. Address: 2224 BLAKE ST. City: BERKELEY Zip: 94704

Signature: [signature] Date: 4/25/24

Name: Dustin Tranberg
Please Print

87. Address: 2540 Ellsworth St City: Berkeley Zip: 94704

Signature: [signature] Date: 5/5/24

Name: Regina Mouton
Please Print

88. Address: 2241 Parker St. City: Berkeley CA Zip: 94704

Signature: [signature] Date: 5/5/24

Name: LINDA LOCKE
Please Print

89. Address: 2237-A PARKER ST. City: BERKELEY Zip: 94704

Signature: [signature] Date: 5/8/2024

Name:
Please Print

Address: City: Zip:

Signature: Date:

Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.9603 Fax: 510.981.7420 Email: Planning@ci.berkeley.ca.us

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provision Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we residents of the City of Berkeley at the addresses indicated.

90.
Name: Georgia Schreiber (Please Print)
Address: 2214 A Carleton St City: Berkeley, CA Zip: 94704
Signature: Date: 5/6/2024

91.
Name: Jacob Bush (Please Print)
Address: 2200 Carleton St. #4 City: Berkeley, CA Zip: 94704
Signature: Date: 5/6/24

92.
Name: Jacqueline Rojas Cortez (Please Print)
Address: 1721 Post Ave. ~~San Pablo~~ City: San Pablo Zip: 94806
Signature: Date: 05/06/24

93.
Name: Roma Renner (Please Print)
Address: 2615 Fulton St City: Berk Zip: 94704
Signature: Date: 5/8/24

Name: (Please Print)
Address: City: Zip:
Signature: Date:

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST., BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate the property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provisions of Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we are residents of the City of Berkeley at the addresses indicated.

Name: Jane Hysen
Please Print
Address: 2216 Carleton St City: Berkeley Zip: 94704
Signature: Jane Hysen Date: 5-6-24

Name: James R. Grow
Please Print
95. Address: 2216 Carleton St. City: Berkeley Zip: 94704
Signature: James R Grow Date: 5-6-24

Name: Vonnie Chan
Please Print
Address: 2228 Parker St City: Berkeley Zip: 94704
96. Signature: Date: 5/6/24

Name:
Please Print
Address: City: Zip:
Signature: Date:

Name:
Please Print
Address: City: Zip:
Signature: Date:

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provision Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we residents of the City of Berkeley at the addresses indicated.

1

Name: Christopher Eric Shirley
Please Print

Address: 2218 PARKER ST City: Berkeley Zip: 94704

97. Signature: [signature] Date: 5.7.24

2

Name: WANDA MULCAHY
Please Print

Address: 2222 PARKER ST. City: Berkeley Zip: 94704

98. Signature: W. Mulcahy Date: 5/7/24

3

Name:
Please Print

Address: City: Zip:

Signature: Date:

4

Name:
Please Print

Address: City: Zip:

Signature: Date:

5

Name:
Please Print

Address: City: Zip:

Signature: Date:

Name of Property:	FRANK A. DAVIS HOME & WORKSHOP
Street Address(es) of Property:	2227 PARKER ST, BERKELEY CA 94704

We the undersigned residents of the City of Berkeley, petition the Landmarks Preservation Commission to designate property identified above, for consideration as a Landmark, Structure of Merit or Historical District under the provision Section 3.24.120 of the Berkeley Landmarks Preservation Ordinance. We certify, under penalty of perjury, that we residents of the City of Berkeley at the addresses indicated.

99.
Name: Christian Lizaso (Please Print)
Address: 2533 Durant Ave City: Berkeley, CA Zip: 94704
Signature: [signature] Date: 5, 7, 24

100.
Name: Kaitlyn El-Sayegh (Please Print)
Address: 2401 Durant Avenue City: Berkeley, CA Zip: 94701
Signature: Kelsayegh Date: 5/7/24

101.
Name: RAYMOND CHARVALL (Please Print)
Address: 2228 City: BERKELEY Zip: 94704
Signature: [signature] Date: 5/15/24

Name: (Please Print)
Address: City: Zip:
Signature: Date:

Name: (Please Print)
Address: City: Zip:
Signature: Date:

Office of the City Manager

14

INFORMATION CALENDAR
September 24, 2024

To: Honorable Mayor and Members of the City Council

From: LaTanya Bellow, Interim City Manager

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

Subject: LPO NOD: 8 Greenwood Common, #LMSAP2024-0001

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that "a copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting."

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for the subject City Landmark property. This action is subject to a 15-day appeal period that began on September 10, 2024.

BACKGROUND

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. For Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by September 24, 2024. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must then rule within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY & CLIMATE IMPACTS
Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION
The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION
There are no known fiscal impacts associated with this action.

CONTACT PERSON
Fatema Crane, Principal Planner, Planning and Development Department, 510-981-7413
Allison Riemer, AICP, Associate Planner, Planning and Development, 510-981-7433

Attachments:
1: Notice of Decision – 8 Greenwood Common, #LMSAP2024-0001

LANDMARKS PRESERVATION COMMISSION

Notice of Decision

DATE OF BOARD DECISION: June 6, 2024
DATE NOTICE MAILED: September 9, 2024
APPEAL PERIOD EXPIRATION: September 24, 2024
EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): September 25, 2024[1]

8 Greenwood Common

Structural Alteration Permit (#LMSAP2024-0001) to change a window to a door and convert a fixed window to an operable style on the main building; add skylights to the main building and carport; replace wood posts and beams within the carport with steel features; and complete landscape improvements, including installing new fencing and a deck, at a City Landmark property.

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following request:

- **Structural Alteration Permit**

APPLICANT: Kerstin Fischer
Fischer Architecture
2984 San Pablo Avenue
Berkeley, CA 94702

ZONING DISTRICT: Single Family Residential District, Hillside Overlay (R-1H)

1 Pursuant to BMC Chapter 3.24, the City Council may "certify" any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
#LMSAP2024-0001
8 Greenwood Common
September 9, 2024
Page 2 of 4
ENVIRONMENTAL REVIEW STATUS: Categorically exempt under the California Environmental Quality Act Guidelines, Section 15331 of the CEQA Guidelines for Historical Resource Rehabilitation.
.

The application materials for this project is available online at:
https://berkeleyca.gov/construction-development/land-use-development/zoning-projects or
https://permits.cityofberkeley.info/CitizenAccess/Default.aspx

---

FINDINGS FOR FINAL ACTION AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

COMMISSION VOTE: 6-0-0-3

YES: ENCHILL, FINACOM, LINVILL, ORBUCH, SCHWARTZ, TWU

NO: NONE

ABSTAIN: NONE

ABSENT: CRANDALL, LEUSCHNER, MONTGOMERY

TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):
To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
   a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of Chapter 3.24.
2. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
   a. The basic fee for persons other than the applicant is $1,500. This fee may be reduced to $500 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less. Signatures collected per the filing requirement in BMC Section 3.24.300.A may be counted towards qualifying for the reduced fee, so long as the signers are qualified. The

individual filing the appeal must clearly denote which signatures are to be counted towards qualifying for the reduced fee.

b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is $500, which may not be reduced.
c. The fee for all appeals by Applicants is $6,000.

3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the landmark permit will be final on the first business day following expiration of the appeal period.

NOTICE CONCERNING YOUR LEGAL RIGHTS:

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision 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 Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission 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 ninety (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 ninety (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, your appeal of this decision must include the following information:

   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.

PUBLIC COMMENT:

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.

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Allison Riemer, at (510) 981-7433 or ariemer@berkeleyca.gov. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, 3rd Fl., during regular business hours.

ATTACHMENTS:

1. Findings and Conditions
2. Project Plans, received **MAY 28, 2024**



ATTEST: _____
Fatema Crane, Secretary
Landmarks Preservation Commission

cc: City Clerk
Applicant: Kerstin Fischer, Fischer Architecture, 2984 San Pablo Avenue, Berkeley, CA 94702
Property Owner: Rory and Cindy Reid, 8 Greenwood Common, Berkeley, CA 94708

Attachment 1, part 2

Findings and Conditions

8 Greenwood Common

Structural Alteration Permit (#LMSAP2024-0001) to change a window to a door and convert a fixed window to an operable style on the main building; add skylights to the main building and carport; replace wood posts and beams within the carport with steel features; and complete landscape improvements, including installing new fencing and a deck, at a City Landmark property.

FINDINGS REQUIRED UNDER CEQA

1. The project is categorically 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 15331 of the CEQA Guidelines ("Historic Resource Restoration/Rehabilitation"). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, and (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5.

FINDINGS RELATED TO THE SECRETARY OF THE INTERIOR'S STANDARDS

Regarding the Secretary of the Interior's Standards (SOI) for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. The proposed project does not involve a change of use. The property will retain its historic single-family residential use.

2. The historic character of the property will be preserved and retained. No spaces or spatial relationships will be altered as part of this project. The project will introduce skylights that are modest in size at only 24 sq. ft. in total area, change one window opening to a door and make an existing fixed window operable. These changes will not alter the architectural character or building forms at this historic property.

3. No changes that are part of the project will create a false sense of history and no conjectural features or elements are proposed. The new doors will match the style and finishes of the existing doors, and will retain the pattern of existing openings. The new skylights and new carport posts and beams are contemporary in design.

4. This property does not feature changes that have acquired significance in their own right, and, therefore, it cannot affect such features.

5. The project will re-use the original overlap fencing, and the new door on the east building elevation will use the existing window opening. At the south building elevation, the new door will be placed in an existing window opening and will require minimal removal of existing siding material. The distinctive materials that characterize the property would be preserved.

6. If deteriorated historic features will be affected by this project, then they will be repaired or replaced to match the materials, design, and finishes of the original items.

7. The applicant does not propose chemical or physical treatments. However, standard conditions of Structural Alteration Permit approval will require any chemical or physical treatments to be undertaken using the gentlest means possible.

8. The project does not have the potential to affect any archaeological resources because the project does not require any excavation.

9. The project involves alterations to the historic house and the non-historic carport. The new skylights will be visible since the building is one-story, but they will not alter the historic character since they are small in size and differentiated from existing windows. The new door on the south elevation will require the removal of historic siding, but will not alter the historic character because it will match the existing doors on the east elevation. Since the door will match it will not cause the elevation to compete with other facades, which is in line with guidance from the National Parks Service. On the east elevation, the change from a window to a door will be subtle since the door will go in the existing opening. The changes to the windows are compatible with the historic scale and proportion, and align with the existing pattern of openings. The roof of the carport will remain, although it will be altered by the addition of a skylight, and the changes to the carport structure will not be readily visible from the Common. Since the roof of the carport is not historic, historic materials will not be destroyed, and the addition of the skylight will not destroy the spatial relationship between the house and carport. Overall, the proposed alterations will have a limited impact on historic materials, the new work will be differentiated from the old, and on some elevations the new work will match the existing in order to maintain existing relationships between openings. The historic integrity of the property will be protected.

10. If the proposed alterations are removed in the future, the essential form and integrity of the historic property and its environment will be unimpaired.

FINDINGS REQUIRED UNDER LANDMARKS PRESERVATION ORDINANCE

1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that the proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve the characteristics and features specified in the designation for this property. Specifically:

    A. The character-defining exterior features of this Second Bay Tradition residential property include its overall building massing, low-pitched roof, horizontal wood siding, use of natural materials, and understated detailing. Some siding will be removed at the south elevation, but it will be replaced with a door that matches the existing doors on the east elevation. Some of the roof will be removed to add skylights, but the massing and pitch will not change. Overall, the character-defining features will be retained under the proposed project.

    B. The special character and historic value of this City Landmark property lies in its relationship to the other properties in the Common, where they form a collective representation of Second Bay Tradition architectural and landscape design. The proposed alterations are not likely to be visible from the public right-of-way along Greenwood Terrace or from within the Common due to the size and location of the changes. The door change at the east elevation will be obscured by a fence, the door at the south elevation is away from the Common, and the carport changes will be largely obscured from the Common by the carport roof and wood fencing. Therefore, the proposed project will not adversely affect the special character and historical value of Greenwood Common.

STANDARD CONDITIONS

The following conditions, as well as all other applicable provisions of the Landmarks Preservation Ordinance, apply to this Permit:

1. Conditions 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 Permit, under the title 'Structural Alteration 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; 8-1/2" by 11" sheets are not acceptable.

2. Plans and Representations Become Conditions

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

3. Subject to All Applicable Laws and Regulations

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Zoning Adjustments Board or Zoning Officer, Building and Safety Division, Public Works Department and other affected City divisions and departments.

4. Exercise and Lapse of Permits

A. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.

B. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

5. Indemnification Agreement

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. (City Attorney).

6. 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.

7. 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.

8. 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 CEQA Guidelines Section 15064.5 (e)(1). If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to Health and Safety Code Section 7050.5(c), 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.

9. 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.

ADDITIONAL CONDITIONS

The following additional conditions are attached to this Permit:

10. CITY PERMITS. This Structural Alteration Permit (SAP) approval is contingent upon approval of the requisite Use Permit.

11. PLANS COMPLIANCE. Construction and building permit plans shall substantially conform to the Structural Alteration Permit (SAP) project plans received May 28, 2024.

12. REPAIR AND REPLACEMENT OF CHARACTER-DEFINING FEATURES. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature

shall match the old or historic feature in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.

13. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.

14. **COLORS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit color and materials information for review and approval by Landmarks staff, in coordination with the LPC Chair as needed.

15. **CLEAR GLASS.** All glass is assumed to be clear glass. Any proposed glass that is not clear glass, or includes signage, shall be indicated on all drawings, and shall be reviewed for approval by Landmarks staff.

16. **DETAILS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit window, door, base, and trim details for review and approval by the Landmarks plan checker.

17. **LIGHTING.** Prior to Landmarks plan checker sign-off of the building permit set of drawings, the applicant shall submit lighting details showing all existing and proposed site and building lighting. Exterior lighting, shall be downcast and not cause glare on the public right-of-way and adjacent parcels.

18. **LANDSCAPE PLANS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit a Landscape plan including the number, location, and species of all proposed plantings, and which existing plantings shall be removed. The applicant shall provide irrigation for all landscaped areas or provide drought tolerant plant palette. This shall be called out on Landscape building permit drawings.

19. **LANDSCAPE IRRIGATION.** The applicant shall provide irrigation for all landscaped areas. This shall be called out on Landscape building permit drawings. (Add alternative per R-district requirement)

20. **CURB CUTS.** All curbs and curb cuts shall be constructed per the standards and specifications of the Public Works Department. Curb cuts no longer utilized shall be restored per the Public Works Department specifications.

21. The applicant shall be responsible for identifying and securing all applicable permits from the Building and Safety Division and all other affected City divisions/departments prior to the start of work.

22. The applicant is responsible for complying with all the above conditions. Failure to comply with any condition could result in construction work being stopped, issuance of citations, as well as further review by the Landmarks staff, which may modify or impose additional conditions, or revoke approval.

23. All building permit drawings and subsequent construction shall substantially conform to the approved plans as outlined in Condition #1. Any modifications must be reviewed by the Landmarks plan checker to determine whether the modification requires approval.

24. The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

8 GREENWOOD COMMON

BERKELEY, CA 94708

APRIL 17, 2024

STRUCTURAL ALTERATIONS-PLAN CHECK 1 RESPONSE

FISCHER
ARCHITECTURE

tel 510.204.9250 | fischerarchitecture.com
2984 San Pablo Ave, Berkeley, CA 94702

GENERAL NOTES

1. **EXAMINATION OF THE SITE** AND PORTIONS THEREOF WHICH WILL AFFECT THIS WORK SHALL BE MADE IMMEDIATELY BY THE CONTRACTOR, WHO SHALL COMPARE IT WITH THE DRAWINGS AND SATISFY HIMSELF TO CONDITIONS UNDER WHICH WORK IS TO BE PERFORMED. HE SHALL AT SUCH TIME ASCERTAIN AND CHECK LOCATIONS OF THE EXISTING STRUCTURES AND EQUIPMENT WHICH MAY AFFECT HIS WORK. NO ALLOWANCE SHALL BE MADE FOR ANY EXTRA EXPENSE TO WHICH HE MAY BE DUE BECAUSE OF FAILURE OR NEGLECT ON HIS PART TO MAKE SUCH EXAMINATIONS. ANY CONFLICTS OR OMISSIONS, ETC., SHALL BE REPORTED TO THE ARCHITECT BEFORE PROCEEDING WITH ANY WORK.

2. **ANY ERRORS, OMISSIONS, OR CONFLICTS** FOUND IN THE VARIOUS PARTS OF THE CONSTRUCTION DOCUMENTS SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT AND THE OWNER BEFORE PROCEEDING WITH THE WORK.

3. WHERE REFERENCED IN NOTES, **ARCHITECT SHALL BE FISCHER ARCHITECTURE, OWNER SHALL BE CINDY AND RORY REID.**

4. **CONTRACTOR SHALL PROVIDE ARCHITECT AND OWNER** WITH A COMPLETE COST BREAKDOWN AND SCHEDULE OF CONSTRUCTION FOR THIS PROJECT PRIOR TO COMMENCEMENT OF WORK.

5. **CONTRACTOR SHALL PROTECT** NEW MATERIALS AND FINISHES FROM DAMAGE WHICH MAY OCCUR FROM CONSTRUCTION, DEMOLITION, DUST, WATER. ETC., AND SHALL PROVIDE AND MAINTAIN TEMPORARY BARRICADES, CLOSURE WALLS. ETC., AS REQUIRED TO PROTECT THE PUBLIC AS REQUIRED DURING THE PERIOD OF CONSTRUCTION. DAMAGE TO NEW MATERIALS, FINISHES, STRUCTURES, AND EQUIPMENT SHALL BE REPAIRED OR REPLACED. CONTRACTOR SHALL COORDINATE TEMPORARY BARRICADES WITH ARCHITECT AND / OR OWNER PRIOR TO COMMENCEMENT OF WORK.

6. **ALL CONSTRUCTION WORK**, IS TO COMPLY WITH THE 2016 CALIFORNIA BUILDING, RESIDENTIAL, MECHANICAL, ELECTRICAL, PLUMBING, ENERGY, HISTORICAL, EXISTING AND GREEN BUILDING STANDARDS CODE AS AMENDED BY THE CITY OF BERKELEY, AND AS APPLICABLE. [CAC 1-201(a)] ALL WORK SHALL BE DONE IN A THOROUGH, WORKMANLIKE MANNER AND EQUAL TO THE BEST STANDARDS OF THE PRACTICE.

7. **ALL WORK LISTED**, SHOWN OR IMPLIED ON ANY CONSTRUCTION DOCUMENT SHALL BE SUPPLIED AND INSTALLED BY THE CONTRACTOR EXCEPT WHERE NOTED. THE CONTRACTOR SHALL CLOSELY COORDINATE HIS WORK WITH THAT OF OTHER CONTRACTORS OR VENDORS TO ASSURE THAT ALL SCHEDULES ARE MET AND THAT ALL WORK IS DONE IN CONFORMANCE TO MANUFACTURERS REQUIREMENTS. WORK REQUIRED UNDER THIS CONTRACT SHALL INCLUDE ALL LABOR, MATERIALS, EQUIPMENT, ETC., NECESSARY TO COMPLETE THIS PROJECT. ALL MATERIALS SHALL BE NEW AND UNUSED, UNLESS SPECIFICALLY NOTED, AND BE OF A QUALITY ACCEPTABLE BY INDUSTRY STANDARDS.

8. **THE USE OF THE WORD "PROVIDE"** IN CONNECTION WITH ANY ITEM SPECIFIED IS INTENDED TO MEAN THAT SUCH ITEM SHALL BE FURNISHED, INSTALLED, AND CONNECTED WHERE SO REQUIRED, EXCEPT AS NOTED.

9. **THE CONTRACTOR** SHALL MAINTAIN A CURRENT AND COMPLETE SET OF CONSTRUCTION DOCUMENTS ON THE JOB SITE DURING ALL PHASES OF CONSTRUCTION FOR USE OF ALL TRADES AND SHALL PROVIDE ALL SUBCONTRACTORS WITH CURRENT CONSTRUCTION DOCUMENTS AS REQUIRED. THE CONTRACTOR, IN ASSUMING RESPONSIBILITY FOR THE WORK INDICATED, SHALL COMPLY WITH THE LETTER IN WHICH THEY WERE DRAWN.

10. **THE CONTRACTOR** SHALL REMOVE ALL RUBBISH AND WASTE MATERIALS OF ALL SUBCONTRACTORS AND TRADES ON A REGULAR BASIS, AND SHALL EXERCISE STRICT CONTROL OVER JOB CLEANING TO PREVENT ANY DIRT, DEBRIS OR DUST FROM AFFECTING IN ANY WAY, FINISHED AREAS IN OR OUTSIDE THE JOB SITE.

11. **THE CONSTRUCTION DOCUMENTS ARE PROVIDED TO ILLUSTRATE THE DESIGN INTENT AND GENERAL TYPE OF CONSTRUCTION DESIRED.**

12. **DETAILS SHOWN ARE TYPICAL U.O.N.** SIMILAR DETAILS APPLY IN SIMILAR CONDITIONS.

13. **ALL ELECTRICAL, MECHANICAL, AND PLUMBING WORK** AND MATERIALS SHALL BE IN FULL ACCORDANCE WITH THE LATEST RULES AND REGULATIONS OF THE NATIONAL BOARD OF FIRE UNDERWRITERS, THE STATE FIRE MARSHALL, THE SAFETY ORDERS OF THE DIVISION OF INDUSTRIAL SAFETY, AND ANY APPLICABLE STATE OR LOCAL LAWS AND ORDINANCE. NOTHING ON THESE DRAWINGS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THESE CODES. ANY QUESTIONS REGARDING INSTALLATIONS SHALL BE BROUGHT TO THE ARCHITECT FOR CLARIFICATION.

14. INSTALL BATT INSULATION BETWEEN STUDS AND JOISTS AT ALL EXTERIOR WALLS, CEILINGS, AND FLOORS WHERE EXPOSED.

15. **ALL DIMENSIONS** ON CONSTRUCTION DRAWINGS ARE TO FACE OF FINISH UNLESS NOTED AS BEING TO FACE OF FRAMING. DIMENSIONS ARE TO BOTTOM OF FINISHED CEILING OR TOP OF FINISHED FLOOR IN INTERIOR ELEVATIONS UNLESS OTHERWISE NOTED.

16. **ALL DIMENSIONS** TAKE PRECEDENCE OVER SCALE. ANY DISCREPANCIES SHALL BE BROUGHT IMMEDIATELY TO THE ATTENTION OF THE ARCHITECT. CONTRACTOR SHALL NOT SCALE DRAWINGS. QUESTIONS REGARDING DIMENSIONS SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT PRIOR TO ANY START OF WORK.

17. **WINDOW AND DOOR SIZES** ARE NOMINAL DIMENSIONS. REFER TO MANUFACTURER FOR ACTUAL ROUGH OPENING SIZES.

18. NOT USED.

19. NOT USED.

20. **SEALANT, CAULKING, AND FLASHING, ETC.**, LOCATIONS SHOWN ON DRAWINGS ARE NOT INTENDED TO BE INCLUSIVE. FOLLOW MANUFACTURER'S INSTALLATION RECOMMENDATIONS AND STANDARD INDUSTRY AND BUILDING PRACTICES.

21. **PROVIDE SOLID WOOD BACKING** FOR ALL SURFACE MOUNTED ACCESSORIES.

22. **ALL WORK SHALL BE GUARANTEED** AGAINST DEFECTS IN DESIGN, INSTALLATION AND MATERIAL FOR A MINIMUM PERIOD OF ONE YEAR FROM DATE OF COMPLETION.

23. **ALL MATERIALS** FOR USE ON THE PROJECT SHALL BE STORED WITHIN THE PROJECT SITE.

24. **CONTRACTOR SHALL** PERSONALLY SUPERVISE AND DIRECT THE WORK OR SHALL KEEP A COMPETENT EMPLOYEE, AUTHORIZED TO RECEIVE INSTRUCTIONS AND ACT ON THE CONTRACTOR'S BEHALF, CONTINUOUSLY ON SITE DURING WORKING HOURS.

25. **ALL QUESTIONS** REGARDING PROJECT EITHER DURING BIDDING PHASE OR DURING CONSTRUCTION SHALL BE DIRECTED TO THE ARCHITECT IN WRITING BY EMAIL or FAX: andrew@fischerarchitecture.com

26. **DEMOLITION:** THE CONTRACTOR SHALL ENTIRELY DEMOLISH AND REMOVE FROM SITE ANY STRUCTURE OR PORTION THEREOF, OR SITE FEATURE INDICATED TO BE REMOVED.

27. **SALVAGE & RECYCLING:** ALL ITEMS DEEMED SALVAGEABLE OR RECYCLABLE BY THE OWNER WILL EITHER HAVE BEEN INDICATED ON THE DRAWINGS, REMOVED PRIOR TO THE START OF DEMOLITION, OR WILL BE DIRECTED BY THE OWNER TO BE STORED BY THE CONTRACTOR AND SHALL REMAIN THE PROPERTY OF THE OWNER. ITEMS TO BE RELOCATED WILL HAVE BEEN INDICATED ON THE DRAWINGS. REFER TO CITY RECYCLING AND SALVAGING REQUIREMENTS ON FOLLOWING PAGES.

28. **DESIGN BUILD:** ALL ELECTRICAL, MECHANICAL, AND PLUMBING WORK SHALL BE DESIGN BUILD BASED ON THE INFORMATION PROVIDED IN THE CONSTRUCTION DOCUMENTS.

29. Contractor shall submit a list of paints, primers, sealants, caulking, and adhesives installed within the interior of the building. List to include material type (per CALGreen tables 4.504.1 and 4.504.3) manufacturer name, model name/number, VOC amount, and CALGreen VOC not to exceed limit per product. "

30. **PROJECT CLOSEOUT:**

A. **CONTRACTOR SHALL** REVIEW PROJECT WITH ARCHITECT AND/OR OWNER TO ENSURE THAT ALL REQUIREMENTS OF THE CONTRACT DOCUMENTS HAVE BEEN FOLLOWED.

B. **CONTRACTOR SHALL** OBTAIN ALL REQUIRED CERTIFICATES AND NOTICES.

C. **ALL WORK** PERFORMED SHALL BE CLEAN AND READY FOR USE.

D. **UPON SUBSTANTIAL COMPLETION,** THE ARCHITECT SHALL, AT THE CONTRACTOR'S WRITTEN REQUEST, COMPILE A PROJECT PUNCH LIST NOTING ANY CORRECTIONS OR OMISSIONS. ARCHITECT'S ACCEPTANCE WILL BE CAUSE FOR FINAL PAYMENT, UNLESS SPECIFICALLY DETERMINED OTHERWISE BY OWNER.

PROJECT DESCRIPTION

Remodel of an existing single family residence. Scope includes interior renovations to create a third bedroom within the existing footprint, new kitchen, bathroom renovations, cosmetic upgrades. Exterior modifications include removing an existing double casement window and replacing it with a custom French door, removal of an exisiting fixed window and replacing it with a custom French door, and addition of one skylight.

Carport renovations include removing existing wooden post and beam structure, replacing with steel, new concrete slab, and addition of one skylight.

Landscape and hardscape modifications include rebuilt fencing, a new gate along the Common, a new deck outside of the studio, a new concrete terrace and walkway on the east side of the house, and new plantings.

PROJECT INFORMATION

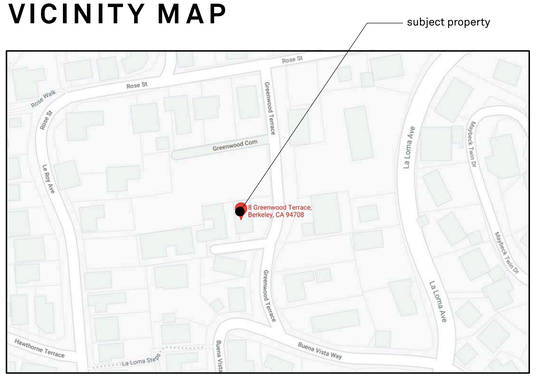
Project Address:	8 Greenwood Common Berkeley, CA 94708
APN:	058 224400211
Zoning District:	R-1H
Construction Type:	V-B
Occupancy Type:	R-3
Parking Spaces:	1 covered
Number of Stories:	1 (residence); 1 (studio)
<u>House:</u>	
Front Yard Setback:	20' required; 21'-0" existing
Side Yard Setback:	4' required; 4'-5" existing (north)/ 11'-1" existing (south)
Rear Yard Setback:	20' required; 8'-5" existing
Building Height:	13'-4" (35' max allowed)

<u>Studio/Carport:</u>	
Front Yard Setback:	6'-1" existing
Side Yard Setback:	0" existing (north)
Building Height:	8'-9" existing (12' max allowed)
<u>Property:</u>	
Lot Area:	4800 sf
Gross Floor Area-existing:	1565 sf (residence); 251 sf (studio) = 1816 gsf total
Gross Floor Area-proposed:	1565 sf (residence); 251 sf (studio) = 1816 gsf total [no change]
Applicable Codes:	2022 CBC, CRC, CEC, CPC, CMC, CFC
Fire Zone/WUI:	2/Yes
Sprinkler System:	No
Fire Alarm System:	No

ADJACENT NEIGHBOR OUTREACH

Name	Address	Renter/ Owner	Date	Have no objections	Comments
	1 Greenwood Common				
	2 Greenwood Common				
	3 Greenwood Common				
	4 Greenwood Common				
	7 Greenwood Common				
	9 Greenwood Common				
	10 Greenwood Common				
	1459 Greenwood Terrace				
	1471Greenwood Terrace				
	1476Greenwood Terrace				

VICINITY MAP



SYMBOLS/ ABBREVIATIONS

Exterior Elevation / Section Cut

Detail Key

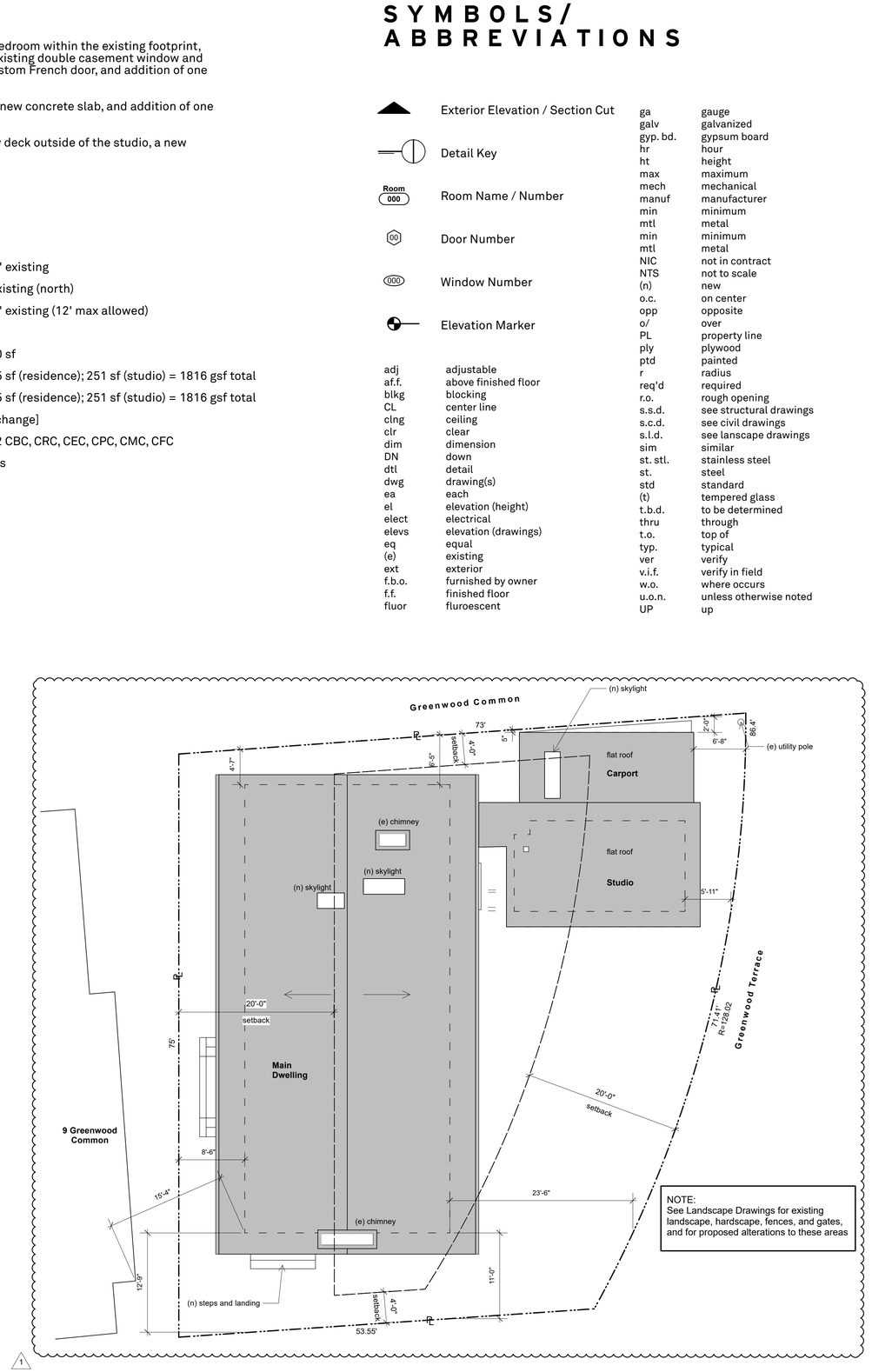
Room Name / Number (Room 000)

Door Number (00)

Window Number (000)

Elevation Marker

adj	adjustable
af.f.	above finished floor
blkg	blocking
CL	center line
clng	ceiling
clr	clear
dim	dimension
DN	down
dtl	detail
dwg	drawing(s)
ea	each
el	elevation (height)
elect	electrical
elevs	elevation (drawings)
eq	equal
(e)	existing
ext	exterior
f.b.o.	furnished by owner
f.f.	finished floor
fluor	fluroescent
ga	gauge
galv	galvanized
gyp. bd.	gypsum board
hr	hour
ht	height
max	maximum
mech	mechanical
manuf	manufacturer
min	minimum
mtl	metal
min	minimum
mtl	metal
NIC	not in contract
NTS	not to scale
(n)	new
o.c.	on center
opp	opposite
o/	over
PL	property line
ply	plywood
ptd	painted
r	radius
req'd	required
r.o.	rough opening
s.s.d.	see structural drawings
s.c.d.	see civil drawings
s.l.d.	see lanscape drawings
sim	similar
st. stl.	stainless steel
st.	steel
std	standard
(t)	tempered glass
t.b.d.	to be determined
thru	through
t.o.	top of
typ.	typical
ver	verify
v.i.f.	verify in field
w.o.	where occurs
u.o.n.	unless otherwise noted
UP	up



1

ROOF / SITE PLAN

SCALE: 1/8" = 1'-0"

PROJECT TEAM

<u>OWNER</u>
Cindy and Rory Reid
8 Greenwood Common
Berkeley, CA 94708

<u>ARCHITECT</u>
Fischer Architecture
2984 San Pablo Avenue
Berkeley, CA 94702
tel. 510.204.9250
Kerstin Fischer, Principal
Andrew Fischer, Principal

<u>LANDSCAPE ARCHITECT</u>
David John Bigham, ASLA
1542 La Loma Ave
Berkeley, CA 94708

<u>STRUCTURAL ENGINEER</u>
Berkeley Structural Design
1411 Glendale Avenue
Berkeley, CA 94708
tel. 510.981.1053
Bill Lynch, Principal

<u>GENERAL CONTRACTOR</u>
TBD

SHEET INDEX

<u>Architectural Drawings</u>

A0.0 Cover
A0.1 Roof/Site Plan and Project Info
L2 Proposed Alterations
A1.0 Existing/Demo Floor Plan
A1.1 Existing/Demo Elevations
A2.0 Proposed Floor Plan
A3.0 Proposed Elevations

<u>Landscape Drawings</u>

L1 Existing Conditions
L3 Proposed Demolitions
L4 Planting Plan
L5 Irrigation & Lighting
L6 Construction Details Legend
L7 Fencing Details
L8 Wire Mesh Fence, Shed, Paving Details
L9 Studio Deck & Common Bench
L10 Planting Details & Notes

FISCHER ARCHITECTURE

tel 510.204.9250 | fischerarchitecture.com
2984 San Pablo Ave, Berkeley, CA 94702

REID RESIDENCE
8 GREENWOOD COMMON
BERKELEY, CA 94708
APN: 058 224400211

REV.	DATE	ISSUE	DRWN.
	9.30.2023	SA - Initial Submittal	KF/AJ
1	4.17.2024	SA - Plan Check Response 1	KF/AJ

DESCRIPTION
ROOF/SITE PLAN AND PROJECT INFO

SHEET
A0.1

GENERAL NOTES

1. **EXAMINATION OF THE SITE** AND PORTIONS THEREOF WHICH WILL AFFECT THIS WORK SHALL BE MADE IMMEDIATELY BY THE CONTRACTOR, WHO SHALL COMPARE IT WITH THE DRAWINGS AND SATISFY HIMSELF TO CONDITIONS UNDER WHICH WORK IS TO BE PERFORMED. HE SHALL AT SUCH TIME ASCERTAIN AND CHECK LOCATIONS OF THE EXISTING STRUCTURES AND EQUIPMENT WHICH MAY AFFECT HIS WORK. NO ALLOWANCE SHALL BE MADE FOR ANY EXTRA EXPENSE TO WHICH HE MAY BE DUE BECAUSE OF FAILURE OR NEGLECT ON HIS PART TO MAKE SUCH EXAMINATIONS. ANY CONFLICTS OR OMISSIONS, ETC., SHALL BE REPORTED TO THE ARCHITECT BEFORE PROCEEDING WITH ANY WORK.

2. **ANY ERRORS, OMISSIONS, OR CONFLICTS** FOUND IN THE VARIOUS PARTS OF THE CONSTRUCTION DOCUMENTS SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT AND THE OWNER BEFORE PROCEEDING WITH THE WORK.

3. WHERE REFERENCED IN NOTES, **ARCHITECT SHALL BE FISCHER ARCHITECTURE, OWNER SHALL BE CINDY AND RORY REID.**

4. **CONTRACTOR SHALL PROVIDE ARCHITECT AND OWNER** WITH A COMPLETE COST BREAKDOWN AND SCHEDULE OF CONSTRUCTION FOR THIS PROJECT PRIOR TO COMMENCEMENT OF WORK.

5. **CONTRACTOR SHALL PROTECT** NEW MATERIALS AND FINISHES FROM DAMAGE WHICH MAY OCCUR FROM CONSTRUCTION, DEMOLITION, DUST, WATER, ETC., AND SHALL PROVIDE AND MAINTAIN TEMPORARY BARRICADES, CLOSURE WALLS, ETC., AS REQUIRED TO PROTECT THE PUBLIC AS REQUIRED DURING THE PERIOD OF CONSTRUCTION. DAMAGE TO NEW MATERIALS, FINISHES, STRUCTURES, AND EQUIPMENT SHALL BE REPAIRED OR REPLACED. CONTRACTOR SHALL COORDINATE TEMPORARY BARRICADES WITH ARCHITECT AND / OR OWNER PRIOR TO COMMENCEMENT OF WORK.

6. **ALL CONSTRUCTION WORK,** IS TO COMPLY WITH THE 2016 CALIFORNIA BUILDING, RESIDENTIAL, MECHANICAL, ELECTRICAL, PLUMBING, ENERGY, HISTORICAL, EXISTING AND GREEN BUILDING STANDARDS CODE AS AMENDED BY THE CITY OF BERKELEY, AND AS APPLICABLE. [CAC 1-201(a)] ALL WORK SHALL BE DONE IN A THOROUGH, WORKMANLIKE MANNER AND EQUAL TO THE BEST STANDARDS OF THE PRACTICE.

7. **ALL WORK LISTED,** SHOWN OR IMPLIED ON ANY CONSTRUCTION DOCUMENT SHALL BE SUPPLIED AND INSTALLED BY THE CONTRACTOR EXCEPT WHERE NOTED. THE CONTRACTOR SHALL CLOSELY COORDINATE HIS WORK WITH THAT OF OTHER CONTRACTORS OR VENDORS TO ASSURE THAT ALL SCHEDULES ARE MET AND THAT ALL WORK IS DONE IN CONFORMANCE TO MANUFACTURERS REQUIREMENTS. WORK REQUIRED UNDER THIS CONTRACT SHALL INCLUDE ALL LABOR, MATERIALS, EQUIPMENT, ETC., NECESSARY TO COMPLETE THIS PROJECT. ALL MATERIALS SHALL BE NEW AND UNUSED, UNLESS SPECIFICALLY NOTED, AND BE OF A QUALITY ACCEPTABLE BY INDUSTRY STANDARDS.

8. **THE USE OF THE WORD "PROVIDE"** IN CONNECTION WITH ANY ITEM SPECIFIED IS INTENDED TO MEAN THAT SUCH ITEM SHALL BE FURNISHED, INSTALLED, AND CONNECTED WHERE SO REQUIRED, EXCEPT AS NOTED.

9. **THE CONTRACTOR** SHALL MAINTAIN A CURRENT AND COMPLETE SET OF CONSTRUCTION DOCUMENTS ON THE JOB SITE DURING ALL PHASES OF CONSTRUCTION FOR USE OF ALL TRADES AND SHALL PROVIDE ALL SUBCONTRACTORS WITH CURRENT CONSTRUCTION DOCUMENTS AS REQUIRED. THE CONTRACTOR, IN ASSUMING RESPONSIBILITY FOR THE WORK INDICATED, SHALL COMPLY WITH THE LETTER IN WHICH THEY WERE DRAWN.

10. **THE CONTRACTOR** SHALL REMOVE ALL RUBBISH AND WASTE MATERIALS OF ALL SUBCONTRACTORS AND TRADES ON A REGULAR BASIS, AND SHALL EXERCISE STRICT CONTROL OVER JOB CLEANING TO PREVENT ANY DIRT, DEBRIS OR DUST FROM AFFECTING IN ANY WAY, FINISHED AREAS IN OR OUTSIDE THE JOB SITE.

11. **THE CONSTRUCTION DOCUMENTS ARE PROVIDED TO ILLUSTRATE THE DESIGN INTENT AND GENERAL TYPE OF CONSTRUCTION DESIRED.**

12. **DETAILS SHOWN ARE TYPICAL U.O.N.** SIMILAR DETAILS APPLY IN SIMILAR CONDITIONS.

13. **ALL ELECTRICAL, MECHANICAL, AND PLUMBING WORK** AND MATERIALS SHALL BE IN FULL ACCORDANCE WITH THE LATEST RULES AND REGULATIONS OF THE NATIONAL BOARD OF FIRE UNDERWRITERS, THE STATE FIRE MARSHALL, THE SAFETY ORDERS OF THE DIVISION OF INDUSTRIAL SAFETY, AND ANY APPLICABLE STATE OR LOCAL LAWS AND ORDINANCE. NOTHING ON THESE DRAWINGS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THESE CODES. ANY QUESTIONS REGARDING INSTALLATIONS SHALL BE BROUGHT TO THE ARCHITECT FOR CLARIFICATION.

14. INSTALL BATT INSULATION BETWEEN STUDS AND JOISTS AT ALL EXTERIOR WALLS, CEILINGS, AND FLOORS WHERE EXPOSED.

15. **ALL DIMENSIONS** ON CONSTRUCTION DRAWINGS ARE TO FACE OF FINISH UNLESS NOTED AS BEING TO FACE OF FRAMING. DIMENSIONS ARE TO BOTTOM OF FINISHED CEILING OR TOP OF FINISHED FLOOR IN INTERIOR ELEVATIONS UNLESS OTHERWISE NOTED.

16. **ALL DIMENSIONS** TAKE PRECEDENCE OVER SCALE. ANY DISCREPANCIES SHALL BE BROUGHT IMMEDIATELY TO THE ATTENTION OF THE ARCHITECT. CONTRACTOR SHALL NOT SCALE DRAWINGS. QUESTIONS REGARDING DIMENSIONS SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT PRIOR TO ANY START OF WORK.

17. **WINDOW AND DOOR SIZES** ARE NOMINAL DIMENSIONS. REFER TO MANUFACTURER FOR ACTUAL ROUGH OPENING SIZES.

18. NOT USED.

19. NOT USED.

20. **SEALANT, CAULKING, AND FLASHING, ETC.,** LOCATIONS SHOWN ON DRAWINGS ARE NOT INTENDED TO BE INCLUSIVE. FOLLOW MANUFACTURER'S INSTALLATION RECOMMENDATIONS AND STANDARD INDUSTRY AND BUILDING PRACTICES.

21. **PROVIDE SOLID WOOD BACKING** FOR ALL SURFACE MOUNTED ACCESSORIES.

22. **ALL WORK SHALL BE GUARANTEED** AGAINST DEFECTS IN DESIGN, INSTALLATION AND MATERIAL FOR A MINIMUM PERIOD OF ONE YEAR FROM DATE OF COMPLETION.

23. **ALL MATERIALS** FOR USE ON THE PROJECT SHALL BE STORED WITHIN THE PROJECT SITE.

24. **CONTRACTOR SHALL** PERSONALLY SUPERVISE AND DIRECT THE WORK OR SHALL KEEP A COMPETENT EMPLOYEE, AUTHORIZED TO RECEIVE INSTRUCTIONS AND ACT ON THE CONTRACTOR'S BEHALF, CONTINUOUSLY ON SITE DURING WORKING HOURS.

25. **ALL QUESTIONS** REGARDING PROJECT EITHER DURING BIDDING PHASE OR DURING CONSTRUCTION SHALL BE DIRECTED TO THE ARCHITECT IN WRITING BY EMAIL or FAX. andrew@fischerarchitecture.com

26. **DEMOLITION:** THE CONTRACTOR SHALL ENTIRELY DEMOLISH AND REMOVE FROM SITE ANY STRUCTURE OR PORTION THEREOF, OR SITE FEATURE INDICATED TO BE REMOVED.

27. **SALVAGE & RECYCLING:** ALL ITEMS DEEMED SALVAGEABLE OR RECYCLABLE BY THE OWNER WILL EITHER HAVE BEEN INDICATED ON THE DRAWINGS, REMOVED PRIOR TO THE START OF DEMOLITION, OR WILL BE DIRECTED BY THE OWNER TO BE STORED BY THE CONTRACTOR AND SHALL REMAIN THE PROPERTY OF THE OWNER. ITEMS TO BE RELOCATED WILL HAVE BEEN INDICATED ON THE DRAWINGS. REFER TO CITY RECYCLING AND SALVAGING REQUIREMENTS ON FOLLOWING PAGES.

28. **DESIGN BUILD:** ALL ELECTRICAL, MECHANICAL, AND PLUMBING WORK SHALL BE DESIGN BUILD BASED ON THE INFORMATION PROVIDED IN THE CONSTRUCTION DOCUMENTS.

29. Contractor shall submit a list of paints, primers, sealants, caulking, and adhesives installed within the interior of the building. List to include material type (per CALGreen tables 4.504.1 and 4.504.3) manufacturer name, model name/number, VOC amount, and CALGreen VOC not to exceed limit per product."

30. **PROJECT CLOSEOUT:**

A. **CONTRACTOR SHALL** REVIEW PROJECT WITH ARCHITECT AND/OR OWNER TO ENSURE THAT ALL REQUIREMENTS OF THE CONTRACT DOCUMENTS HAVE BEEN FOLLOWED.

B. **CONTRACTOR SHALL** OBTAIN ALL REQUIRED CERTIFICATES AND NOTICES.

C. **ALL WORK** PERFORMED SHALL BE CLEAN AND READY FOR USE.

D. **UPON SUBSTANTIAL COMPLETION,** THE ARCHITECT SHALL, AT THE CONTRACTOR'S WRITTEN REQUEST, COMPILE A PROJECT PUNCH LIST NOTING ANY CORRECTIONS OR OMISSIONS. ARCHITECT'S ACCEPTANCE WILL BE CAUSE FOR FINAL PAYMENT, UNLESS SPECIFICALLY DETERMINED OTHERWISE BY OWNER.

PROJECT DESCRIPTION

Remodel of an existing single family residence. Scope includes interior renovations to create a third bedroom within the existing footprint, new kitchen, bathroom renovations, cosmetic upgrades. Exterior modifications include removing an existing double casement window and replacing it with a custom French door, removal of an exisiting fixed window and replacing it with a custom French door, and addition of one skylight.

Carport renovations include removing existing wooden post and beam structure, replacing with steel, new concrete slab, and addition of one skylight.

Landscape and hardscape modifications include rebuilt fencing, a new gate along the Common, a new deck outside of the studio, a new concrete terrace and walkway on the east side of the house, and new plantings.

PROJECT INFORMATION

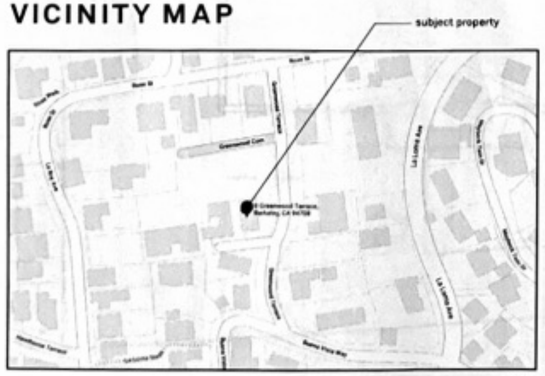
Project Address:	8 Greenwood Common Berkeley, CA 94708
APN:	058 224400211
Zoning District:	R-1H
Construction Type:	V-B
Occupancy Type:	R-3
Parking Spaces:	1 covered
Number of Stories:	1 (residence); 1 (studio)
House:	
Front Yard Setback:	20' required; 21'-0" existing
Side Yard Setback:	4' required; 4'-5" existing (north)/ 11'-1" existing (south)
Rear Yard Setback:	20' required; 8'-5" existing
Building Height:	13'-4" (35' max allowed)

Studio/Carport:	
Front Yard Setback:	6'-1" existing
Side Yard Setback:	0" existing (north)
Building Height:	8'-9" existing (12' max allowed)
Property:	
Lot Area:	4800 sf
Gross Floor Area-existing:	1565 sf (residence); 251 sf (studio) = 1816 gsf total
Gross Floor Area-proposed:	1565 sf (residence); 251 sf (studio) = 1816 gsf total [no change]
Applicable Codes:	2022 CBC, CRC, CEC, CPC, CMC, CFC
Fire Zone/WUI:	2/Yes
Sprinkler System:	No
Fire Alarm System:	No

ADJACENT NEIGHBOR OUTREACH

Name	Address	Renter/ Owner	Date	Have no objections	Comments
Ted Loth	1 Greenwood Common	Owner	1/2/23	✓	
James Rassen Nancy Wiker Rassen	2 Greenwood Common	Owner	4/16/24	✓	
Katinka Wyle	3 Greenwood Common	Owner	4/17/24	✓	Katinka Wyle
[illegible]	4 Greenwood Common	Owner	12/4/23		Objects to Gate inlet
Edie Hofweber	7 Greenwood Common	Owner	1/4/24	✓	Edie Hofweber No objections!
Signed on Expeditor on behalf of Hanna & Hamdo	9 Greenwood Common	Owner	11/12/24	✓	.
Dana & Kate Frank	10 Greenwood Common	Owner	12/27/23	✓	
Tina & Dennis Eisenberg	1459 Greenwood Terrace	Owner	4/29/24	✓	Tina Eisenberg
Beverly Cheney/Adam Gra[illegible]	1471 Greenwood Terrace	Owner			Beverly A. Cheney
Sarah Hobson/Matt Wa[illegible]	1476 Greenwood Terrace	Owner			[illegible]

VICINITY MAP



SYMBOLS/ ABBREVIATIONS

Exterior Elevation / Section Cut

Detail Key

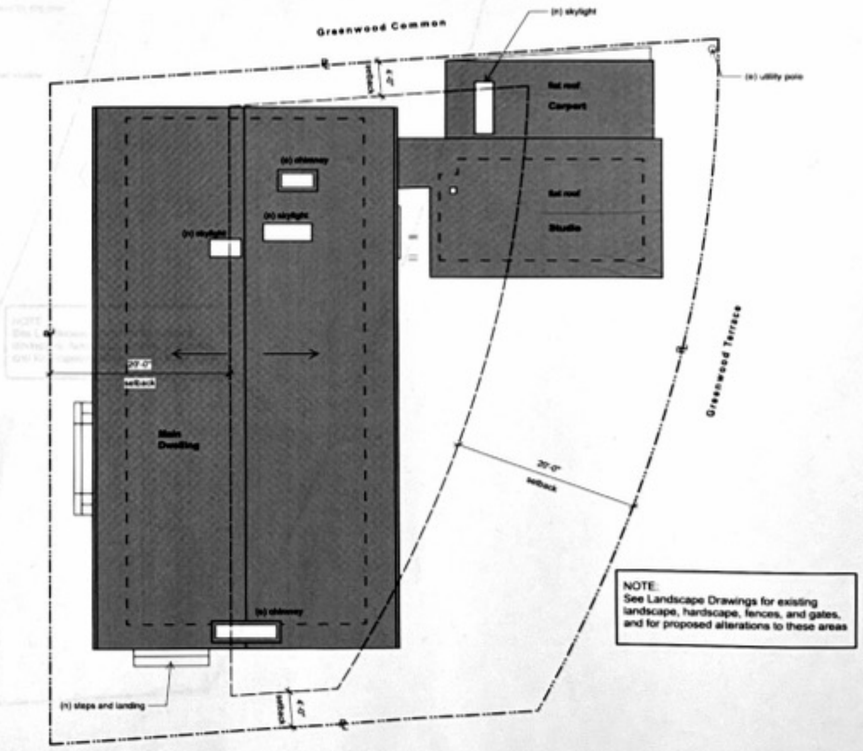
Room Name / Number (Room 000)

Door Number (DX)

Window Number (XXX)

Elevation Marker

adj	adjustable
aff.	above finished floor
blkg	blocking
CL	center line
clng	ceiling
clr	clear
dim	dimension
DN	down
dtl	detail
dwg	drawing(s)
ea	each
el	elevation (height)
elect	electrical
elevs	elevation (drawings)
eq	equal
(e)	existing
ext	exterior
f.b.o.	furnished by owner
f.f.	finished floor
fluor	fluroescent
ga	gauge
galv	galvanized
gyp. bd.	gypsum board
hr	hour
ht	height
max	maximum
mech	mechanical
manuf	manufacturer
min	minimum
mtl	metal
min	minimum
mtl	metal
NIC	not in contract
NTS	not to scale
(n)	new
o.c.	on center
opp	opposite
o/	over
PL	property line
ply	plywood
ptd	painted
r	radius
req'd	required
r.o.	rough opening
s.s.d.	see structural drawings
s.c.d.	see civil drawings
s.l.d.	see lanscape drawings
sim	similar
st. stl.	stainless steel
st.	steel
std	standard
(t)	tempered glass
t.b.d.	to be determined
thru	through
t.o.	top of
typ.	typical
ver	verify
v.i.f.	verify in field
w.o.	where occurs
u.o.n.	unless otherwise noted
UP	up



ROOF / SITE PLAN

SCALE: 1/8" = 1'-0"

PROJECT TEAM

OWNER
Cindy and Rory Reid
8 Greenwood Common
Berkeley, CA 94708

ARCHITECT
Fischer Architecture
2984 San Pablo Avenue
Berkeley, CA 94702
tel. 510.204.9250
Kerstin Fischer, Principal
Andrew Fischer, Principal

LANDSCAPE ARCHITECT
David John Bigham, ASLA
1542 La Loma Ave
Berkeley, CA 94708

STRUCTURAL ENGINEER
Berkeley Structural Design
1411 Glendale Avenue
Berkeley, CA 94708
tel. 510.981.1053
Bill Lynch, Principal

GENERAL CONTRACTOR
TBD

SHEET INDEX

Architectural Drawings

A0.0 Cover
A0.1 Roof/Site Plan and Project Info
A1.0 Existing/Demo Floor Plan
A1.1 Existing/Demo Elevations
A2.0 Proposed Floor Plan
A3.0 Proposed Elevations

Landscape Drawings

L1 Existing Conditions
L2 Proposed Alterations
L3 Proposed Demolitions
L4 Planting Plan
L5 Irrigation & Lighting
L6 Construction Details Legend
L7 Fencing Details
L8 Wire Mesh Fence, Shed, Paving Det
L9 Studio Deck & Common Bench
L10 Planting Details & Notes

FISCHER ARCHITECTURE

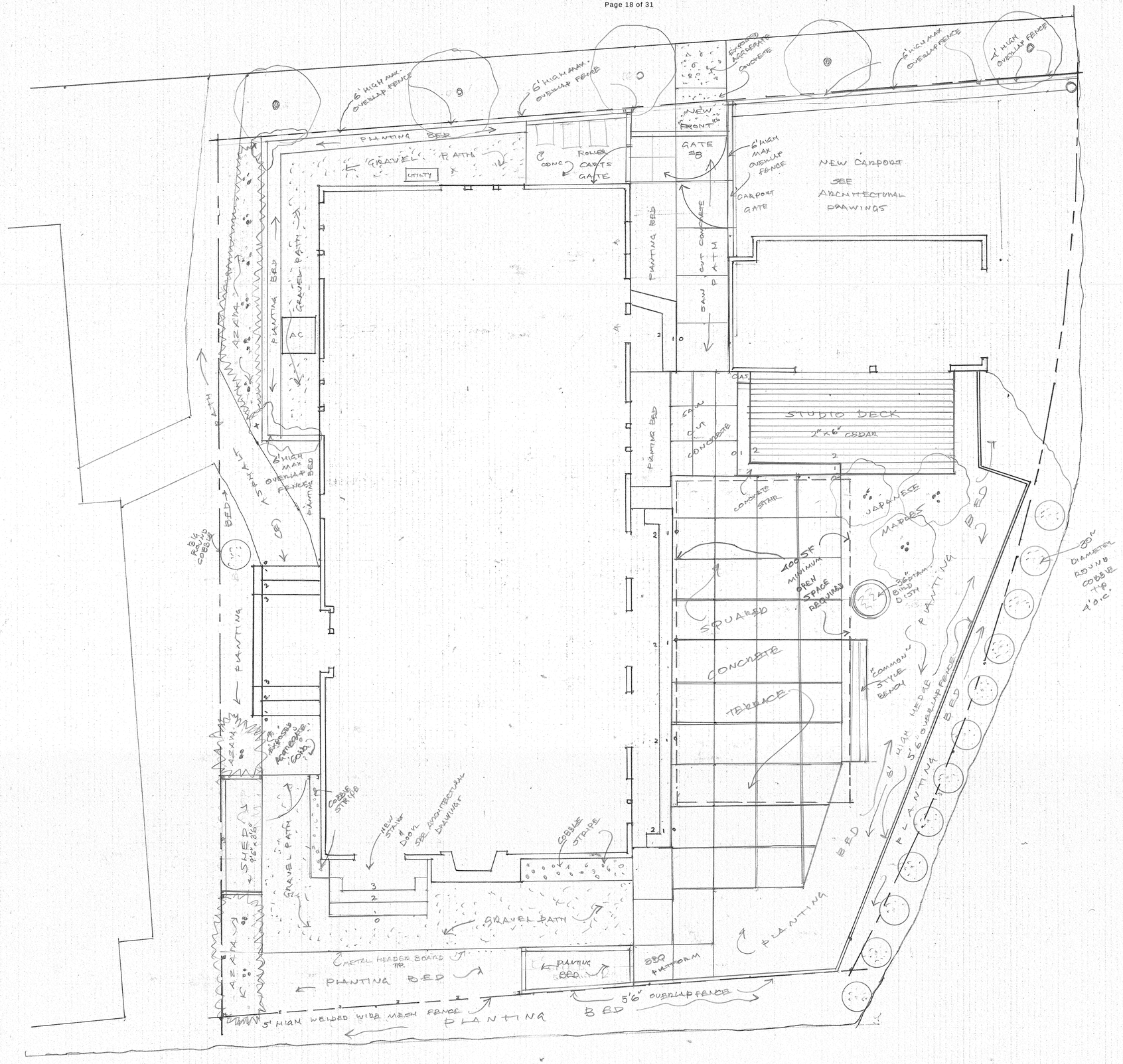
tel 510.204.9250 | fischerarchitecture.com
2984 San Pablo Ave, Berkeley, CA 94702

REID RESIDENCE
8 GREENWOOD COMMON
BERKELEY, CA 94708
APN: 058 224400211

REV.	DATE	ISSUE	DRWN.
	9.30.2023	SA - Initial Submittal	KF/A

DESCRIPTION
ROOF/SITE PLAN AND PROJECT INFO

SHEET
A0.1



NORTH

REID GARDEN

CINDY AND RORY
#8 GREENWOOD COMMON
BERKELEY, CA.
94708

1/4" = 1'0"

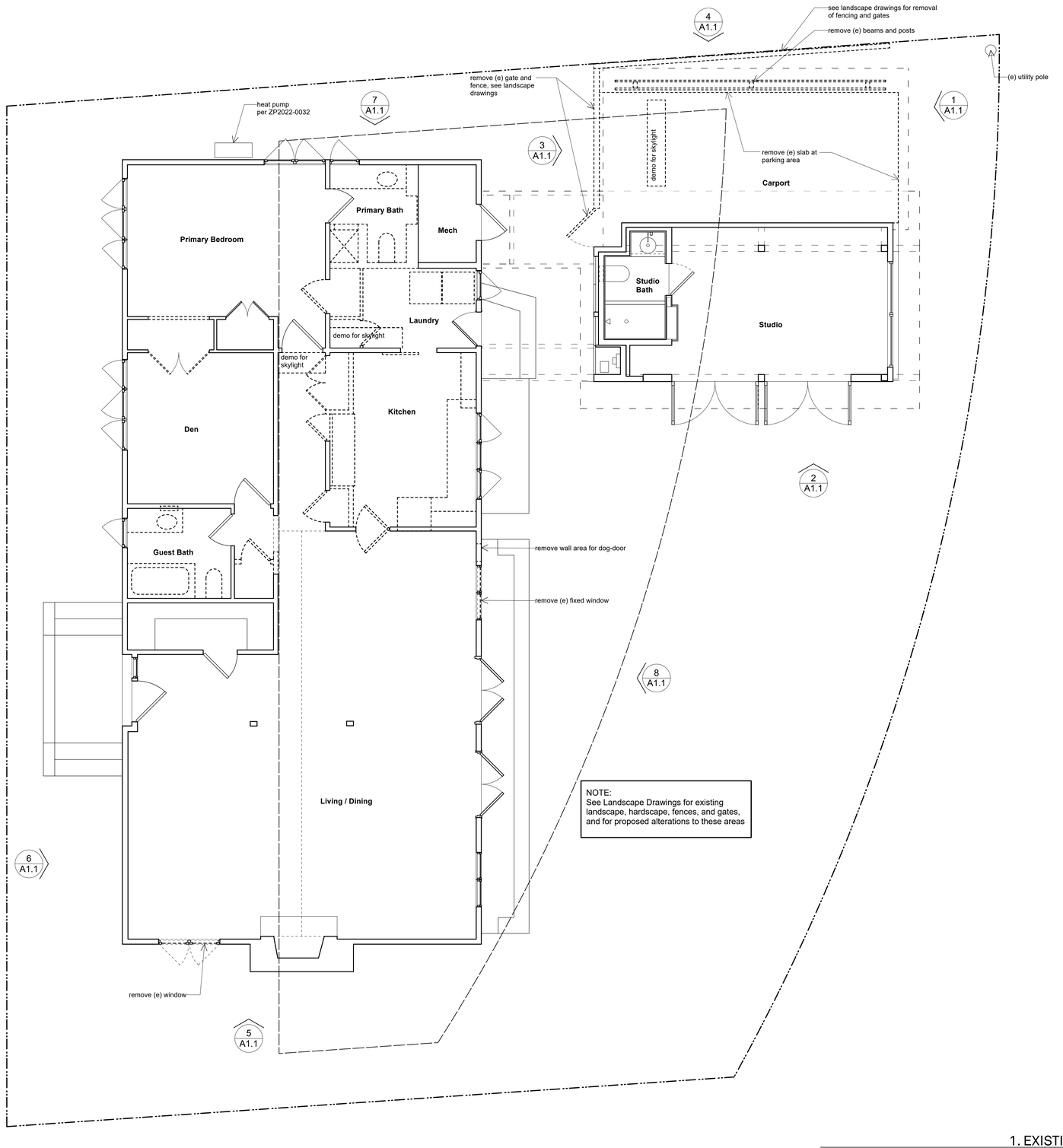
LANDSCAPE SHEET

2

PROPOSED ALTERATIONS

LANDSCAPE ARCHITECT
DAVID BENHAM
ASLA
CA. LIC. # 2973

SEPTEMBER 30, 2023
MAY 11, 2024 REVISED



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

LEGEND

Existing Wall, Fence, or Fixture to be Removed

Existing Wall to Remain

FISCHER ARCHITECTURE

tel 510.204.9250 | fischerarchitecture.com
2984 San Pablo Ave, Berkeley, CA 94702

REID RESIDENCE
8 GREENWOOD COMMON
BERKELEY, CA 94708
APN: 058 224400211

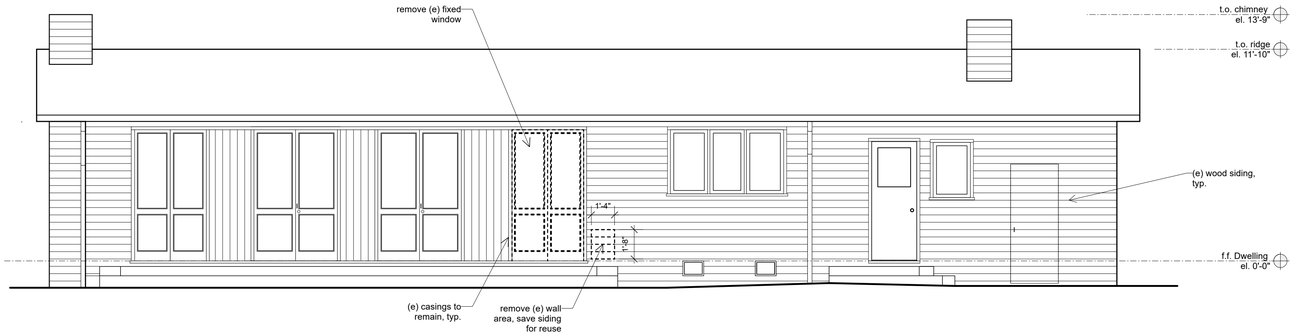
REV.	DATE	ISSUE	DRWN.
	9.30.2023	SA - Initial Submittal	KF/AJ
1	4.17.2024	SA - Plan Check Response 1	KF/AJ

DESCRIPTION
EXISTING/DEMO FLOOR PLAN

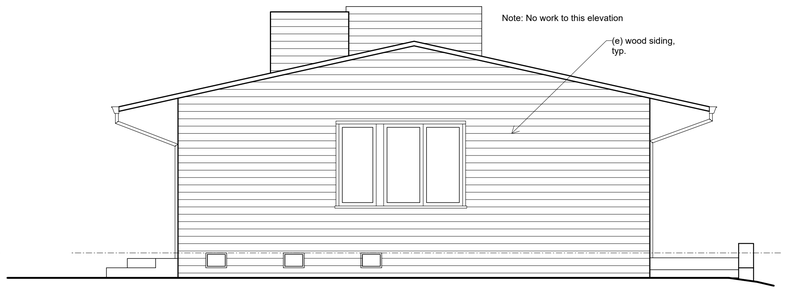
SCALE : 1/4" = 1'-0"
SHEET

N

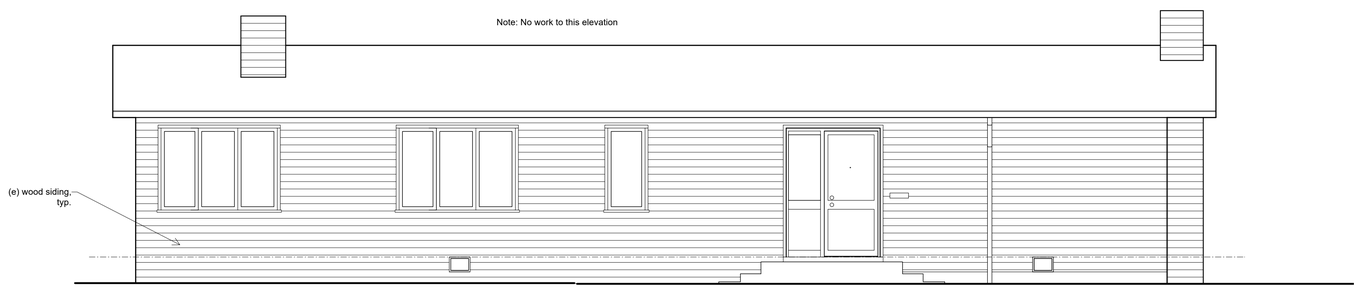
A1.0

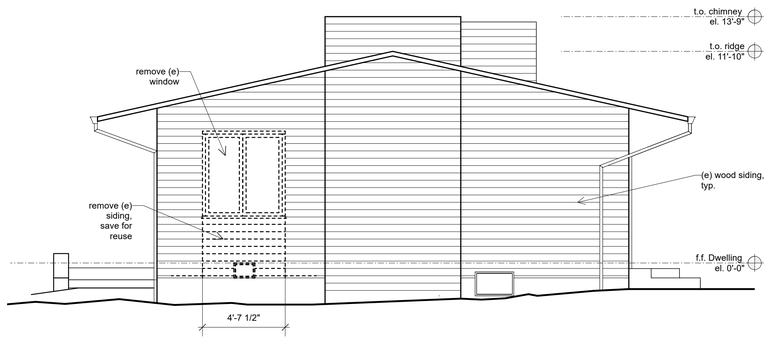


8. HOUSE- EAST ELEVATION

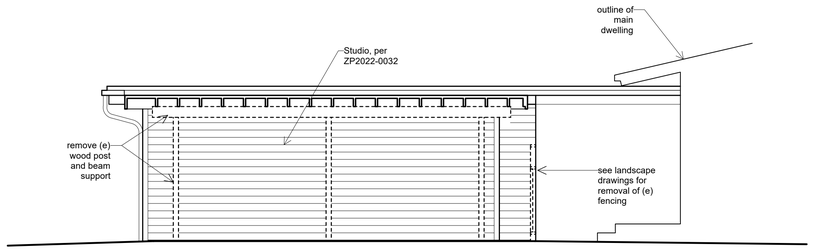


7. HOUSE- NORTH ELEVATION

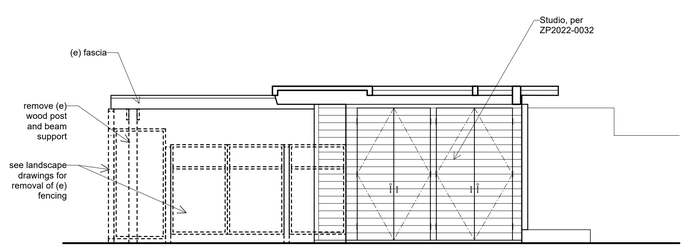




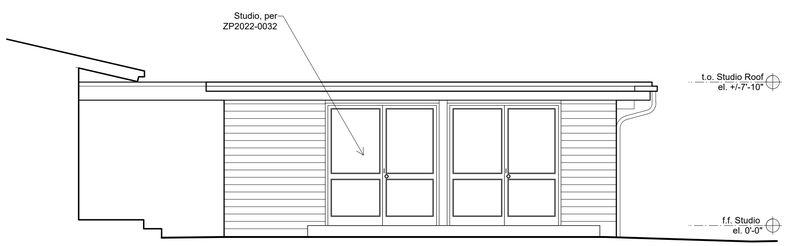
6. HOUSE- WEST ELEVATION



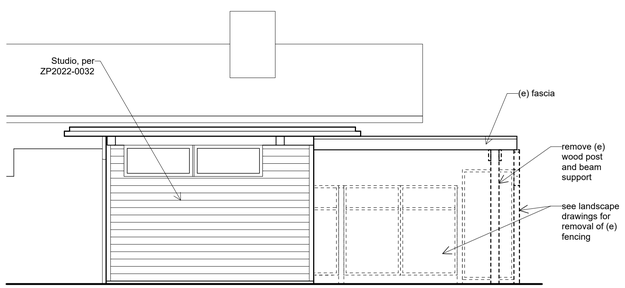
5. HOUSE- SOUTH ELEVATION



4. CARPORT / STUDIO- NORTH ELEVATION



3. CARPORT / STUDIO- WEST ELEVATION



2. CARPORT / STUDIO- SOUTH ELEVATION

1. CARPORT / STUDIO- EAST ELEVATION

FISCHER ARCHITECTURE

tel 510.204.9250 | fischerarchitecture.com
2984 San Pablo Ave, Berkeley, CA 94702

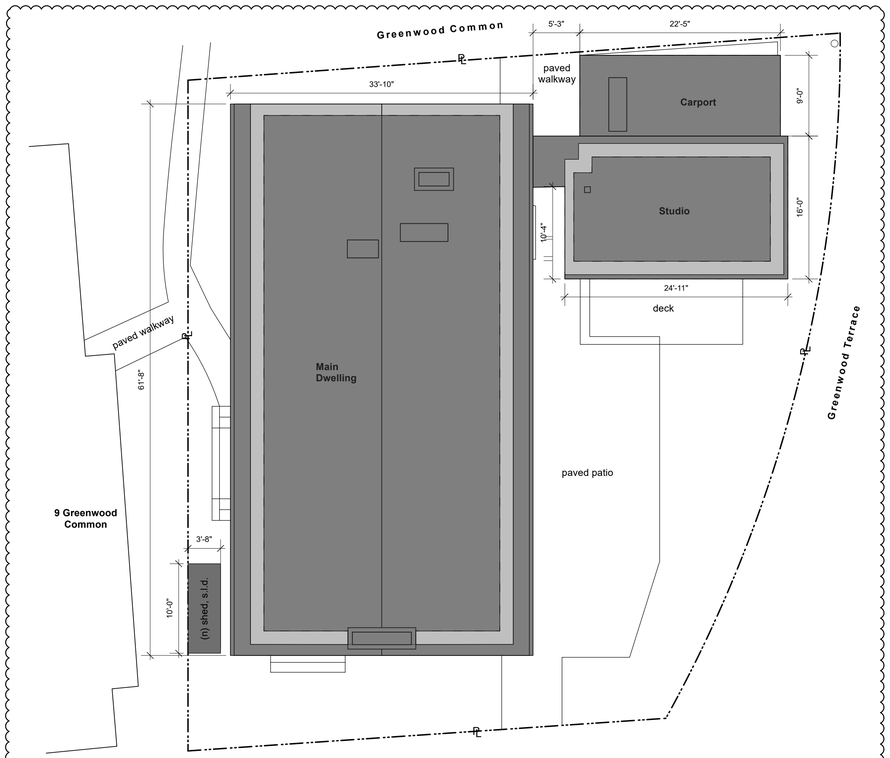
REID RESIDENCE
8 GREENWOOD COMMON
BERKELEY, CA 94708
APN: 058 224400211

REV.	DATE	ISSUE	DRWN.
	9.30.2023	SA - Initial Submittal	KF/AJ
1	4.17.2024	SA - Plan Check Response 1	KF/AJ

DESCRIPTION
EXISTING/DEMO ELEVATIONS

SCALE : 1/4" = 1'-0"
SHEET

A1.1



LEGEND

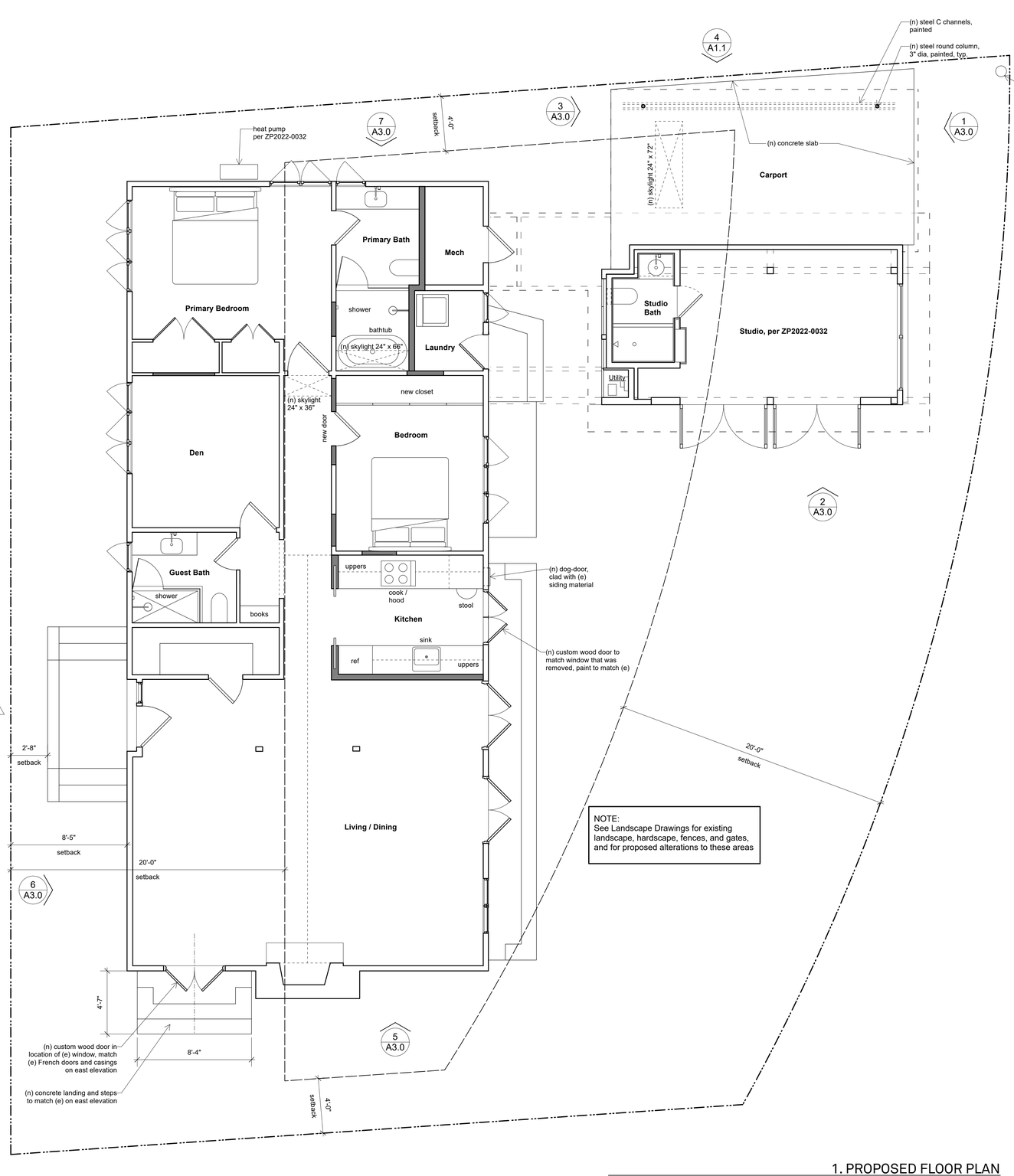
area counting as lot coverage

up to 18" of eave overhang excluded from lot coverage

Proposed Areas
Main Dwelling: 1843 s.f. (no change from existing)
Shed: 36 s.f. (no change from existing)
Studio: 315 s.f. (no change from existing)
Carport: 202 s.f. (no change from existing)
TOTAL: 2396 s.f. (no change from existing)
4800 s.f. lot size
49.9% lot coverage (no change from existing)

2. LOT COVERAGE DIAGRAM
SCALE: 1/8" = 1'-0"

1



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

FISCHER ARCHITECTURE

tel 510.204.9250 | fischerarchitecture.com
2984 San Pablo Ave, Berkeley, CA 94702

REID RESIDENCE
8 GREENWOOD COMMON
BERKELEY, CA 94708
APN: 058 224400211

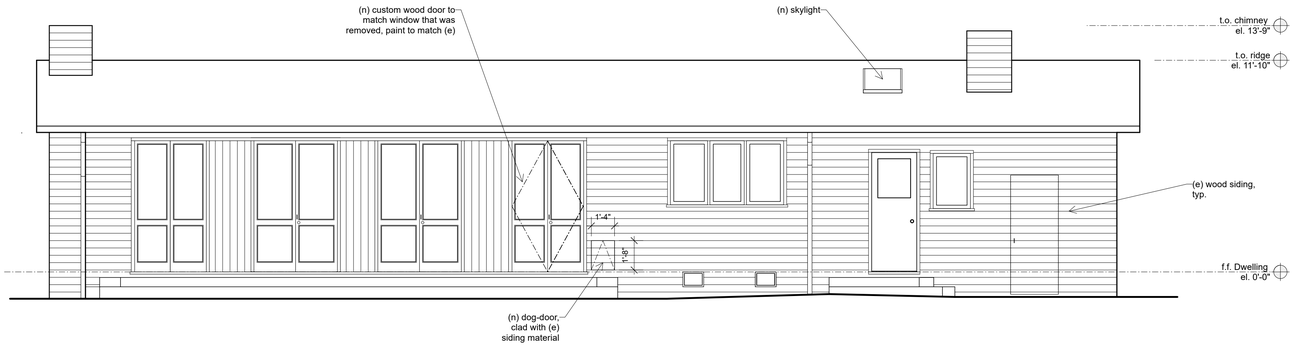
REV.	DATE	ISSUE	DRWN.
	9.30.2023	SA - Initial Submittal	KF/AJ
1	4.17.2024	SA - Plan Check Response 1	KF/AJ

DESCRIPTION
PROPOSED FLOOR PLAN

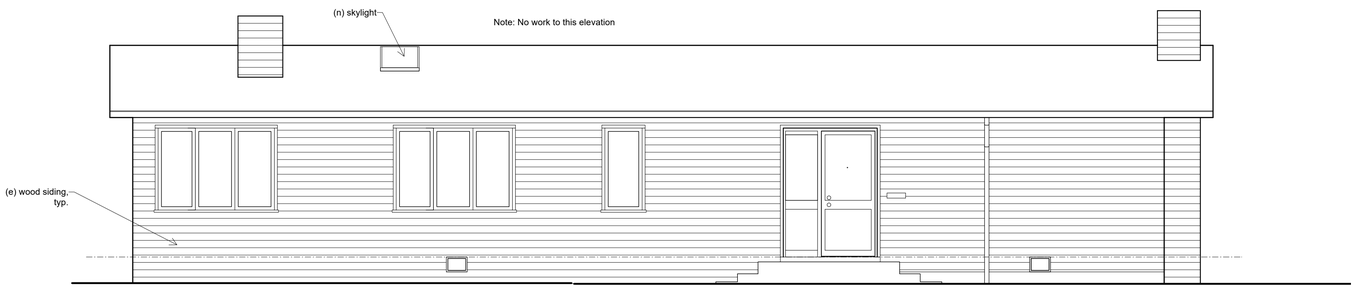
SCALE : 1/4" = 1'-0"
SHEET

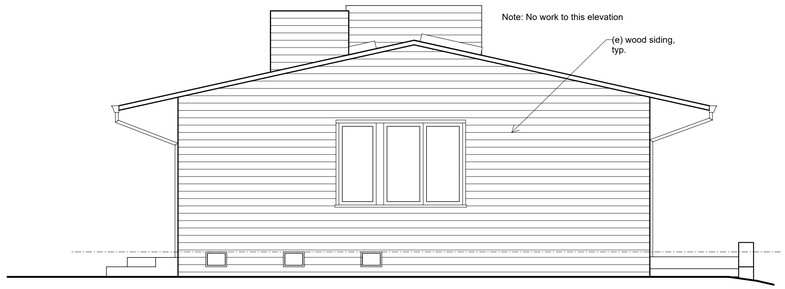
N

A2.0



8. HOUSE- EAST ELEVATION

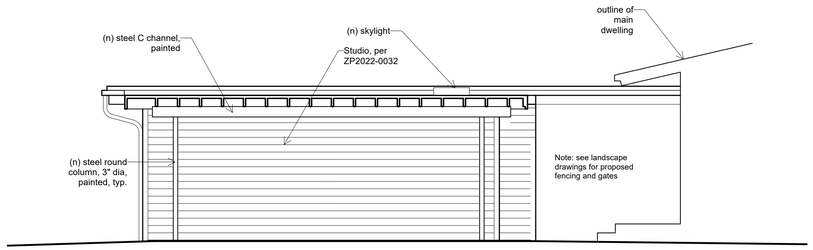




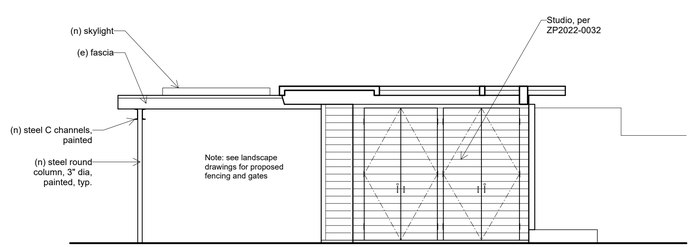
7. HOUSE- NORTH ELEVATION



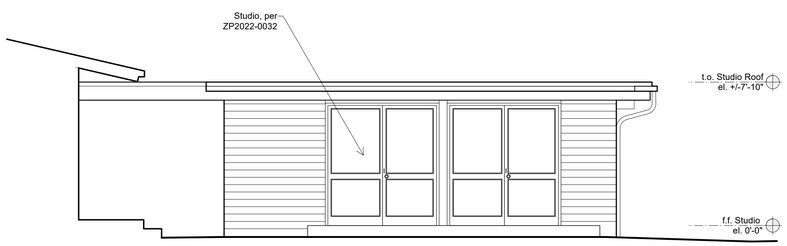
6. HOUSE- WEST ELEVATION



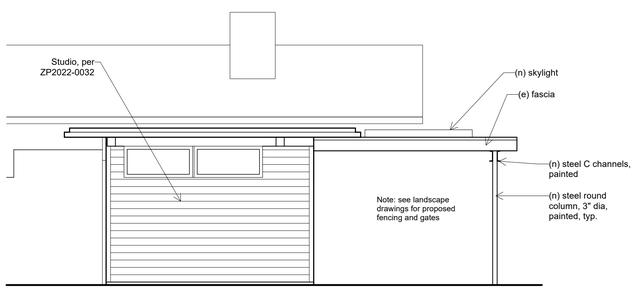
5. HOUSE- SOUTH ELEVATION



4. CARPORT / STUDIO- NORTH ELEVATION



3. CARPORT / STUDIO- WEST ELEVATION



2. CARPORT / STUDIO- SOUTH ELEVATION

1. CARPORT / STUDIO- EAST ELEVATION

FISCHER ARCHITECTURE

tel 510.204.9250 | fischerarchitecture.com
2984 San Pablo Ave, Berkeley, CA 94702

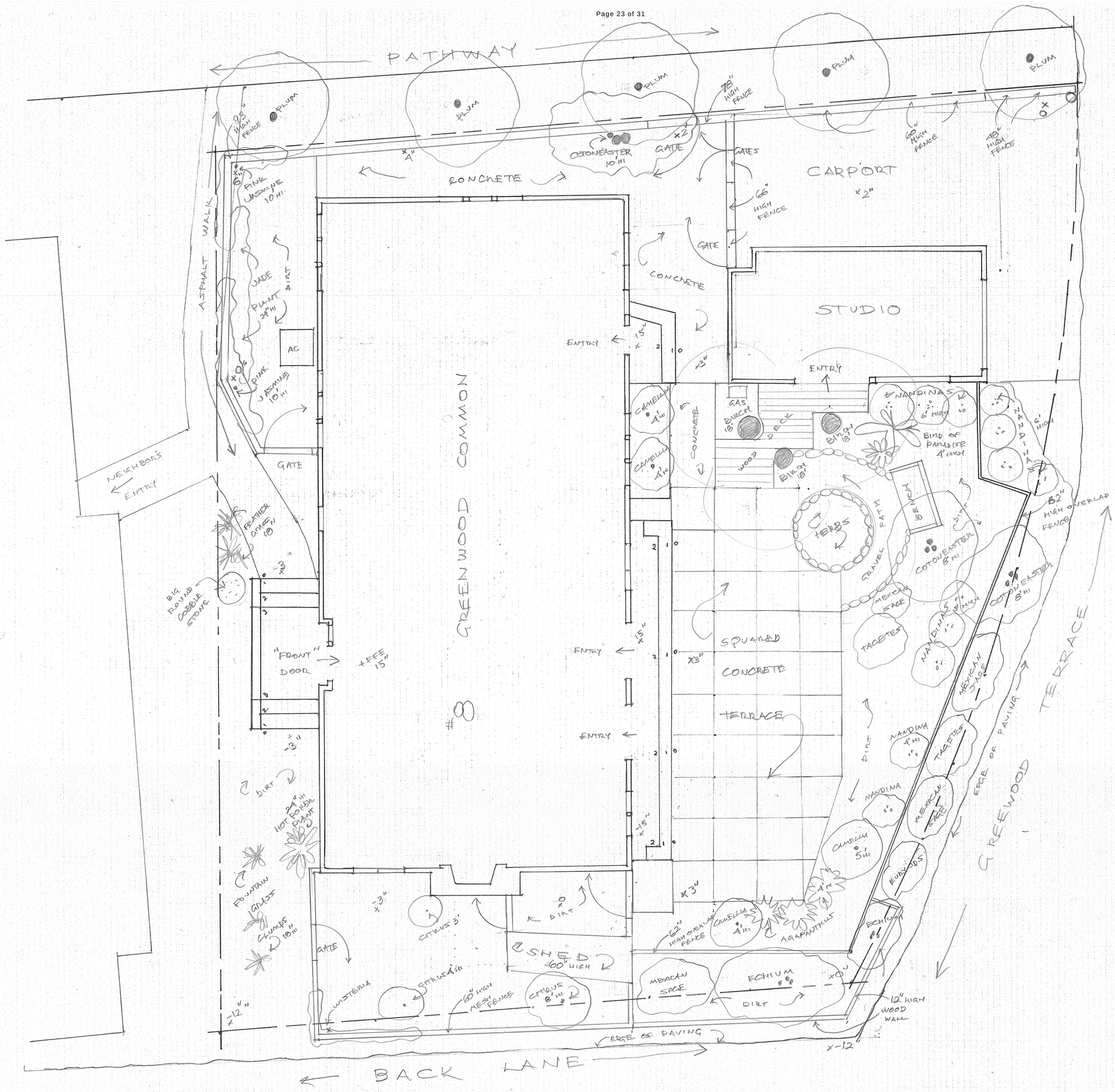
REID RESIDENCE
8 GREENWOOD COMMON
BERKELEY, CA 94708
APN: 058 224400211

REV.	DATE	ISSUE	DRWN.
	9.30.2023	SA - Initial Submittal	KF/AJ
1	4.17.2024	SA - Plan Check Response 1	KF/AJ

DESCRIPTION
PROPOSED ELEVATIONS

SCALE : 1/4" = 1'-0"
SHEET

A3.0



NORTH

REID GARDEN

CINDY AND RORY
#8 GREENWOOD COMMON
BERKELEY, CA.
94708

1/4" = 1'0"

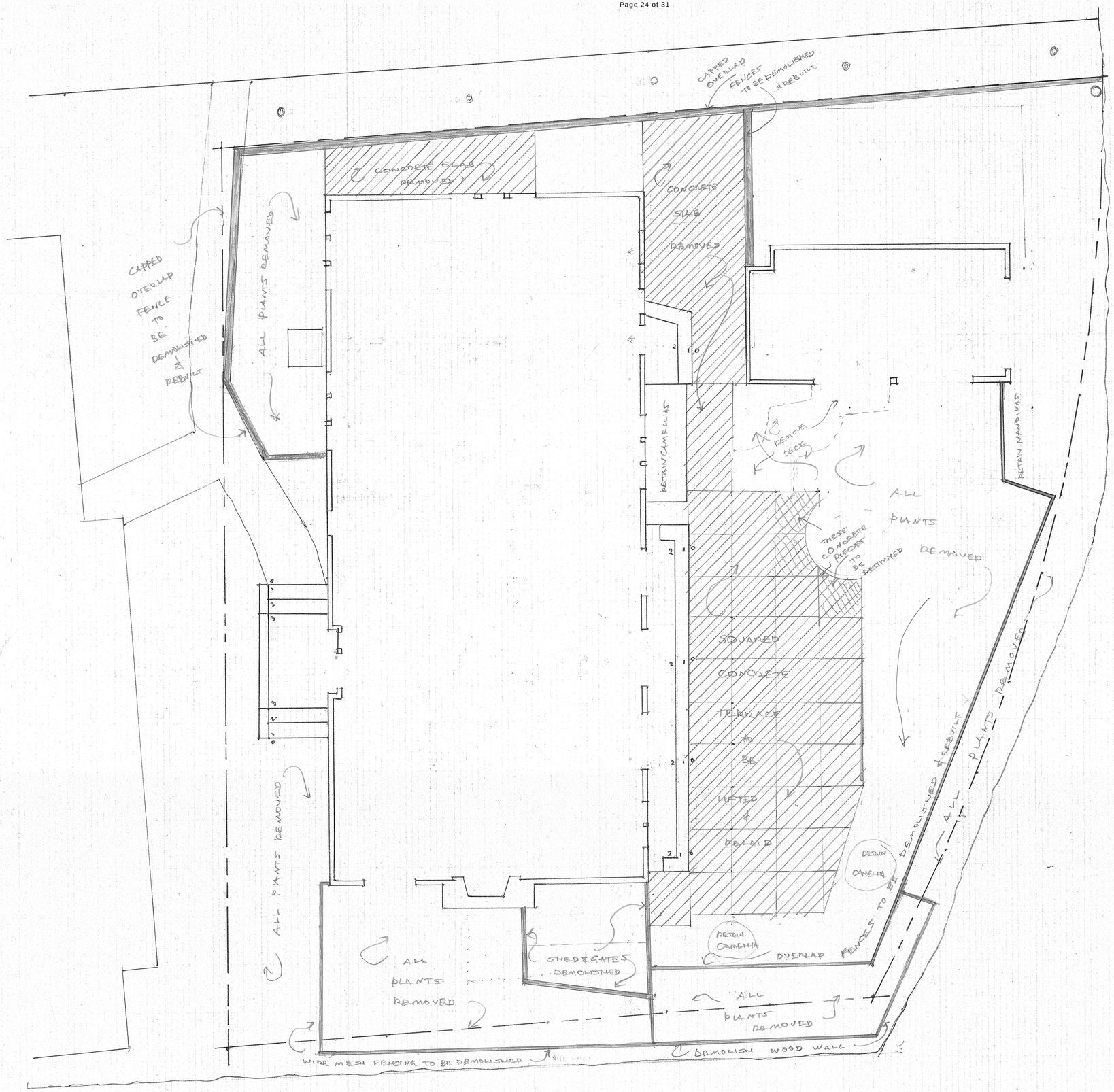
LANDSCAPE SHEET

1

EXISTING CONDITIONS

LANDSCAPE ARCHITECT
DAVID BRAHAM
ASLA
CA. LIC. #2973

SEPTEMBER 30, 2023



REID GARDEN

CINDY AND RORY

#8 GREENWOOD COMMON

BERKELEY, CA. 94708

1/4" = 1'0"

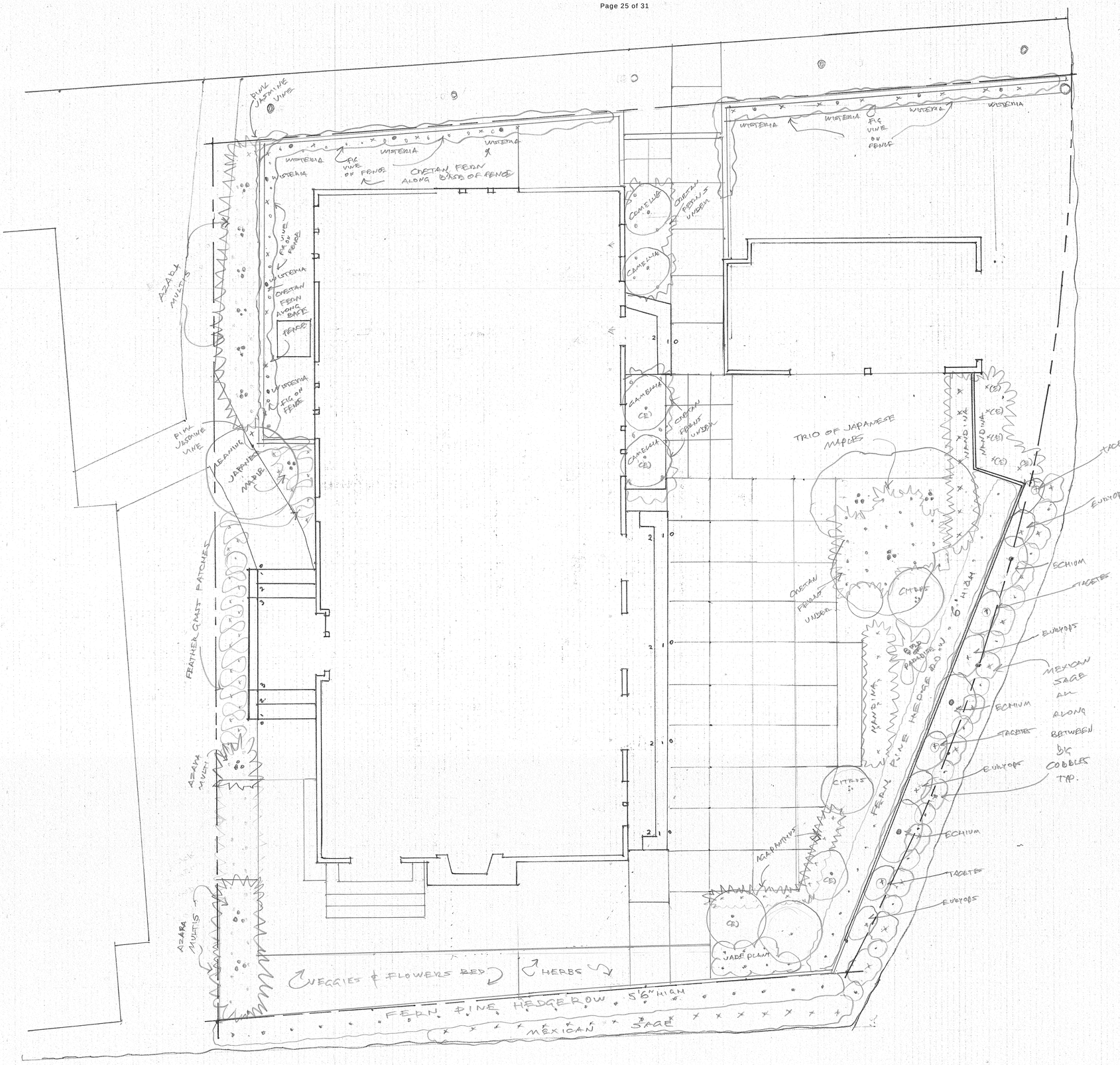
LANDSCAPE SHEET

3

PROPOSED DEMOLITIONS

LANDSCAPE ARCHITECT
DAVID BINHAM
ASLA
CA. LIC. #2973

SEPTEMBER 26, 2023



NORTH

REID GARDEN

CINDY AND RORY
#8 GREENWOOD COMMON
BERKELEY, CA.
94708

1/4" = 1'0"

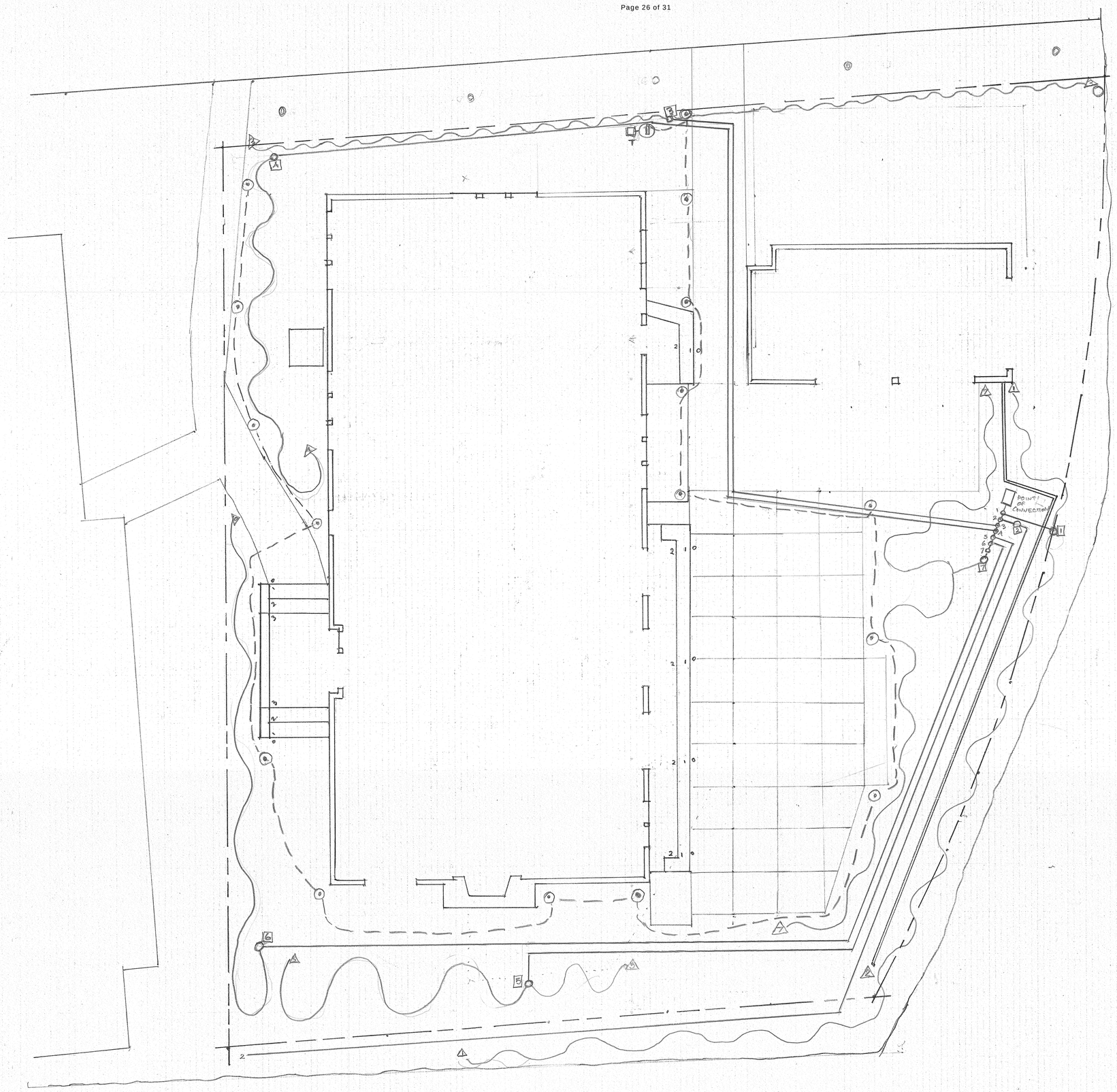
LANDSCAPE SHEET

1

PLANTING PLAN

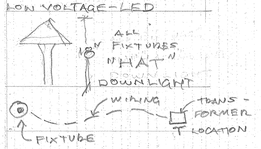
LANDSCAPE ARCHITECT
DAVID BINHAM
ASLA
CA-LIC.#2973

SEPTEMBER 30 2023
MAY 11, 2024 REVISIONS



LEGEND

LIGHTING
LOW VOLTAGE-LED

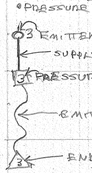


PHONE DEVICE CONTROL

IRRIGATION

EMITTER LINE TYPE

POINT OF CONNECTION INCLUDES:
- GATE VALVE
- BACKFLOW PREVENTOR
- PRESSURE REGULATOR



PHONE DEVICE CONTROL

WEATHER STATION AUTO-CONTROL

NORTH

REID
GARDEN

CINDY AND RORY
#8 GREENWOOD COMMON
BERKELEY, CA.
94708

1/4" = 1'0"

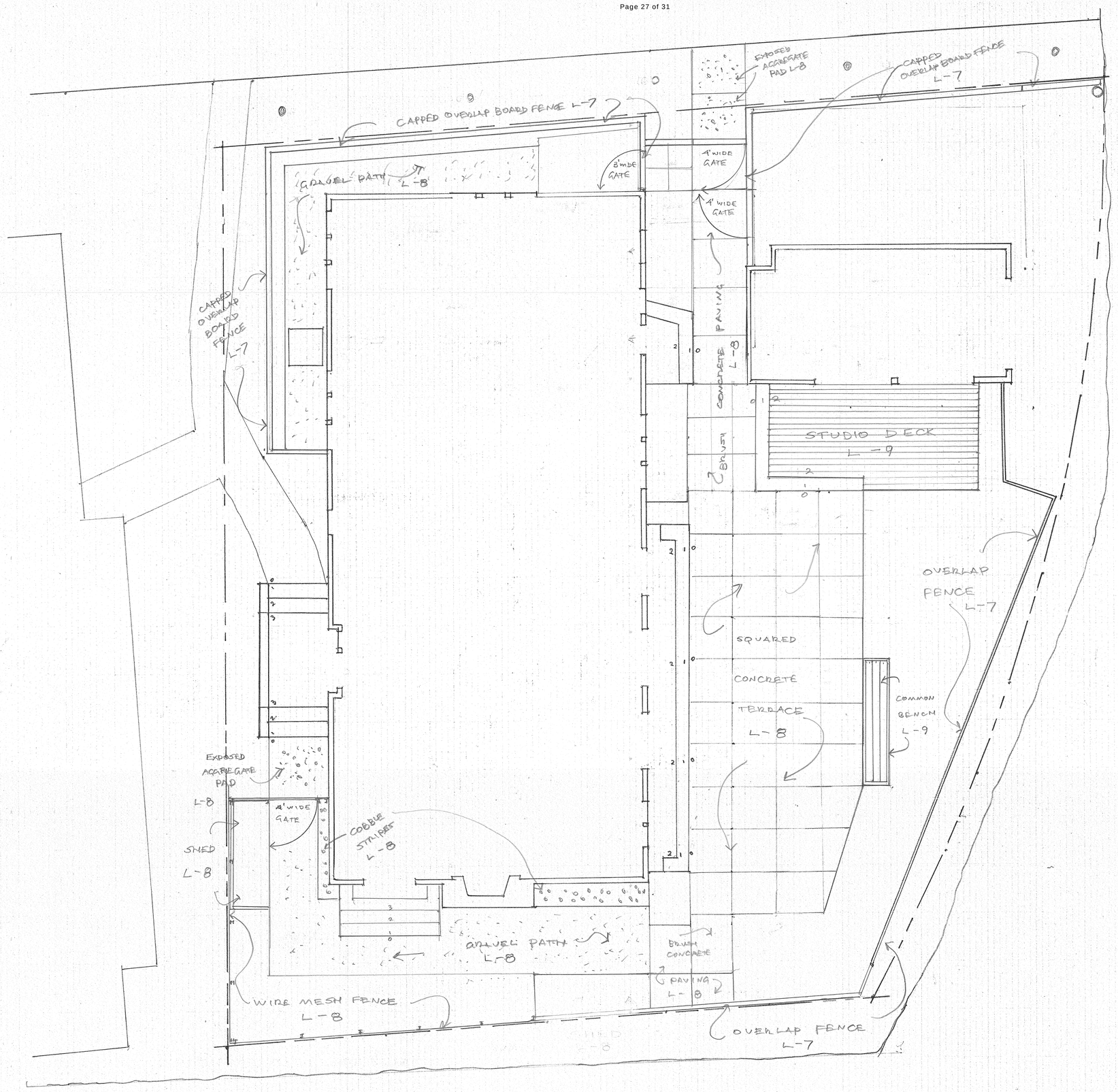
LANDSCAPE SHEET

5

IRRIGATION & LIGHTING

LANDSCAPE ARCHITECT
DAVID BENHAM
ASLA
CA-LIC.#2973

SEPTEMBER 30, 2023
MAY 11, 2024 REVISIONS



NORTH

REID GARDEN

CINDY AND RORY
#8 GREENWOOD COMMON
BERKELEY, CA. 94708

1/4" = 1'0"

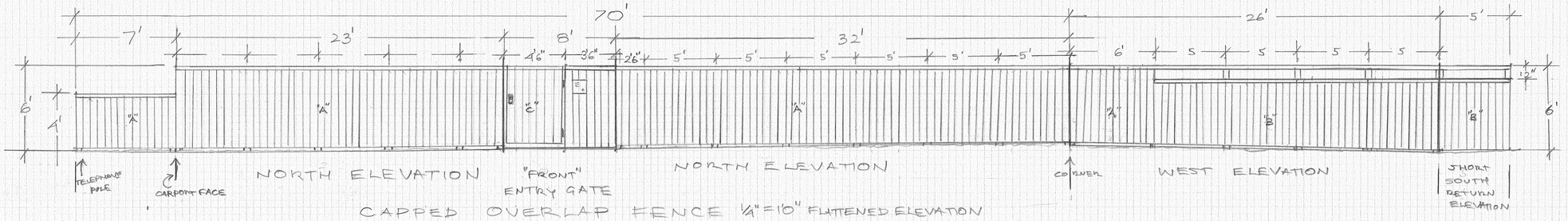
LANDSCAPE SHEET

6

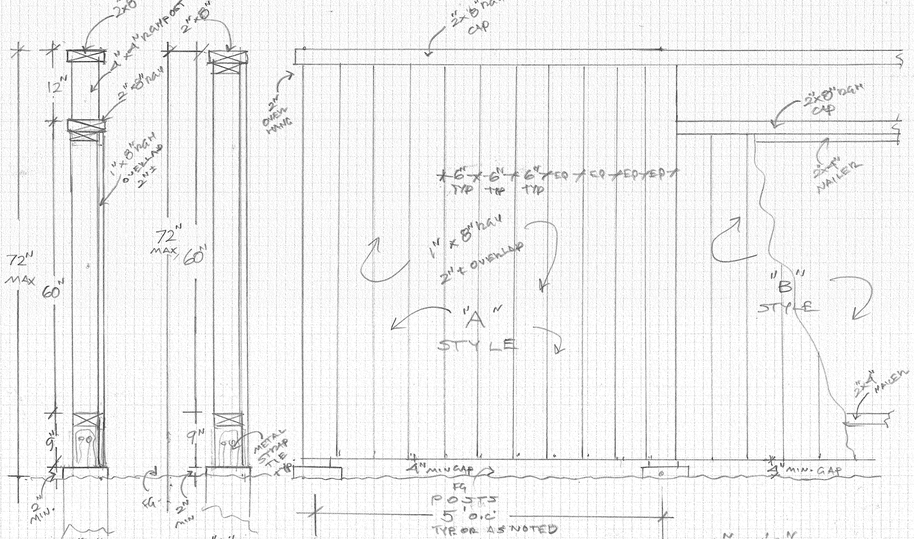
CONSTRUCTION DETAILS LEGEND

LANDSCAPE ARCHITECT
DAVID BRAHAM ASLA
CA. LIC. # 2973

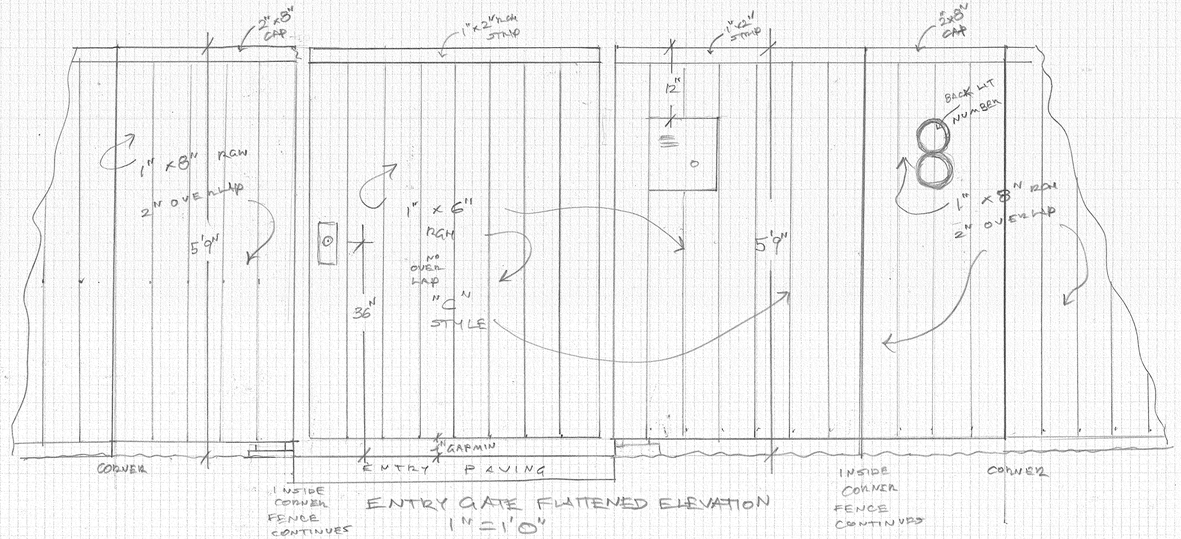
SEPTEMBER 20, 2023
MAY 11, 2021 RUSD



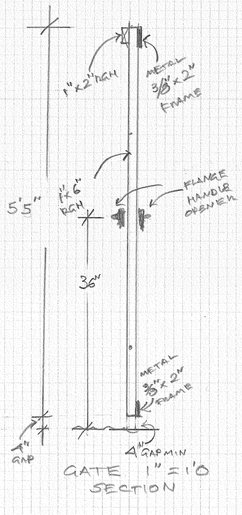
CAPPED OVERLAP FENCE 1/4"=1'0" FLATTENED ELEVATION



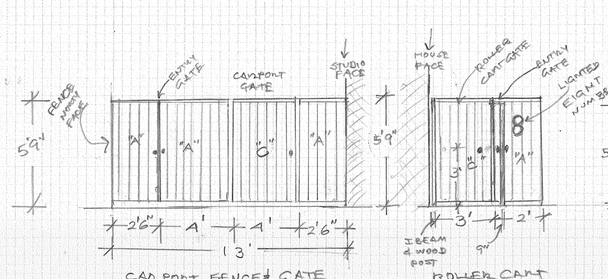
CAPPED OVERLAP FENCE DETAILS 1"=1'0"

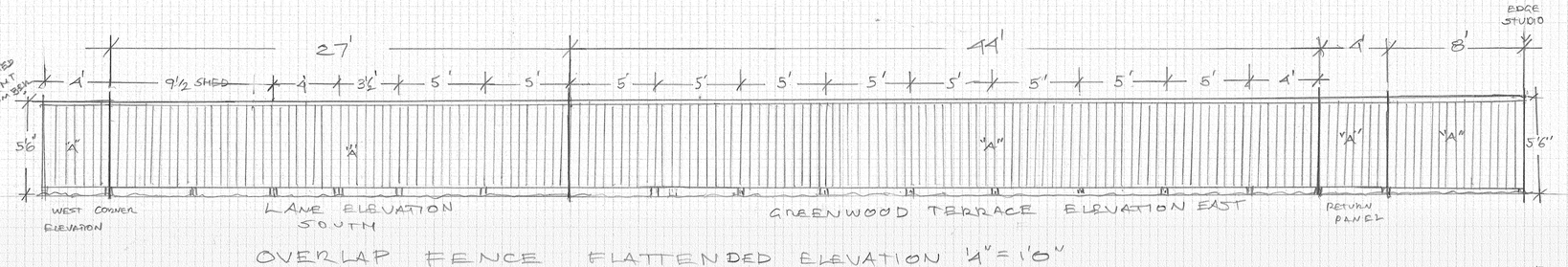


ENTRY GATE FLATTENED ELEVATION 1"=1'0"



GATE 1"=1'0" SECTION





OVERLAP FENCE FLATTENED ELEVATION 1/4"=1'0"

REID GARDEN

CINDY & RONY
#8 QUEENWOOD COMMON
BERKELEY, CA.
94708

SCALE AS NOTED

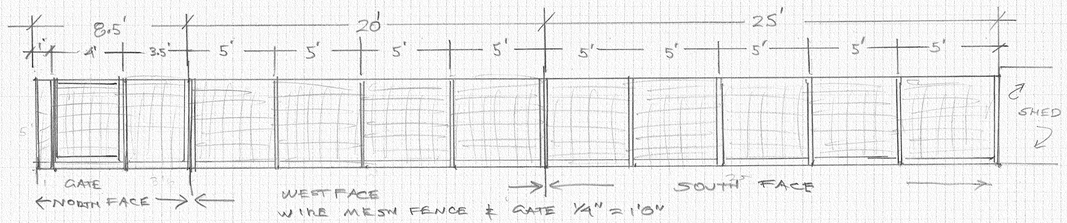
LANDSCAPE SHEET

7

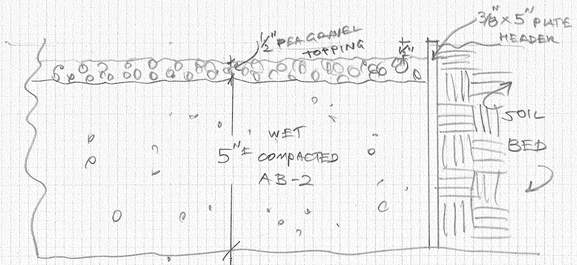
FENCING DETAILS

LANDSCAPE ARCHITECT
DAVID BIGHAM
ASLA
CA. LIC. #2473

SEPTEMBER 30, 2023



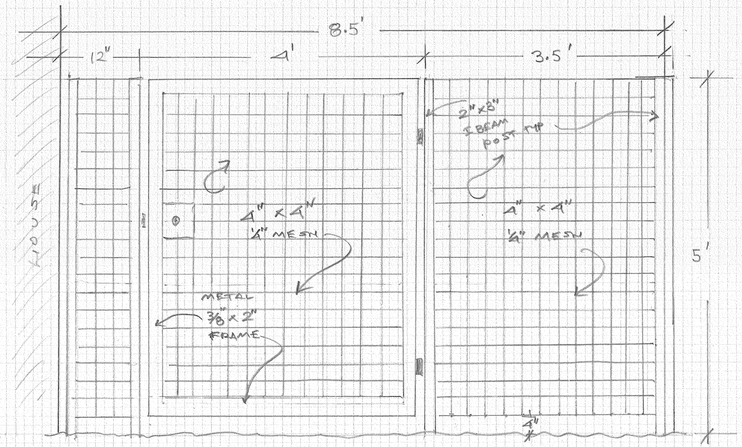
FLATTENED ELEVATION



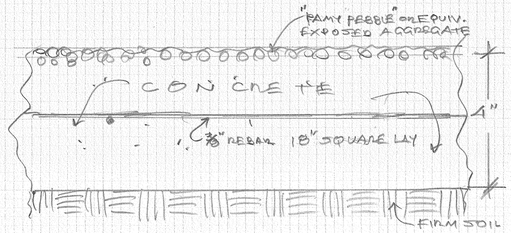
PEA GRAVEL PATHWAY WITH HEADER
1 1/2" = 1"



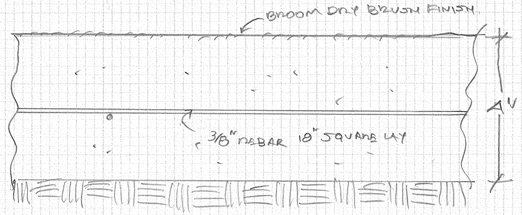
SQUARED CONCRETE TERRACE FULLSCALE



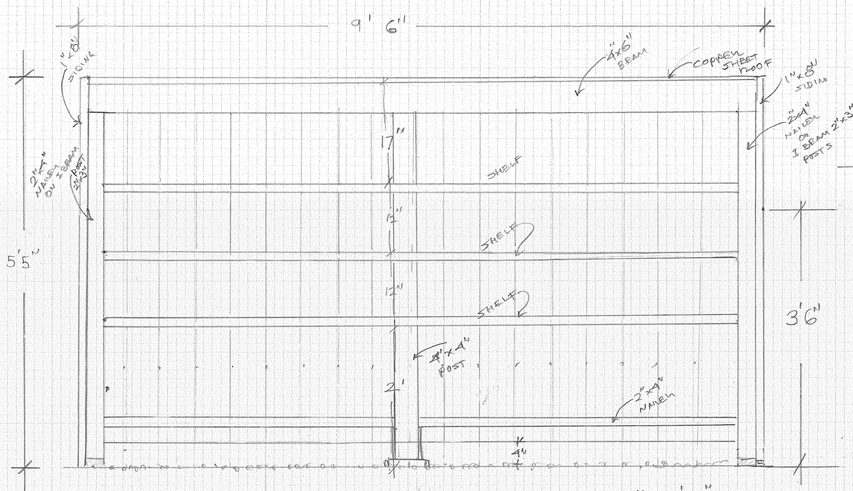
NORTH ELEVATION 1" = 1'0"
WIRE MESH FENCE & GATE



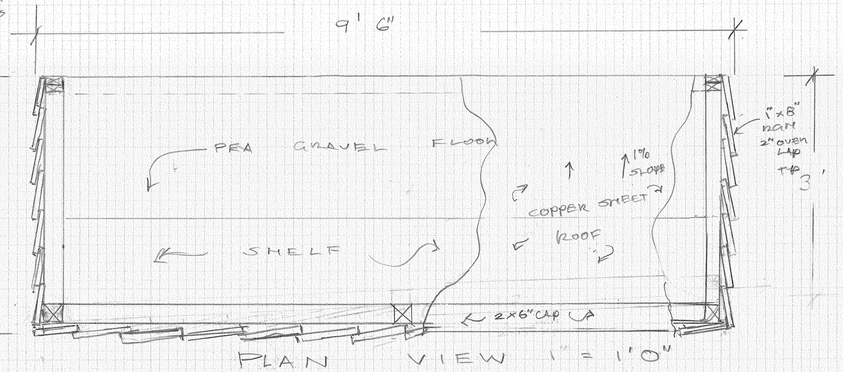
EXPOSED AGGREGATE CONCRETE 1/2" = 1"



BRUSH FINISH CONCRETE 1/2" = 1"



NORTH ELEVATION 1" = 1'0"
SHED



PLAN VIEW 1" = 1'0"
SHED

REID GARDEN
CINDY AND RORY
#8 GREENWOOD COMMON
BERKELEY, CA.
94708

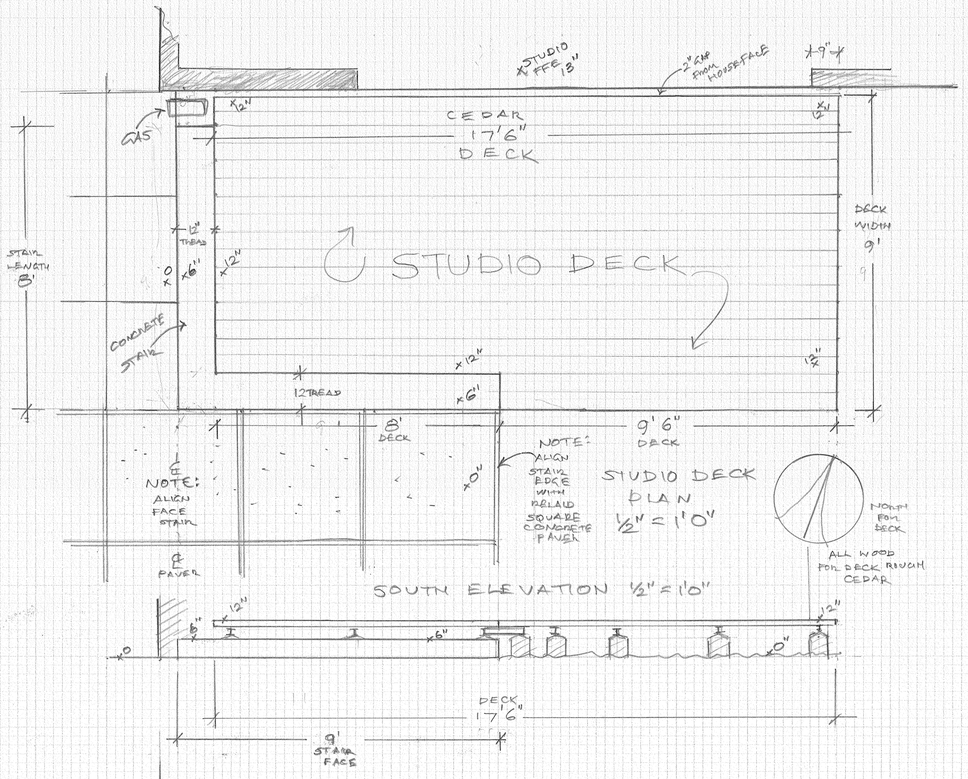
SCALE AS NOTED

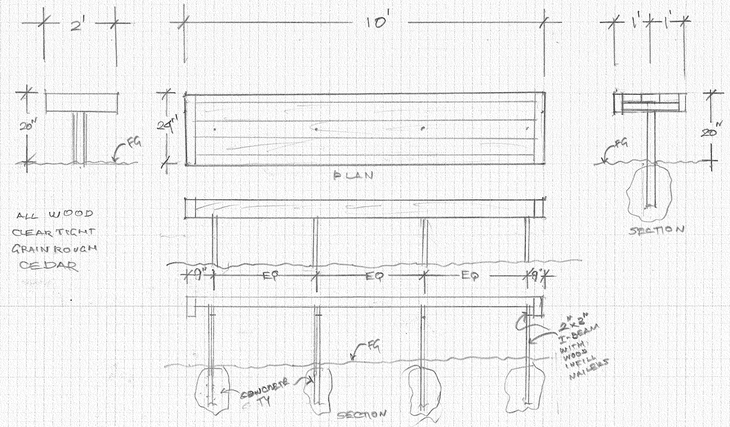
LANDSCAPE SHEET
8

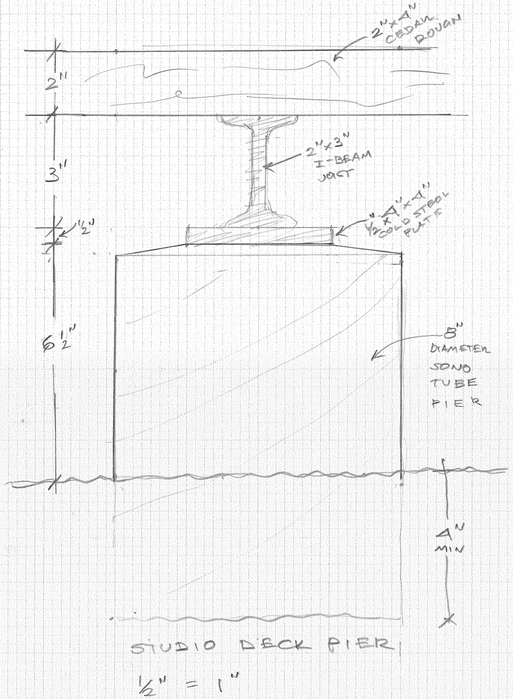
WIRE MESH FENCE, SHED, PAVING DETAILS

LANDSCAPE ARCHITECT
DAVID BIGHAM
ASLA
CA LIC # 2473

SEPTEMBER 30, 2023
MAY 11, 2024 RWSP DUB







REID
GARDEN

CINDY AND RORY
8 GREENWOOD COMMON
BERKELEY, CA
94708

SCALE AS NOTED

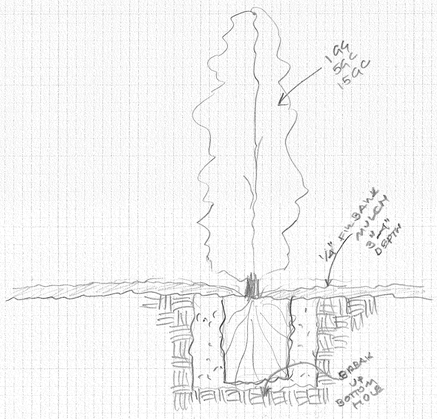
LANDSCAPE SHEET
9

STUDIO DECK & COMMON BENCH

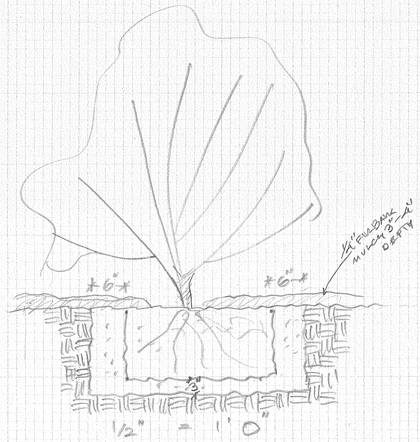
LANDSCAPE ARCHITECT
DAVID BINHAM
AJLA
CA. LIC # 2473

SEPTEMBER 30, 2023

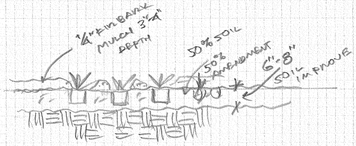
PLANTING DETAILS:



NO SCALE
SECTION



1/2" = 1'0"
SECTION



1/2" = 1'0" SECTION
4" POT LINER PLANTING

NOTES:

- ALL EXISTING WOOD TO BE SALVAGED AS POSSIBLE
- ALL RAW WOOD TO BE VINEGAR STAINED DARKEN
- PROPERTY LINE HUBS NOT SET, MUST BE SET BEFORE CONSTRUCTION
- NO GARDEN CONSTRUCTION ATTACHES TO THE HOUSE OR STUDIO
- SEE ARCHITECTURAL DRAWINGS FOR HOUSE OR STUDIO WORK

REID
GARDEN

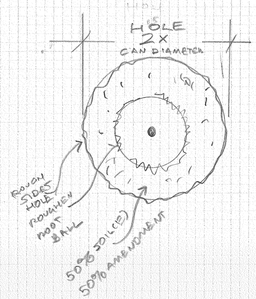
CINDY AND RORY
8 GREENWOOD COMMON
BERKELEY, CA.
94708

SCALE AS NOTED

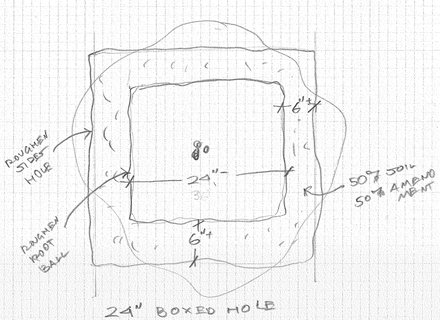
LANDSCAPE SHEET
10
PLANTING DETAILS & NOTES

LANDSCAPE
ARCHITECT
DAVID BIGHAM
ASLA
CA. LIC.# 2473

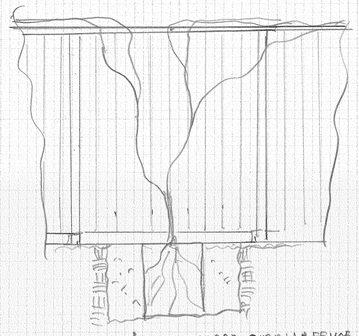
SEPTEMBER 30, 2023



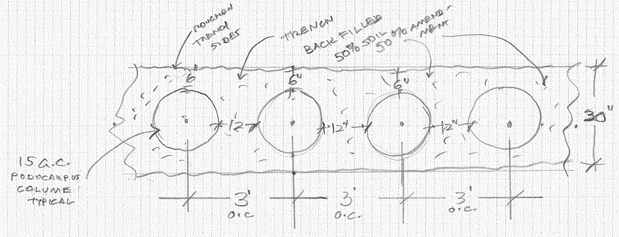
STANDARD HOLE
1GC, 5GC, 15GC.
PLAN



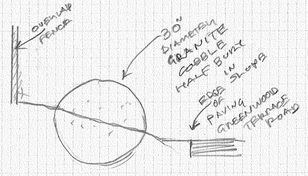
24" BOXED HOLE
36" BOXED HOLE SAME DETAILS
PLAN



WISTERIA ON CAPPED OVERLAP FENCE
1/2" = 1'0"



PODOCARPUS HEDGE TRENCH PLAN
1/2" = 1'0"



1/2" = 1'0"

Communications – September 24, 2024

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.

Item 7: Civic Arts Commission Fund Request - Mitigation Fee Nexus Study, Public Art on Private Development Requirement

1. Cameron Woo

Demolition of UA Theater

2. Melanie Lawrence
3. Save the UA Berkeley
4. Anne Weinberger
5. Seven similarly worded form letters

Cal Sailing Club and J-Dock at Berkeley Marina

6. David Fraser
7. Amy Pereira
8. Karen Huie
9. David Fawcett
10. Paul Herzmark
11. Andrew Buck
12. Nelson Carpentier
13. Nick Goyhenetche
14. Aradhna Mayalall
15. James Fair
16. Jeff Lewis
17. William Gavelis
18. Neeraj DeLima
19. Grant Padmos

Supporting Berkeley Libraries

20. Cathy Brown

Large Building Fossil Fuel Emissions Tax

21. Anand Patel

Containers Missed Pickup

22. Peter Kuhn

TOPA

23. Marcia Edelen
24. Summer Brenner

Ice Cream Truck Generator

25. Dara Pond

Communications

All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

Records Online
https://records.cityofberkeley.info/

To search for communications associated with a particular City Council meeting using Records Online: