AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, March 25, 2025
6:00 PM

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

ADENA ISHII, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – IGOR TREGUB
DISTRICT 5 – SHOSHANA O'KEEFE
DISTRICT 6 – BRENT BLACKABY
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/1611397649. 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: 161 139 7649**. 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 $500 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than $500 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: *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.

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. 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, 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. 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.

Consent Calendar

1. Proposed Amendments to the Building Emissions Saving Ordinance (BESO); Amending Berkeley Municipal Code Chapter 19.81 *(Item contains revised material)*

From: City Manager

Recommendation: Adopt a new first reading of Ordinance No. 7,953-N.S. amending the Building Emissions Saving Ordinance (BESO), Chapter 19.81 of the Berkeley Municipal Code, to establish a flexible resilience standard for small residential buildings containing up to four units.

Financial Implications: See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

Consent Calendar

2. Adopt an Ordinance to Prohibit the Sale or Use of Pricing Algorithms to Set Rents or Manage Occupancy Levels for Residential Dwelling Units; Adding Berkeley Municipal Code Chapter 13.63
From: Housing Advisory Commission
Recommendation: Adopt second reading of Ordinance No. 7,956-N.S. amending the Municipal Code adding Chapter 13.63 to prohibit the sale or use of pricing algorithms to set rents or manage occupancy levels for residential dwelling units.
First Reading Vote: Ayes – Kesarwani, Taplin, Bartlett, Tregub, O'Keefe, Blackaby, Lunaparra, Ishii; Noes – Humbert; Abstain – None; Absent – None.
Financial Implications: See report
Contact: Mike Uberti, Commission Secretary, (510) 981-7400

3. Minutes for Approval
From: City Manager
Recommendation: Approve the minutes for the Council meetings of February 3 (closed), February 11, 2025 (special and regular), February 25, 2025 (special and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900

4. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on March 25, 2025
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: Various Funds - $6,575,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300

5. Contract No. 32000118 Amendment: NEXGEN Asset and Work Order Management Software Maintenance
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000118 with NEXGEN Asset Management to provide additional funding for software maintenance and professional services, increasing the amount by $1,123,457, for a total not-to-exceed amount of $2,830,366 through June 30, 2029.
Financial Implications: Various Funds - $1,123,457
Contact: Kevin Fong, Information Technology, (510) 981-6500

Consent Calendar

6. Contracts: On-Call Landscape Architectural Services for Capital Improvement Projects
From: City Manager
Recommendation: Adopt five Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call landscape architectural services for capital improvement projects, for contract periods of May 1, 2025 through April 30, 2028:
1. Carducci & Associates, Inc., for an amount not to exceed $450,000.
2. Moore Iacofano Goltsman, Incorporated (MIG, Inc.), for an amount not to exceed $450,000.
3. PGAdesign, Inc., for an amount not to exceed $450,000.
4. Royston Hanamoto Alley & Abey (RHAA), for an amount not to exceed $450,000.
5. RRM Design Group, for an amount not to exceed $450,000.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

7. Adopt a Mitigated Negative Declaration for the Tom Bates Regional Sports Complex Restroom and Community Space Project
From: City Manager
Recommendation: Adopt a Resolution adopting the Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Plan (MMRP) for the Tom Bates Regional Sports Complex Restroom and Community Space Project.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

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 the Action Calendar public comment period on the 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. 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, 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.

The Presiding Officer may open and close an additional comment period for Action items on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters), at the start of the Action Calendar. 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 – Public Hearings

Staff shall introduce the public hearing item and present their comments. For certain hearings, this is followed by five-minute presentations each by first the appellant and then the applicant. The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, 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 during a public hearing, 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. 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.

When applicable, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

8. Establishment of M-RD Zoning District, Associated General Plan and West Berkeley Plan Amendments, and Environmental Impact Report
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion:
1. Adopt the first reading of an Ordinance amending Title 23 of the Berkeley Municipal Code (BMC) and the Zoning Map to establish the Manufacturing, Research & Development (M-RD) zoning district to encourage redevelopment of the former Pacific Steel Casting (PSC) site.
2. Adopt a Resolution:
a. Approving and adopting West Berkeley Plan and General Plan amendments to be consistent with the associated Ordinance amendments; and
b. Certifying the Environmental Impact Report (EIR) (SCH#2022120549) and adopt related California Environmental Quality Act (CEQA) findings, a statement of overriding considerations, mitigation measures, and a mitigation monitoring and reporting program.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400

9. ZAB Appeal: 3000 Shattuck Avenue, Use Permit #ZP2022-0046
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve a Use Permit to demolish a gas station, and construct a 10-story (114 feet) mixed-use building utilizing a State Density Bonus request, with 166 dwellings, including 17 Very Low-Income units, and 1,000 square-feet of commercial space, and dismiss the appeals.
Financial Implications: None
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar – New Business

10a. Allocation of $2,294,774 Million Over 2 Years, FY 2026 and FY 2027, to Reduce Consumption and Health Impacts of Sugar-Sweetened Beverages (SSBs)
From: Sugar Sweetened Beverage Product Panel of Experts
Recommendation: Adopt a Resolution allocating $2,294,774 from the General Fund in Fiscal Year 2026 (July 1, 2025 through June 30, 2026) and Fiscal Year 2027 (July 1, 2026 through June 30, 2027) that shall be invested in a grant program administered and coordinated by the Department of Health, Housing, and Community Services' (HHCS) Public Health Division (HHCS/PHD) consistent with the Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE) Commission's goals to reduce the consumption of sugar sweetened beverages (SSB) in Berkeley and to address the health effects of SSB consumption. The total of $2,294,774 million will be distributed in two installments of $1,147,387 for FY2026 and $1,147,387 for FY2027. In each of these years, the funds will be distributed as follows:
a. Direct the City Manager to award up to 42.5% of the allocated funds to Berkeley Unified School District (BUSD) through a grant to implement and enhance the BUSD cooking and gardening programs which aid in reducing the consumption of sugar-sweetened beverages (SSBs) amongst students. The BUSD funding process is separate from the RFP process for community-based organizations and shall be guided by the SSBPPE Commission's Criteria for the BUSD Funding Proposal.
b. Direct the City Manager to award at least 42.5% of the allocated funds through an RFP process managed by HHCS/PHD for grants to community- based organizations consistent with the SSBPPE Commission's goals to reduce the consumption of SSBs and to address the effects of SSB consumption. The RFP process for community-based organizations is separate from the BUSD funding process and shall be guided by the SSBPPE Commission's Selection Criteria for Community Agency Grants.
c. Direct the City Manager to utilize up to 15% of the allocated funds to support HHCS/PHD to coordinate and monitor the grant process, coordinate the overall program evaluation, and produce an annual report that disseminates process and outcome data from the epidemiologist resulting from the SSBPPE Commission funding program as well as pay certain City of Berkeley Finance Department costs related to the sugary drink tax.
Financial Implications: See report
Contact: Roberto Terrones, Commission Secretary, (510) 981-5400

Action Calendar – New Business

10b. Companion Report: Allocation of $2,294,774 Million Over Two Years, FY2026 and FY2027, to Reduce Consumption and Health Impacts of Sugar-Sweetened Beverages (SSBs)

From: City Manager

Recommendation: Adopt a Resolution allocating $2,294,774 from the General Fund total for Fiscal Year 2026 (July 1, 2025, through June 30, 2026) and Fiscal Year 2027 (July 1, 2026, through June 30, 2027) to be invested in a grant program administered and coordinated by the Department of Health, Housing, and Community Services' (HHCS) Public Health Division (HHCS/PHD). This program will align with the Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE) Commission's goals to reduce sugar-sweetened beverage (SSB) consumption in Berkeley and address the health effects of SSB consumption. The total amount will be distributed in two installments of $1,147,387 annually for FY2026 and FY2027, as follows:

A. Award up to $905,292 of the allocated amount to the Berkeley Unified School District (BUSD) for the period of July 1, 2025, to June 30, 2027, through a grant proposal process. These funds will support the reduction of SSB consumption through the implementation and enhancement of BUSD cooking and gardening programs. The BUSD funding process will be separate from the general community-based organization funding process and guided by the SSBPPE Commission's Criteria for BUSD Funding (Attachment 2 to the report).

B. Award up to $905,292 of the allocated amount for the period of July 1, 2025, to June 30, 2027, through an Request for Proposal (RFP) process managed by HHCS/PHD. These grants will be awarded to community-based organizations (CBOs) and will align with the SSBPPE Commission's goals to reduce SSB consumption and address the effects of SSB consumption. The RFP process to determine CBO funding will be separate from the BUSD funding process and guided by the SSBPPE Commission's Criteria for Community Agency Grants (Attachment 3 to the report).

C. For the period of July 1, 2025, to June 30, 2027, allocate $128,990 to the Finance Department for staffing costs and Muni-Services fees, and $355,200 to HHCS/PHD for staffing, operating, service delivery and consulting costs. HHCS/PHD will coordinate and monitor the grant process, manage awarded contracts, and provide activities aligned with the sugary beverage tax goals including providing education, outreach, and technical assistance to support local vendors as they work to comply with the Healthy Checkout ordinance and monitoring Berkeley funded hydration stations, and HHCS will provide an annual presentation to the SSBPPE Commission focused on process and outcome data and updates on Finance Department fees related to the sugary drink tax, to inform the Commission's annual report.

D. Carry over any sugary drink tax revenue received in excess of $2,294,774 during FY2026 and FY2027 to be awarded for related services in FY2027–FY2029.

Financial Implications: See report

Contact: Henry Oyekanmi, Finance, (510) 981-7300, Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

Information Reports

11. FY 2025 Mid-Year Budget Update Report
From: City Manager
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000, Henry Oyekanmi, Finance, (510) 981-7300

12. Landmarks Preservation Ordinance Notice of Decision (LPO NOD): 2138 Kittredge Street/#LMIN2024-0006
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

13. Landmarks Preservation Ordinance Notice of Decision (LPO NOD): 3332 Adeline Street/#LMSAP2025-0001
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, and through the City's online records portal: https://records.cityofberkeley.info/.

Agendas, agenda reports, and revised/supplemental material may be accessed via the online agenda for this meeting at:
https://berkeleyca.gov/your-government/city-council/city-council-agendas
and may be accessed 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 ada@berkeleyca.gov, (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.

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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 March 13, 2025.



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 #1: Proposed Amendments to the Building Emissions Saving Ordinance (BESO); Amending Berkeley Municipal Code Chapter 19.81 *(Item contains revised material)*

1. David Lerman (2)
2. Isabella Almeida (9)
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Item #9: ZAB Appeal: 3000 Shattuck Avenue, Use Permit #ZP2022-0046

3. Alisha Pember
4. Larisa Cummings (2)
5. Lorrie LeLe on behalf of East Bay Residents for Responsible Development

Waterfront

6. Andrew Sullivan
7. Kirk van Moon
8. Ross Stevenson
9. Noah Sudarsky
10. Kirsten Mahoney
11. Madeleine King

Fire Zone Concerns

12. Warren & Lorna Byrne (2)
13. Deirdre Duhan
14. Evan and Erika Mills
15. Bruce H. Feingold
16. Joan Wilson

Encampments

17. Steven Donaldson
18. Steve Smith
19. Steve Martinot
20. Nigel F.

Shattuck Security System

21. Isabel Thompson

Cash in Stores

22. Max Aue

Red Cross

23. Sheryl Drinkwater

Cesar Chavez Park

24. Stefani Berger

Adult Education Week

25. Brigitte Luna

Downtown Building

26. John Rice

Housing Safety Concern

27. David Lerman
28. Constance Rivemale

Bicycles and Pedestrians
29. Lucas Miller
30. Rachel Doughty
31. Sheila Newberry
32. Beatriz Motta
33. John J. Parman
34. Lee Bishop
35. Lucas Cantor

Status of Grievance
36. Hector91 Phuentes
37. Kawal Ulanday

Towing Services
38. Andrew Paul Gutierrez

Civic Center Park
39. Libby Hruska
40. Councilmember Taplin

Relocation of People's Park
41. Richard

ICE Concerns
42. Marla Wilson

Plans
43. Tillymaui

Forwards
44. Russbumper
45. Josh Atwood

Middle East Conflict
46. Cynthia Papermaster
47. Russbumper

UC Berkeley
48. Andrey Vinogradsky

Daylighting Concern
49. Shirley Kirsten
50. Sandra Sanchez (2)

Parking Concern
51. Rolf Bell
52. Fred Botha
53. Shirley Kirsten

Chess Club
54. Jesse Sheehan

URL's
55. Josh Atwood
56. Russbumper (3)

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.

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Office of the City Manager

REVISED
AGENDA MATERIAL

Meeting Date: **March 25, 2025**

Item Number: **1**

Item Description: **Proposed Amendments to the Building Emissions Saving Ordinance; Amending Berkeley Municipal Code Chapter 19.81**

Submitted by: **Jordan Klein, Director, Planning and Development Department**

The revised agenda material includes updated ordinance language that reflects City Council's referral to the City Attorney to analyze requiring the $5,000 escrow deposit be split 50/50 by the buyer and seller. The updated language requires a seller to make a $2,500 resilience upgrade payment, if compliance isn't met prior to transfer, and the remaining $2,500 is submitted by a buyer in the form of a deposit. Both the resilience upgrade payment and the deposit would be refunded to the buyer once upgrades are completed. Updated language from the previous version approved by City Council on February 11, 2025 is highlighted in yellow.

ORDINANCE NO. -N.S.

CHAPTER 19.81
BUILDING EMISSIONS SAVING

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

Section 1. That Berkeley Municipal Code 19.81.010 is amended to read as follows:

19.81.010 - Purpose.

The purpose of this chapter is to reduce energy use, water consumption, and greenhouse gas emissions in existing buildings, to increase the resilience of these buildings, and to promote public health. These ~~efficiency and emission reduction~~ improvements will increase comfort, safety and health for building occupants ~~lower energy and water costs~~, transition buildings away from the use of fossil fuels, and may lower energy and water costs~~increase comfort, safety and health for building occupants~~. The provisions of the ordinance will inform decision makers about energy, ~~and~~ emissions, and resilience performance and improvement opportunities.

Section 2. That Berkeley Municipal Code 19.81.030 is amended to read as follows:

19.81.030 - Definitions.

A. "Administrator" means the Director of Planning and Development or their designee.

B. "Building Owner" means the owner of record of a building. In the case of a building held in cooperative or condominium form of ownership, the term "Building Owner" shall also refer to the board of managers, board of directors, homeowners association, or other representative body of the jointly-owned building with authority to make decisions about building assessments and alterations.

C. "Building Energy Score" means a measurement of how efficiently a building uses energy and/or water based on modeled simulations or actual energy use of the building over time compared to similar buildings, which can be in the form of a performance score, asset score or other comparable metric that meets standards and formats established by the Administrator.

D. “Credits” means a numerical value based on the improved resilience, emissions savings, cost, or other measured benefit associated with a Resilience Upgrade.

E. “Dwelling Unit” means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

~~D~~F. "Electrification" means the transition of building systems and appliances away from natural gas to electricity as the source of energy.

~~E~~G. "Energy Report" means a report submitted by a Registered Service Provider that identifies existing conditions, opportunities for water and energy efficiency in a building, opportunities to transition off fossil fuels, greenhouse gas emissions reductions, and available incentives and financing, as well as any applicable Building Energy Score, in accordance with the standards and formats established by the Administrator.

~~F~~H. "ENERGY STAR Performance Report" means an ENERGY STAR Portfolio Manager Benchmark report generated by the on-line tool developed by the U.S. Environmental Protection Agency that determines energy use intensity and an Energy Star Performance Score for a building based on utility usage data.

~~G~~I. "~~Energy~~ Resilience Upgrade" means the installation or completion of recommended measure(s) that improve the building's energy efficiency, increases the building's resilience, supports the transition off fossil fuels, and/or decreases the building's greenhouse gas emissions.

~~H~~J. "Extensive Renovation" means any project that replaces all building space heating, cooling, and ventilation equipment and replaces at least half of the building envelope, in accordance to standards established by the Administrator.

~~I~~K. "Green Building Rating" means an approved rating by a green building verification system consistent with standards identified by the Energy Efficiency Standardization Coordination Collaborative (EESCC) of the American National Standards Institute (ANSI), including, but not limited to the following: Build It Green (BIG) GreenPoint Rated Existing Building; US Green Building Council Leadership in Energy and Environmental Design Existing Building Operation and Maintenance (USGBC LEED-EBOM); Passive House Institute (PHI) Certified Passive House and EnerPHit; Passive House Institute US (PHIUS) PHIUS+ Certified Project; and the International Living Future Institute Zero Net Energy Building and Living Building Challenge Certification; or any other rating demonstrating approved levels of energy efficiency, as determined by the Administrator.

~~J~~L. "Gross Floor Area" means the total size, as measured between the principal exterior surfaces of the enclosed fixed walls of the building(s). This includes all areas inside the building(s) such as: occupied tenant areas, common areas, meeting areas, break rooms, restrooms, elevator shafts, mechanical equipment areas, and storage rooms. Gross Floor Area should not include interstitial plenum space between floors, which may house pipes and ventilation.

~~K~~M. "Large Building" means any building with 25,000 square feet or more of Gross Floor Area.

~~L~~N. "Medium Building" means any building with between 15,000 and 24,999 square feet of Gross Floor Area, excluding ~~Single Family Buildings~~1 to 4 Unit Residential Buildings.

~~M~~O. "Real Estate Listing" means any listing of a building for sale in the City of Berkeley. "Real Estate Listings" include listing a building for sale by a property owner or by a licensed agent. "Real Estate Listings" include any printed advertisement, internet

posting, or publicly displayed sign, including but not limited to Regional Multiple Listing Service, Redfin, Zillow, Trulia and other third party listing services.~~include any listing for sale by any advertisement, internet posting, or publicly displayed sign.~~

~~N~~P. "Registered Service Provider" means an entity that has been registered by the Administrator to provide an Energy Report and/or Building Energy Score as required by this ordinance.

Q. "Resilience Upgrade Payment" means a monetary charge, as defined in Article XIII C, section 1(e)(5) of the California Constitution, that is imposed by the City on the seller as a result of the seller not complying with the seller's legal obligation to obtain a BESO Certificate of Compliance prior to transfer of title.~~O. "Sale" means the conveyance of title to real property as a result of the execution of a real property sales contract as defined in Section 2985 of the California Civil Code as well as any change of ownership described in subdivision (c) of Section 61 and subdivision (c) of Section 64 of the California Revenue and Taxation Code. "Sale" does not include transfer of title pursuant to inheritance, involuntary transfer of title resulting from default on an obligation secured by real property, change of title pursuant to marriage or divorce, condemnation, or any other involuntary change of title affected by operation of law.~~

~~P~~R. "~~Single Family Building~~1 to 4 Unit Residential Building" means any building comprised of solely 1 to 4 ~~residential~~ Dwelling U~~u~~nits, regardless of size. For the purpose of determining which buildings constitute a 1 to 4 Unit Residential Building subject to this Chapter, an Accessory Dwelling Unit (ADU) as defined in Chapter 23.502 of this Code is not a Dwelling Unit.

~~Q~~S. "Small Building" means any building with less than 15,000 square feet of Gross Floor Area, excluding ~~Single Family~~1 to 4 Unit Residential Buildings.

T. "Transfer" means the conveyance of title to real property, excluding condominiums as defined in California Civil Code Section 1351(f), as a result of the execution of a real property sales contract as defined in Section 2985 of the California Civil Code as well as any change of ownership described in subdivision (c) of Section 61 and subdivision (c) of Section 64 of the California Revenue and Taxation Code. "Transfer" does not include transfer of title pursuant to inheritance, involuntary transfer of title resulting from default on an obligation secured by real property, change of title pursuant to marriage or divorce, condemnation, or any other involuntary change of title affected by operation of law.

Section 3. That Berkeley Municipal Code 19.81.040 is amended to read as follows:

19.81.040 – Large Buildings.

A. *Annual ENERGY STAR Performance Report.* Owners of Large Buildings shall submit to the Administrator an ENERGY STAR Performance Report on an annual basis in accordance with the phase-in schedule below and no later than July 1 each year thereafter.

B. *Energy Report.* Owners of Large Buildings shall have a Registered Service Provider prepare and submit to the Administrator an Energy Report as specified in the phase-in schedule below and by July 1 every five years thereafter.

C. *Disclosure.* The most recent ENERGY STAR Performance Report and a summary version of the most recent Energy Report including a Building Energy Score, when available, shall be made publicly available by the Administrator and shall be provided by the Building Owner to existing lessees and to prospective lessees and buyers prior to execution of a lease or contract for sale.

D. *Phase-in and Reporting Cycle Schedule.* Owners of Large Buildings shall be in compliance with the requirements of this section by the dates specified below.

1. July 1, 2018 for buildings with 50,000 or more square feet of Gross Floor Area, with an annual ENERGY STAR Performance Reporting cycle and a 5 year Energy Report reporting cycle thereafter.

2. July 1, 2019 for buildings with 25,000 or more square feet of Gross Floor Area with an annual ENERGY STAR Performance Reporting cycle and a 5 year Energy Report reporting cycle thereafter.

E. *Evaluate and Recommend Resilience ~~Energy~~ Upgrades Requirements.* The Administrator of this Chapter shall develop recommendations for ~~Energy~~ Resilience Upgrade requirements for Large Buildings based on building performance that are consistent with requirements of State and Federal law. The Administrator shall identify incentives, rebates or other compliance resources to off-set the costs of the ~~Energy~~ Resilience Upgrade requirements. The Administrator shall then report the proposed ~~Energy~~ Resilience Upgrade requirements for Large Buildings to the City Council for consideration.

Section 4. That Berkeley Municipal Code 19.81.050 is amended to read as follows:

19.81.050 – Medium and Small Buildings.

A. *Annual ENERGY STAR Performance Report.* Owners of Medium Buildings shall submit to the Administrator an ENERGY STAR Performance Report on an annual basis as of July~~,~~ 1, 2021, and no later than July 1 each year thereafter.

B. *Energy Report.* Owners of Medium and Small Buildings shall have a Registered Service Provider prepare and submit to the Administrator an Energy Report:

1. Prior to the Real Estate Listing of the building for s~~S~~ale; or

2. Within 6 months of a lender having acquired title due to foreclosure or deed in lieu of foreclosure.

The requirement at time of Real Estate Listing may be transferred to the buyer and deferred for 6 months under the provisions of Section 19.81.090.B of this Chapter.

C. *Disclosure.* All compliance documentation, including the most recent ENERGY STAR Performance Report, if applicable, a deferral or a summary version of the most recent Energy Report including a Building Energy Score, when available, shall be made publicly available by the Administrator and shall be provided by the Building Owner to existing lessees and prospective lessees, to all licensed real estate agents working on the seller's behalf, and to prospective buyers who visit the building while it is listed publicly for sale.

D. *Evaluate and Recommend ~~Energy~~ Resilience Upgrades Requirements.* The Administrator of this Chapter shall develop recommendations for ~~Energy~~ Resilience Upgrade requirements for Small and Medium Buildings based on building performance that are consistent with State and Federal law. The Administrator shall identify incentives, rebates or other compliance resources to off-set the costs of the ~~Energy~~ Resilience Upgrade requirements. The Administrator shall then report the proposed ~~Energy~~ Resilience Upgrade requirements for Small and Medium Buildings to the City Council for consideration.

Section 5. That Berkeley Municipal Code 19.81.060 is amended to read as follows:

19.81.060 – ~~Single Family~~1 to 4 Unit Residential Buildings.

A. *Resilience Standard*. When a 1 to 4 Unit Residential Building is Transferred, the property being Transferred shall achieve a required number of Credits, as determined by the Administrator, by undergoing Resilience Upgrades.

~~A~~B. *Energy Report.* Owners of ~~Single Family~~1 to 4 Unit Residential Buildings shall have a Registered Service Provider prepare and submit to the Administrator an Energy Report:

1. Prior to the Real Estate Listing of the building for s~~S~~ale; or

2. Within 6 months of a lender having acquired title due to foreclosure or deed in lieu of foreclosure.

~~The requirement at time of Real Estate Listing may be transferred to the buyer and deferred for 6 months under the provisions of Section 19.81.090.B of this Chapter.~~In the event the Building Owner fails to complete the Energy Report, an administrative fee, which is set forth in Section 19.81.120 of this code, shall be charged to cover staff time required to assist the buyer with compliance in the absence of the Energy Report.

C. *BESO Certificate of Compliance*. Upon submittal of documentation verifying that a Building Owner has achieved the required number of Resilience Upgrade credits, as determined by the Administrator, the Administrator shall issue a BESO Certificate of Compliance. A BESO Certificate of Compliance shall expire 5 years after issuance.

D. *~~Verification~~Seller Obligation at Time of Transfer.* Prior to Transfer ~~of title~~, seller shall obtain a ~~:~~

~~1. A~~ BESO Certificate of Compliance for the subject property. If the seller fails to obtain a BESO Certificate of Compliance before Transfer, the seller must make a Resilience Upgrade Payment to the City of $2,500. ~~must be obtained, or~~

E. *Buyer Obligation at Time of Transfer.* A buyer who purchases a property that has not obtained a BESO Certificate of Compliance by the date of Transfer shall obtain a BESO Certificate of Compliance within two years of Transfer ("Buyer Compliance Period"), which may be extended up to one year at the discretion of the Administrator. Buyer shall, within ten days of Transfer, ~~2. The Administrator may grant a two-year extension, with an opportunity for an additional one-year extension, to meet the requirements of BMC 19.81.060(C) if the seller or buyer~~ deposit funds with the City in an amount of $2~~5~~,5~~0~~00 ("Buyer's Deposit") ~~totalthe Administrator determines to be sufficient to render compliance.~~ and ~~The seller or buyer~~ must execute and deliver to the Administrator or their designee a binding agreement in a form acceptable to the City providing that any funds deposited with the City shall be forfeited and transferred to the City if a BESO Certificate of Compliance for the subject property has not been obtained upon the expiration of the ~~extension period~~Buyer Compliance Period.

1~~a~~. If a BESO Certificate of Compliance for the subject property is obtained prior to the expiration of the ~~extension period~~Buyer Compliance Period, then the buyer shall recoup the ~~deposit~~Buyer's Deposit in full, as well as the Resilience Upgrade Payment made by the seller.

2~~b~~. If a BESO Certificate of Compliance for the subject property was not obtained prior to the expiration of the ~~extension period~~Buyer Compliance Period, then the ~~funds~~Buyer's Deposit will be forfeited to the City unless the buyer (i) can show that one or more of the conditions in Section 19.81.090 has been met, or (ii) petitions for an additional extension of the Buyer C~~c~~ompliance P~~p~~eriod pursuant to subparagraph 3~~c~~.

3~~c~~. The buyer ~~shall~~may be granted an additional extension of the Buyer C~~c~~ompliance P~~p~~eriod if they can show that special circumstances, such as delays due to utility capacity or equipment supply chains or delays required to minimize disruptions to tenants, warrant an additional extension of a reasonable amount of time.

4. If the BESO Certificate of Compliance was not obtained after the expiration of the Buyer's Compliance Period and any extensions, then the forfeited Buyer's Deposit and Resilience Upgrade Payment funds shall be used by the City for local low-income building upgrade programs, such as the Climate Equity Fund or Just Transition Residential Electrification Programs.

F~~E~~. *Appeals.*

1. ~~If deposit funds are forfeited to the City pursuant to BMC 19.81.050(D)(2)(b)~~After the expiration of the Buyer Compliance Period, notice shall be mailed ~~no more than 14 calendar days after the expiration of the extension period~~ to the buyer of (i) the expiration of the Buyer Compliance Period

and the forfeiture of the Buyer's Deposit under BMC 19.81.060(E)(2) and (ii) the opportunity to appeal. The cost of notice shall be deducted from the deposit made pursuant to BMC 19.81.060(E).

2. Within 14 calendar days of mailing of forfeiture notice, the buyer may appeal the forfeiture ~~and transfer~~.

a. An appeal shall be submitted to the City Manager or the City Manager's designee in writing and must state all of the reasons for the appeal.

b. Appeal fees shall be paid by the person filing the appeal (the appellant).

3. Where a timely appeal has been filed, the City Manager or the City Manager's designee shall, within 14 calendar days, set the appeal for a hearing before a Hearing Officer to be designated by the City Manager.

4. At the appeal hearing, the Hearing Officer may: (i) continue the public hearing; or (ii) reverse, affirm, or modify the decision of the prior review authority.

5. The Hearing Officer shall serve a written decision upon the appellant within 14 calendar days of the hearing, and shall send a copy to the Administrator and the City Manager. The Hearing Officer's decision shall be final when mailed.

~~B~~G. *Disclosure.* All compliance documentation, including ~~a deferral or~~ a summary version of the most recent Energy Report including a Building Energy Score~~, when available,~~ and the Resilience Standard compliance status shall be made publicly available by the Administrator and shall be provided by the Building Owner to existing lessees and prospective lessees, to all licensed real estate agents working on the seller's behalf, and to prospective buyers who visit the building while it is listed for sale. The Building Energy Score shall be included in all Real Estate Listings and a URL link to the Energy Report included if links are supported by the listing service.

H. *Phase-in*. Owners of 1 to 4 Unit Residential Buildings shall comply with the requirements of this section starting on the dates specified below. These buildings shall be treated as Small Buildings until their phase-in date.

1. January 1, 2026 for 1 to 4 Unit Residential Buildings containing one or two residential units.

2. January 1, 2028 for 1 to 4 Unit Buildings containing three or four residential units.

I. *Responsibilities*. Except as otherwise provided or as allowed by the Administrator, the Building Owner is responsible for compliance with this Section. The seller of any real property shall be responsible for disclosing to prospective buyers the requirements of this Section and the compliance status of the real property in question. Upon transfer of ownership, the buyer will be responsible for the compliance with this Section, regardless of any disclosure or failure to disclose.

~~C. *Reporting Schedule.* The requirements of this Section of the ordinance shall become effective December 1, 2015.~~

~~D. *Evaluate and Recommend Energy Upgrades Requirements.* The Administrator of this Chapter shall develop recommendations for Energy Upgrade requirements for Single Family Buildings based on building performance that are consistent with requirements of State and Federal law. The Administrator shall identify incentives, rebates or other compliance resources to off-set the costs of the Energy Upgrade requirements. The Administrator shall then report the proposed Energy Upgrade requirements for Single Family Buildings to the City Council for consideration.~~

Section 6. That Berkeley Municipal Code 19.81.090 is amended to read as follows:

19.81.090 – Exceptions, Deferrals and Extensions.

A. *High Performance Exemption.* Exemptions from the Energy Report requirements for current reporting periods may be granted ~~for~~ to buildings that demonstrate effective and reasonably achievable level of efficiency, electrification of building systems and appliances, and/or emissions reduction~~, based on the specific building type, use, vintage, and condition,~~ that support Berkeley's commitment to become a Fossil Fuel Free City and achieve carbon neutrality by 2045~~and the Berkeley Climate Action Plan (CAP) goal of 33% energy-related greenhouse gas reduction from 2000 levels by 2020 and 80% reduction by 2050~~. Qualified exemptions shall include, but are not limited to:

1. Any Large ~~building~~ Building that receives a Building Energy Score or Green Building Rating that demonstrates an effective and reasonable level of efficiency, as determined by the Administrator.

2. Any building, except for 1 to 4 Unit Residential Buildings, that completes a multi-measure energy improvement project with a verified minimum improvement, as determined by Administrator.

3. Any whole building that has been served by an income-qualified Weatherization Assistance program for low-income households.

4. Any new building or Extensive Renovation, except for 1 to 4 Unit Residential Buildings, with a construction completion date within ten years of the reporting deadline.

5. Any building that has electrified all building systems and appliances and capped all gas lines to the building.

B. *Deferral at Time of Real Estate Listing.* The requirements for compliance with the Energy Report requirement prior to the Real Estate Listing of a Small or Medium B~~b~~uilding may be deferred from the seller to the buyer, and any subsequent buyers, for a period of 6 months after the original sale date. A request to defer responsibility to the buyer must be submitted to the administrator prior to the listing of the building. The

deferral shall include information on the fuel source for each end use in the building and any current or future electrification requirements and incentives.

C. *Distressed Sale Extension.* A 6-month extension may be granted to a buyer of a building purchased from a lender following default or transfer by deed in lieu of foreclosure.

D. *Hardship Deferral.* The requirement for an ENERGY STAR Performance Report, ~~and the requirement for~~ an Energy Report, or the Resilience Standard may be deferred ~~for up to one reporting cycle~~ in cases of financial hardship where one of the following is provided by the Building Owner and approved by the Administrator:

1. Proof of participation in an income qualified energy assistance ~~income qualified~~ program, administered through the State of California or the local energy utility.

2. Proof of approved participation in Property Tax Postponement or Property Tax Assistance for Senior Citizens, Blind or Disabled, or equivalent program as determined by Administrator.

3. Proof that the property qualifies for sale at public auction or acquisition by a public agency due to arrears for property taxes, within two years prior to the due date of the Energy Report.

4. Proof that a court appointed receiver is in control of the asset due to financial distress.

5. Proof that the senior mortgage is subject to a notice of default.

6. Proof that the responsible party is otherwise not able to meet the obligations of this Chapter.

Deferrals under this Section are granted to the Building Owner and are not transferable with a building sale, at which time compliance with this Chapter shall be required.

E. *Data Unavailable.* An exemption from ENERGY STAR Performance Report requirement for any current reporting period may be granted if:

1. The Building Owner demonstrates to the Administrator that they have been unable to obtain tenant authorization to obtain tenant utility data, despite a good faith effort to obtain such consent, or

2. The building occupant demonstrates to the Administrator that such disclosure may result in the release of proprietary information which can be characterized as a trade secret, or~~.~~

3. Any person subject to the requirements of this Chapter demonstrates to the Administrator that submission of an ENERGY STAR Performance Report would conflict with the requirements of State or Federal law.

F. *Deferral for Planned Demolition or Extensive Renovation.* The requirements of this Chapter may be deferred for 24 months if the owner or buyer has obtained a Building Permit, Demolition Permit, or Permit under the Zoning Ordinance that includes demolition or Extensive Renovation of the subject building.

Deferrals under this Section are granted to the Building Owner and are not transferable with a building sale, at which time compliance with this Chapter shall be required.

G. *Exemption for Sale of a Condominium.* The requirements to submit an Energy Report with an Energy Benchmark to the Administrator shall not apply to any sale of a residential or commercial condominium that is a unit within a building and not a detached structure.

H. *Low Energy Use Deferral.* Buildings with low energy use based on energy billing data comparing a building to similar efficient buildings or because of operations specific to their building use, such as institutions that operate less than three days a week, may be granted a Low Energy Use deferral for the current compliance cycle.

Deferrals under this Section are granted to the Building Owner and are not transferable with a building sale, at which time compliance with this Chapter shall be required.

I. *Exemption for Long-Term Tenancy under Rent Control.* The requirements of this Chapter for any building which is subject to rent control in which all of the units, excluding any owner-occupied units, have leases that date prior to January 1, 1999 may be deferred until the next reporting period.

J. *Unconditioned Floor Area Reclassification.* The size classification of a building may be reduced by the Administrator to exclude physically separated floor area that is not served by heating, ventilation or cooling equipment.

~~K. *Exemption based on building size.* Buildings 600 square feet or a higher size threshold, as determined by the Administrator, are exempt from the requirements of this Chapter.~~

K. *Recent Resilience Upgrades*. Buildings that completed the requisite number of Resilience Upgrades, as determined by the Administrator, within the last 5 years may obtain a BESO Certificate of Compliance if the Building Owner submits sufficient proof to the Administrator.

L. *Heat Pump System Exemption*. 1 to 4 Unit Residential Buildings in which all units being transferred are completely served by at least one electric heat pump system or electric equivalent, as determined by the administrator, may obtain a BESO Certificate of Compliance. The Energy Report shall provide confirmation for this exemption.

M. *Early Refund Exception*. Owners of 1 to 4 Unit Residential Buildings may apply for early remittance of the ~~escrow deposit~~Buyer's Deposit and Resilience Upgrade Payment prior to completion of the Resilience Upgrades upon demonstration that the owner has obtained building permits for the requisite Resilience Upgrades and supplied sufficient evidence that the Resilience Upgrades will be completed, as determined by

the Administrator. If the application for an early refund is approved, the City will refund the funds deposited pursuant to BMC 19.81.060(E) to the owner so that the owner may complete the Resilience Upgrades. Once the requisite Resilience Upgrades are complete, the Owner must obtain a BESO Certificate of Compliance. In the event the property owner fails to complete the requisite Resilience Upgrades within the ~~compliance extension~~Buyer Compliance period, an administrative ~~fee~~citation shall be charged, which fee is set forth in Section 19.81.14~~2~~0 of this code.

N. *First-Time Homebuyer Exemption.* Buyers of 1 to 4 Unit Residential Buildings participating in an approved local, State, or Federal income-qualified first-time home buyer program or down payment assistance program are exempt from the Resilience Standard requirements of this chapter.

Section 7. These amendments to Berkeley Municipal Code Chapter 19.81 shall become effective on January 1, 2026.

Section 8.
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.

1735042.1

02

ORDINANCE NO. 7,956-N.S.

ADDING CHAPTER 13.63 TO THE BERKELEY MUNICIPAL CODE PROHIBITING ON THE SALE OR USE OF PRICING ALGORITHMS TO SET RENTS OR MANAGE OCCUPANCY LEVELS FOR RESIDENTIAL DWELLING UNITS

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

Section 1. That Berkeley Municipal Code 13.63 is added to read as follows:

Chapter 13.63

PROHIBITION ON THE SALE OR USE OF PRICING ALGORITHMS TO SET RENTS OR MANAGE OCCUPANCY LEVELS FOR RESIDENTIAL DWELLING UNITS

Sections:

13.63.010 Findings and Purpose
13.63.020 Definitions
13.63.030 Use and Sale of Pricing Algorithms Prohibited
13.63.040 Remedies
13.63.050 Undertaking for the General Welfare
13.63.060 Severability

13.63.010 Findings and purpose.

The Council hereby finds and determines that the adoption of this chapter is necessary to the promotion of the public health, safety, and welfare.

A. In recent years, a number of new software programs, often referred to as “pricing algorithms”, have threatened to destabilize rental housing markets in cities nationwide, including the City of Berkeley.

B. These programs enable landlords to indirectly coordinate with one another through the sharing of data in order to artificially inflate rents and vacancy rates for rental housing. Participating landlords provide vast amounts of proprietary data to the programs, which in turn set or provide recommendations for rent and occupancy levels.

C. More and more landlords in U.S. cities now pool their data and pricing decisions using such software.

D. The software has contributed to double-digit rent increases (over the last nine years, median rents have increased 19% in the East Bay), higher vacancy rates, and higher rates of eviction, and has generally distorted markets so that rents and vacancy rates have increased in tandem.

E. Often used by large corporate landlords, the software fuels the consolidation of corporate and private equity ownership of rental housing, at the expense of landlords large and small who are willing to play by the normal rules. Landlords using these tools are not engaging in appropriate market behavior. And the companies developing and

selling these tools to Berkeley landlords are not doing so either, and are contributing to these problems.

F. A 2022 class action lawsuit filed in the U.S. District Court in the Western District of Washington at Seattle (one of over 20 private class action lawsuits that have been consolidated into one case) accuses nearly 50 trade associations of serving as “conduits of the cartel” by providing a venue for RealPage and their property owners to conspire. The lawsuit further alleges that landlords use the software to agree on prices to set for rent, and to stagger their lease renewal dates so as to avoid any oversupplies in rental properties.

G. Numerous antitrust lawsuits have been filed against certain of these companies, including RealPage, Inc. and Yardi Systems, Inc. The lawsuits allege that these companies are enabling and participating in a scheme of unlawful rent-fixing. These include a lawsuit filed by the District of Columbia Attorney General in November 2023, a lawsuit filed by the Arizona Attorney General in February 2024, and more than 20 federal private class action lawsuits filed nationwide that have been consolidated in the federal court in the Middle District of Tennessee. In August 2024, The United States Department of Justice, alongside the attorneys general of California and seven other states, filed an antitrust lawsuit against RealPage, accusing the company of reducing competition among landlords and taking over the market for such algorithm-based rental software.

H. Instead of waiting for court processes which may take years to resolve, this ordinance prohibits the sale or use of pricing algorithms for the purpose of setting rents on residential dwelling units in the city of Berkeley, to bring immediate relief to Berkeley tenants, as well as to put landlords who have been using these algorithms on equal footing with those who are willing to adhere to fair standards for setting rental rates.

I. This Chapter is not intended to prevent the development or sale of software to help landlords manage their units generally or through the use of public data. Nor does this Chapter regulate the amount of rent that a landlord may charge. This Chapter solely regulates the use and sale of the pricing algorithms that analyze and share data, to prevent the harms described above.

13.63.020 Definitions.

A. “Pricing algorithm” means any analytical or computation processes that use data to recommend or predict the price of consumer goods or services in direct or indirect coordination with one or more competitors, including through a third-party vendor such as a software program that uses one or more algorithms to perform calculations of competitor data concerning local or statewide rents or occupancy levels, for the purpose of advising landlords whether to leave their units vacant or on the amount of rent that landlords may obtain from tenants. “Pricing algorithm” includes a product that incorporates a pricing algorithm, but does not include (a) any report published by a trade association that receives renter data and publishes it in an aggregated and anonymous manner or (b) a product used for the purpose of establishing rent or income limits in accordance with the affordable housing guidelines of a local government, the state, the federal government, or other political subdivision.

B. “Competitor data” means information, including information about actual rent prices, occupancy rates, lease start and end dates, and similar data, regardless whether

the information is attributable to a specific competitor or anonymized, and regardless whether it is derived from or otherwise provided by another person that competes in the same market or a related market.

13.63.030 Use and sale of pricing algorithms prohibited.

A. It shall be unlawful to sell, license, or otherwise provide to city of Berkeley landlords any pricing algorithm that sets, recommends, or advises on rents or occupancy levels that may be achieved for residential dwelling units in the city of Berkeley.
B. It shall be unlawful for a landlord to use a pricing algorithm described in subsection A when setting rents or occupancy levels for residential dwelling units in the city of Berkeley. Each separate month that a violation exists or continues, and each separate residential dwelling unit for which the landlord used the pricing algorithm, shall constitute a separate and distinct violation.

13.63.040 Remedies.

A. The City Attorney may file a civil action for violations of section 13.63.030, subsections A and/or B, for damages, injunctive relief, restitution/return of illegal profits, and/or civil penalties of up to $1,000 per violation. The court shall award reasonable attorney's fees and costs to the city Attorney if the City Attorney is the prevailing party in such a civil action.
B. A tenant may file a civil action for violations of section 13.63.030, subsection B, for injunctive relief, money damages, and/or civil penalties of up to $1,000 per violation. The court shall award reasonable attorney's fees and costs to the tenant if the tenant is the prevailing party in such a civil action. A lease provision that limits a prevailing tenant from obtaining attorneys' fees shall not be enforceable against a tenant's claim for attorneys' fees that arises under this subsection 13.63.040 B.

13.63.050 Undertaking for the general welfare.

In enacting and implementing this Chapter 13.63, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

13.63.060 Severability.

If any part or provision of this Chapter, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

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 March 11, 2025, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Blackaby, Kesarwani, Lunaparra, O'Keefe, Taplin, Tregub, and Ishii.

Noes: Humbert.

Absent: None.

03

Office of the City Manager

CONSENT CALENDAR
March 25, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Minutes for Approval

RECOMMENDATION
Approve the minutes for the Council meetings of February 3, 2025 (closed), February 11, 2025 (special and regular), February 25 2025 (special and regular).

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

Attachments:
1. February 3, 2025 – Special Closed City Council Meeting
2. February 11, 2025 – Special City Council Meeting
3. February 11, 2025 – Regular City Council Meeting
4. February 25, 2025 – Special City Council Meeting
5. February 25, 2025 – Regular City Council Meeting

Attachment 1

BERKELEY CITY COUNCIL
SPECIAL MEETING MINUTES
MONDAY, FEBRUARY 3, 2025

4:00 P.M.

2180 MILVIA STREET, BERKELEY, CA 94702

ADENA ISHII, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – IGOR TREGUB
DISTRICT 5 – SHOSHANA O'KEEFE
DISTRICT 6 – BRENT BLACKABY
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.

*To access the meeting remotely use this URL: https://cityofberkeley-info.zoomgov.com/j/1612104626. 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: **161 210 4626**. 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.*

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Preliminary Matters

Roll Call: 4:02 p.m.

Present: Kesarwani, Taplin, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii

Absent: Bartlett

Public Comment - Limited to items on this agenda only – 0 speakers

CLOSED SESSION:

The City Council will convene in closed session to meet concerning the following:

1. **CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(2)**

   a. WCAB Matter: #ADJ16295740; Claim #BER2200103

      Action: M/S/C (Humbert/Tregub) to provide direction to outside counsel and approved a settlement by Compromise and Release without a release of future medical care, as to a workers' compensation matter #BER2200103 and a WCAB Case Number ADJ16295740 for $530,000.
      Vote: Ayes - Kesarwani, Taplin, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii; Noes – None; Abstain – None; Absent – Bartlett.

   b. WCAB Matter: #ADJ3710721; Claim #BER0100193

      Action: M/S/C (Humbert/Kesarwani) to provide direction to outside counsel and approved a settlement by Compromise and Release with a release of future medical care, as to a workers' compensation matter #BER0100193 and a WCAB Case Number ADJ3710721 for $85,000.
      Vote: Ayes - Kesarwani, Taplin, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii; Noes – None; Abstain – None; Absent – Bartlett.

2. **CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6**

   Negotiators: Paul Buddenhagen, City Manager, Tasha Tervalon, Deputy City Manager, Sharon Friedrichsen, Deputy City Manager, Aram Kouyoumdjian, Human Resources Director, Monica Walker, Human Resources Manager, Chaka Young, Employee Relations Manager

   Employee Organizations: Berkeley Fire Fighters Association Local 1227 I.A.F.F., Berkeley Fire Fighters Association, Local 1227 I.A.F.F. / Berkeley Chief Fire Officers Association; Berkeley Police Association; SEIU 1021 Community Services and Part-time Recreation Activity Leaders, SEIU 1021 Maintenance and Clerical, Public Employee Union Local 1, Unrepresented Employees

   Action: No reportable action taken.

OPEN SESSION:

The City Council met in closed session on February 3, 2025, Pursuant to Government Code Section 54956.9(d)(2) and provided directions to outside counsel and approved a settlement by Compromise and Release without a release of future medical care, as to a workers' compensation matter #BER2200103 and a WCAB Case Number ADJ16295740.

The City Council met in closed session on February 3, 2025, Pursuant to Government Code Section 54956.9(d)(2) and provided directions to outside counsel and approved a settlement by Compromise and Release with a release of future medical care, as to a workers' compensation matter #BER0100193 and a WCAB Case Number ADJ3710721.

Adjournment

Action: M/S/C (Ishii/Lunaparra) to adjourn the meeting.
Vote: Ayes - Kesarwani, Taplin, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii; Noes – None; Abstain – None; Absent – Bartlett.

Adjourned at 4:32 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on February 3, 2025.

_____
Mark Numainville, City Clerk

Attachment 2

MINUTES
SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

Tuesday, February 11, 2025
4:00 PM

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

ADENA ISHII, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – IGOR TREGUB
DISTRICT 5 – SHOSHANA O'KEEFE
DISTRICT 6 – BRENT BLACKABY
DISTRICT 7 – CECILIA LUNAPARRA
DISTRICT 8 – MARK HUMBERT

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Preliminary Matters

Roll Call: 4:08 p.m.

Present: Taplin, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii

Absent: Kesarwani, Bartlett

Councilmember Bartlett present at 4:19 p.m.

Councilmember Kesarwani present at 4:20 p.m.

Action Calendar – New Business

1a. Effective Mitigations for Berkeley's Ember Resilience (EMBER): Fire Code Amendments
From: City Manager
Recommendation: Provide feedback and direction on next steps for consideration or implementation of the following three proposals:
Proposal 1: Create a Berkeley Fire Zone 4 within the Fire Code to include – at minimum - the areas between Wildcat Canyon Rd. to the east, Grizzly Peak Blvd to the west, and the Berkeley City Limits to the south and north;
Proposal 2: Repeal the Berkeley Fire Code (BMC Chapter 19.48) and reenact BMC Chapter 19.48 to include an ember resistant "Zone Zero" and other defensible space best practices (Attachment 1) and schedule a Public Hearing for the first reading on March 25, 2025 pursuant to state law; and
Proposal 3: Research the Quantifying the Negative (QTN) approach, a methodology that measures the economic value of fire services by quantifying the losses it prevents and how it may be applied to quantify the value of the EMBER initiative, which staff would bring back to City Council no later than December 2025.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473

Action: 40 speakers. M/S/C (Blackaby/Humbert) to:
1. Refer Items 1a, 1b, and 1c to the City Manager for 1) additional public outreach; 2) consideration of feedback from the Council and the public; and 3) to refine the proposals and present them to the Council for adoption in March 2025 or as noted in the item.
2. Refer Item 1d to the City Manager as written in the recommendation.

Vote: All Ayes.

Action Calendar – New Business

1b. Effective Mitigations for Berkeley's Ember Resilience (EMBER): Building Code Amendments

From: City Manager

Recommendation: Staff will return to Council by the end of 2025 with a resolution for the triannual adoption of the existing Berkeley Building, Historical and Fire Codes that will be applicable to Berkeley Fire Zone 3 and 4. These amendments to the 2025 California Building Standards will strengthen defenses against ignition of structures from embers, radiant heat and direct flame impingement during wildfire. Staff seeks Council's input on this proposal and plan to return to Council at the end of 2025 with a resolution proposed for adoption that incorporates the Council's feedback.

The amendments may include but are not limited to requiring Class A roofs during partial replacement of non-compliant roof and roof structures, requiring replacement of combustible siding with California Building Code (CBC) Chapter 7A compliant siding during partial replacements, installation of metal gutters and screens, installation of Chapter 7A compliant vents or vent screens, replacement of combustible decks and fences with Chapter 7A compliant materials and design during partial replacement, and six inches of vertical separation measured from the ground to any combustible siding.

Because of the fiscal impact that some of this work will have for homeowners, staff plans to investigate Federal, State or Municipal programs that would provide incentives and loans for improvements to existing non-compliant homes that focus on the highest priority items, such as roof material, siding, decks, ember resistant vents, and a 6" vertical separation between the siding and the ground at the base of a home near the foundation.

Financial Implications: See report

Contact: David Sprague, Fire, (510) 981-3473

Action: See action listed under Item 1a.

1c. Effective Mitigations for Berkeley's Ember Resilience (EMBER): Leave Early and Fire Department Staffing

From: City Manager

Recommendation: Provide insights, feedback and input on two proposals below as well as desired next steps:

1. Proposal 1: Evaluate the thresholds for the City's Extreme Fire Weather designation and the National Oceanic and Atmospheric Administration's (NOAA) Particularly Dangerous Situation (PDS) designation, considering how use of each would impact the City's "Leave Early" concept. Staff propose returning to City Council no later than the 2nd week of May 2025; and
2. Proposal 2: Affirm City Council support for Fire Department staffing recommendations 1, 5, 6, and 10 from the Fire Department Standards of Coverage and Community Risk Assessment (SOC) study.

Financial Implications: See report

Contact: David Sprague, Fire, (510) 981-3473

Action: See action listed under Item 1a.

Action Calendar – New Business

1d. Request Inter-Departmental Collaboration and Implementation of Safe Passages
From: Councilmember Blackaby (Author), Councilmember Humbert (Co-Sponsor), Councilmember O'Keefe (Co-Sponsor)
Recommendation: Refer to the City Manager to direct the Departments of Public Works, Police and Fire to work collaboratively to implement Safe Passages Program – EMBER Initiative Phase 1 and 2 and report back to City Council on progress no later than the 2nd week of May 2025. This program will further facilitate responder ingress and community evacuation during wildfires by developing a plan to create and enforce no-parking zones in addition to existing 24/7/365 red curbs and no-parking zones during extreme fire weather conditions and/or the broader fire season.
Financial Implications: See report
Contact: Brent Blackaby, Councilmember, District 6, (510) 981-7160
Action: See action listed under Item 1a. Councilmember Taplin added as a co-sponsor in Supplemental Communications Packet #2 from Councilmember Blackaby.

Adjournment

Action: M/S/C (Taplin/Tregub) to adjourn the meeting.
Vote: All Ayes.

Adjourned at 6:23 p.m.

I hereby certify that the foregoing is a true and correct record of the City Council special meeting held on February 11, 2025.

_____
Mark Numainville, City Clerk

Communications

- None

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

Item #1a: Effective Mitigations for Berkeley's Ember Resilience (EMBER): Fire Code Amendments

1. Yen Trac
2. Gail Machlis
3. Janice Thomas
4. John E. Rosenthal
5. Leah Rosenthal
6. David Lerman

7. Sara Sanderson
8. Alfred Twu
9. Michel G. Thouati

Item #1d: Request Inter-Departmental Collaboration and Implementation of Safe Passages

10. Revised agenda material submitted by Councilmember Brent Blackaby

Supplemental Communications and Reports 3

Item #1a: Effective Mitigations for Berkeley's Ember Resilience (EMBER): Fire Code Amendments

Item #1b: Effective Mitigations for Berkeley's Ember Resilience (EMBER): Building Code Amendments

Item#1c: Effective Mitigations for Berkeley's Ember Resilience (EMBER): Leave Early and Fire Department Staffing

Item #1d: Request Inter-Departmental Collaboration and Implementation of Safe Passages

11. Presentation submitted by the Berkeley Fire Department
12. John S. Robey
13. Patrick Buechner
14. Caroline Winnett (2)
15. Susan and Roy Bogas
16. Frederique Wynberg and Thomas Hutcheson
17. Isabelle Gaston
18. Ruth Ehrenkrantz
19. Katie Johnson
20. Daniel Levine
21. Residents on Berkeley Hills
22. Marcus von Engel
23. David Lerman
24. Robin Kibby

Attachment 3

MINUTES

BERKELEY CITY COUNCIL MEETING

Tuesday, February 11, 2025
6:00 PM

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

ADENA ISHII, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – IGOR TREGUB
DISTRICT 5 – SHOSHANA O'KEEFE
DISTRICT 6 – BRENT BLACKABY
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Preliminary Matters

Roll Call: 6:50 p.m.

Present: Kesarwani, Taplin, Bartlett, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii

Absent: None

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:

1. Adjourn in Memory of the Stabbing Victim at San Pablo Park
2. Adjourn in Memory of Elise Lusk, Traffic Violence Victim at Ada Street and California Street
3. Adjourn in Memory of Gwen McNeal, Berkeley Community Member
4. Adjourn in Memory of Michael Burawoy, Retired UC Berkeley Professor

City Manager Comments: None

Public Comment on Non-Agenda Matters: 10 speakers.

Public Comment by Employee Unions: 1 speaker.

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: 30 speakers.

Action: M/S/C (Tregub/Humbert) to adopt the Consent Calendar in one motion except as indicated.
Vote: All Ayes.

Consent Calendar

1. Minutes for Approval
From: City Manager
Recommendation: Approve the minutes for the Council meetings of December 3, 2024 (closed, special, and regular), December 10, 2024 (special and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Approved the minutes as submitted.

2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 11, 2025
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: Various Funds - $848,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Approved recommendation.

3. Contract No. 32300108 Third Amendment: Street Level Advisors, LLC for Housing Consulting Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or designee to execute a third amendment to Contract No. 32300108 with Street Level Advisors, LLC increasing the contract by $180,000 for consulting services in a total amount not to exceed $379,500, with a contract end date of June 30, 2026.
Financial Implications: See report
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 71,659–N.S.

4. Program Manager II Classification: 5% Differential for Assignment in City Manager's Office
From: City Manager
Recommendation: Adopt a Resolution amending the Unrepresented Employee Manual to add a 5% salary differential to Program Manager II positions assigned to the City Manager's Office.
Financial Implications: See report
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800
Action: Adopted Resolution No. 71,660–N.S.

Consent Calendar

5. Contract No. 32000223 Amendment: Gray Quarter, Inc. for Accela Professional Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000223 with Gray Quarter, Inc. (Gray Quarter) for professional services, increasing the amount by $120,000, for a total not-to-exceed amount of $419,500 through January 31, 2026
Financial Implications: U1 Admin Fund - $120,000
Contact: Kevin Fong, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 71,661–N.S.

Council Consent Items

6. Resolution in Support of the Commissioning of a California Feasibility Study to Implement "Golden State Energy," a Not-for-Profit Public Utility Model
From: Councilmember Tregub (Author), Councilmember Lunaparra (Author)
Recommendation: Adopt a resolution in support of the allocation of state fiscal and staff resources to commission a feasibility study that compares various not-for-profit utility models prioritizing public benefits in energy generation, distribution, and transmission; the development an equitable implementation plan that establishes a statewide successor entity known as "Golden State Energy" as a successor to investor-owned utilities such as Pacific Gas and Electric; and transmittal of the Council's support of such a resolution to Governor Gavin Newsom, Senator Jesse Arreguín (SD7) and Assemblymember Buffy Wicks (AD14).
Financial Implications: See report.
Contact: Igor Tregub, Councilmember, District 4, (510) 981-7140
Action: Adopted Resolution No. 71,662–N.S. as revised in Supplemental Communications Packet #2 from Councilmember Tregub.

Action Calendar – New Business

7. Refer to City Manager study of intersections with traffic diverters
From: Councilmember Humbert (Author), Councilmember O'Keefe (Co-Sponsor), Councilmember Blackaby (Co-Sponsor)
Recommendation: Refer to the City Manager a request to have staff prioritize study of intersections that include traffic diverters but do not feature stop signs; additionally, staff are requested to review past Council referrals for adoption of National Association of City Transportation Officials (NACTO) street design standards and provide an update on the status and timeline for meeting past policy directives. Examples of intersections to be studied include but are not limited to: - Ada and California Street; - Grant Street and Berkeley Way; - Yolo and Milvia Street; - McGee and Virginia Street; - Derby and Mabel Streets; - Piedmont and Russell Street; - Hillegass and Woolsey Street; - Park and Russell Street; - Mabel and Russell Street.
Financial Implications: See report
Contact: Mark Humbert, Councilmember, District 8, (510) 981-7180
Action: Councilmember Tregub added as a co-sponsor. Approved recommendation as revised in Supplemental Communications Packet #2 from Councilmember Humbert.

Recess 8:06 p.m. – 8:18 p.m.

Action Calendar – New Business

8. 2009 Leases Audit Follow-Up: Berkeley Faces the Same Risks 16 Years Later
From: Auditor
Recommendation: Our recommendations include clarifying roles and responsibilities for lease oversight, updating the lease policy, and developing a complete central list of leases and licenses. We recommend City Council request that the City Manager report back during the next follow-up period in fall 2025, and every year thereafter, regarding the status of the 8 re-opened recommendations until reported fully implemented by the Public Works Department and City Manager's Office. They have agreed to our findings, re-opened recommendations, and guidance for implementing the recommendations. Please see our report for their complete response.
Financial Implications: See report
Contact: Jenny Wong, Auditor, (510) 981-6750
Action: 2 speakers. Presentation made and discussion held. M/S/C (Taplin/Blackaby) to approve the recommendation from the City Auditor.
Vote: All Ayes.

Action Calendar – New Business

9. Proposed Amendments to the Building Emissions Saving Ordinance (BESO)
From: City Manager
Recommendation: Adopt the first reading of amendments to the Building Emissions Saving Ordinance (BESO), Chapter 19.81 of the Berkeley Municipal Code, to establish a flexible resilience standard for small residential buildings containing up to four units.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400
Action: 17 speakers. M/S/C (Kesarwani/Blackaby) to: 1) adopt first reading of Ordinance No. 7,953-N.S. amended to establish the escrow deposit amount at $5,000; 2) refer the 50/50 buyer/seller split to the City Attorney for analysis; 3) refer to the City Manager to award six points for panel upgrades; and 4) request an evaluation report three years after implementation. Second reading scheduled for March 25, 2025.
Vote: All Ayes.

Report from Closed Session

The City Council met in closed session on February 3, 2025, Pursuant to Government Code Section 54956.9(d)(2) and provided direction to outside counsel and approved a settlement by Compromise and Release without a release of future medical care, as to a workers' compensation matter #BER2200103 and a WCAB Case Number ADJ16295740.

The City Council met in closed session on February 3, 2025, Pursuant to Government Code Section 54956.9(d)(2) and provided direction to outside counsel and approved a settlement by Compromise and Release with a release of future medical care, as to a workers' compensation matter #BER0100193 and a WCAB Case Number ADJ3710721.

Information Reports

10. FY 2024 Fourth Quarter Investment Report: Ended June 30, 2024
From: City Manager
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Received and filed.

11. LPO NOD: 1310 University Avenue/#LMSA2024-0001
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
Action: Received and filed.

12. LPO NOD: 2500-12 San Pablo Avenue/#LMIN2024-0004
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
Action: Received and filed.

Public Comment – Items Not Listed on the Agenda – 10 speakers.

Adjournment

Action: M/S/C (Humbert/Bartlett) to adjourn the meeting.
Vote: Ayes – Kesarwani, Bartlett, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii; Noes – None; Absent – Taplin.

Adjourned at 10:46 p.m.

I hereby certify that the foregoing is a true and correct record of the City Council regular meeting held on February 11, 2025.

_____
Mark Numainville, City Clerk

Communications

Item #7: Refer to City Manager study of intersections with traffic diverters
From: Councilmember Humbert (Author), Councilmember O'Keefe (Co-Sponsor), Councilmember Blackaby (Co-Sponsor)

1. David Lerman (2)
2. Shirley Kirsten
3. Sandra Sanchez
4. Mike Dunham
5. Aviv Nitsan
6. Charles Siegel
7. Helga Recke

Missing Middle

8. Caephran McKenna (2)

Civic Center

9. Leah Amzel
10. Nicole Herron
11. Kathi Pugh and Josh Maddox
12. Marnie Ganotis

UA Theater

13. Carol Denney
14. Melanie Lawrence and family
15. Laura Linden
16. Arlene Oweichik

Public Restroom Plans

17. Dr. Nicola Spence and Hans Reinhardt on behalf of Alpha Design Custom Furniture
18. Aimee Baldwin and Meryl Siegal
19. Carol Denney
20. Carol Crooks
21. Dirk

Planning Commission Meetings
22. Bernard Marszalek
23. Carol Denney

Protecting Berkeley
24. Elliot Peters

Fire Concerns
25. Jeffrey Heller
26. Leah and Rosenthal, Ellen Feingenbaum and Peter Schwab (2)
27. Yen Trac (2)
28. Anna Rabkin
29. Yelda Bartlett (2)
30. Jennifer Lombardi (2)
31. Samantha Johnston
32. Isabelle Gaston
33. Kris Hill

UC Berkeley Class
34. Igal Fridman
35. Mark Eckstein

Safety Concerns
36. David Lerman
37. Gina Rieger

Emergency Calls
38. Ory Sandel

Tedx Berkeley
39. Shreeya Julakanti

Community Conversations
40. Nigel

Chess Club
41. Jesse Sheehan (2)

Traffic Data
42. Margot Smith

Liability for Falling Trees
43. Jim Haydel

OLA at Berkeley Marina
44. Barbara Shayesteh

Speed Tables Treatments
45. Sandra Sanchez
46. Naveen Gattu

Strawberry Creek Park – Bike Parking
47. Mariah Lauritzen

Shattuck Ave Repairs
48. Liz Horowitz

Amtrak Parking
49. Kevin Mei (2)

2nd Street Encampment
50. Yesica Prado and Gordon Gilmore

7th Annual Galo Day Festival
51. Nes Marco Morales

Fireworks
52. Anne Herrick

Letter
53. Eid

Puppies on Center Street
54. Cash Levi Caris

Restaurant Park-lets
55. Martha Stackawicz

BACs STAIRS
56. Ann Marie Davis

Sidewalk Repair
57. Emerald Canary

Encampment Sweeps
58. Russell Bates

59. Nancy Halloran
60. Ellie Matejka
61. Rebecca Salsburg-Frank

Encampment Concern
62. Manasi Panditrao

Housing Choice Voucher
63. Hector91 Phuentes

Response to Request
64. Jack Kurzweil
65. Cindy Shamban

Fund Request
66. Henry DeNero

URL's
67. Russbumper (10)
68. Josh Atwood

Forwards
69. Russbumper

Supplemental Communications and Reports 1

Item #7: Refer to City Manager study of intersections with traffic diverters
From: Councilmember Humbert (Author), Councilmember O'Keefe (Co-Sponsor), Councilmember Blackaby (Co-Sponsor)
70. Arvil
71. Shirley Kirsten (4)
72. Riti Dhesi
73. Sandra Sanchez
74. David Lerman
75. Sperberstein
76. David Fielder
77. Becca Freed
78. Erik Fowle
79. Charles Siegel on behalf of Walk Bike Berkeley

Item #8: 2009 Leases Audit Follow-Up: Berkeley Faces the Same Risks 16 Years Later
80. Supplemental agenda material submitted by Jenny Wong, City Auditor

Item #9: Proposed Amendments to the Building Emissions Saving Ordinance (BESO)
81. Kiran Shenoy on behalf of the Bridge Association of Realtors
82. Ted Obbard
83. Tom Graly

84. Sam Fishman
85. Michael Roberts
86. John F. Arens

Supplemental Communications and Reports 2

Item #6: Resolution in Support of the Commissioning of a California Feasibility Study to Implement "Golden State Energy," a Not-for-Profit Public Utility Model

87. Revised agenda material submitted by Councilmember Tregub and Councilmember Lunaparra
88. Chris Hamilton
89. MaryAnn Furda
90. Margo Schueler
91. Emily Ross

Item #7: Refer to City Manager study of intersections with traffic diverters

92. Supplemental agenda material submitted by Councilmember Humbert, Councilmember O'Keefe, Councilmember Blackaby, and Councilmember Tregub
93. Samantha Swor
94. Holly Scheider
95. Marjorie Alvord
96. Charles Siegel

Item #9: Proposed Amendments to the Building Emissions Saving Ordinance (BESO)

97. Revised agenda material submitted by Councilmember Kesarwani
98. Mara Plotkin
99. Simon Black
100. Csilla Kenny
101. Albert Nahman
102. Josh Gutwill
103. Candace Hyde-Wang on behalf of the LWVBAE
104. Tom Lent
105. Ariella Granett
106. Bhima Sheridan
107. Christopher Polk
108. Taree Klausner
109. Veronica Tamsitt
110. Jeannette MacMillan
111. Frances C. Moore
112. Jane Scantlebury

Supplemental Communications and Reports 3

Item #6: Resolution in Support of the Commissioning of a California Feasibility Study to Implement "Golden State Energy," a Not-for-Profit Public Utility Model

113. Ashley McClure
114. Noel Forest

Item #9: Proposed Amendments to the Building Emissions Saving Ordinance (BESO)

115. Presentation submitted by the Office of Energy & Sustainable Development
116. Avi Shapiro
117. Bret Andrews
118. Alden Mudge
119. Alison LaBonte
120. Helena K. Liber
121. Julie Obbard
122. Erin Sherman
123. Barry Fike
124. Saundra Wolfe
125. Ben Gould

Miscellaneous

126. Rincon Consultants, Inc.

Attachment 4

MINUTES
SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

Tuesday, February 25, 2025
4:00 PM

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

ADENA ISHII, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – IGOR TREGUB
DISTRICT 5 – SHOSHANA O'KEEFE
DISTRICT 6 – BRENT BLACKABY
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/1608430091. 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: 160 843 0091**. 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 $500 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than $500 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: 4:17 p.m.

Present: Taplin, Bartlett, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii

Absent: Kesarwani

Worksession

1. **Berkeley Economic Dashboards Update**
   From: City Manager
   Contact: Eleanor Hollander, Economic Development, (510) 981-7530
   Action: 4 speakers. Presentation made and discussion held.

Adjournment

Action: M/S/C (Humbert/O'Keefe) to adjourn the meeting.
Vote: Ayes - Taplin, Bartlett, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii; Noes – None; Abstain – None; Absent – Kesarwani.

Adjourned at 5:27 p.m.

I hereby certify that the foregoing is a true and correct record of the City Council special meeting held on February 25, 2025.

_____
Rose Thomsen, Deputy City Clerk

Communications

- None

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

- None

Supplemental Communications and Reports 3

Item #1: Berkeley Economic Dashboards Update

1. Presentation submitted by the Office of Economic Development

Attachment 5

MINUTES

BERKELEY CITY COUNCIL MEETING

Tuesday, February 25, 2025
6:00 PM

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

ADENA ISHII, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – IGOR TREGUB
DISTRICT 5 – SHOSHANA O'KEEFE
DISTRICT 6 – BRENT BLACKABY
DISTRICT 7 – CECILIA LUNAPARRA
DISTRICT 8 – MARK HUMBERT

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Preliminary Matters

Roll Call: 6:02 p.m.

Present: Kesarwani, Taplin, Bartlett, Tregub, O'Keefe, Blackaby, Lunaparra, Humbert, Ishii

Absent: None

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: None.

City Manager Comments: None.

Public Comment on Non-Agenda Matters: 10 speakers.

Action: M/S/C (Tregub/Humbert) to accept an urgency item from Mayor Ishii pursuant to Government Code Section 54954.2(b)(2) entitled Additional 2025 Council Appointments.
Vote: All Ayes

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: 17 speakers.

Action: M/S/C (Taplin/Humbert) to adopt the Consent Calendar in one motion except as indicated.
Vote: All Ayes.

Consent Calendar

Urgent Item: Additional 2025 Council Appointments
From: Mayor Ishii (Author)
Recommendation: Adopt a Resolution approving a change in appointment to the 2x2 Partnership Committee, one change in appointment to the JPA Lead Abatement body, and on additional appointment to the AC Transit/Berkeley Interagency Liaison Committee, for a term ending on January 31, 2026 or until new appointments are made.
Financial Implications: None
Contact: Adena Ishii, Mayor, (510) 981-7100
Action: Adopted Resolution No. 71,663–N.S.

1. **Minutes for Approval**
   From: City Manager
   Recommendation: Approve the minutes for the Council meeting of January 21, 2025 (regular).
   Financial Implications: None
   Contact: Mark Numainville, City Clerk, (510) 981-6900
   Action: Approved the minutes as submitted.

2. **Grant Application: National Endowment for the Arts Grant ($150,000)**
   From: City Manager
   Recommendation: Adopt a Resolution authorizing the City Manager or their designee to submit a grant application to the National Endowment for the Arts (NEA) to receive up to $150,000 for a Civic Arts grant program, to accept the grant if awarded; and to execute any resulting grant agreements and any amendments. If received, the funds would support the Arts Programs Grant category and would be regranted to nonprofit organizations for arts and cultural programming within the City of Berkeley in Fiscal Year 2027.
   Financial Implications: See report
   Contact: Eleanor Hollander, Economic Development, (510) 981-7530
   Action: Adopted Resolution No. 71,664–N.S.

3. **Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 25, 2025**
   From: City Manager
   Recommendation: Approve the request for proposals or invitation for bids 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
   Action: Approved recommendation.

Consent Calendar

4. Contract: Forster & Kroeger Landscape Maintenance for Chipping Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or his designee to execute a contract and any amendments, with Forster & Kroeger Landscape Maintenance to provide Chipping Services for three years from March 1, 2025 until February 29, 2028 with the option to extend for two additional one-year terms in the amount not to exceed $1,400,000.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473
Action: Adopted Resolution No. 71,665–N.S.

5. Contract No. 32300185 Amendment: JSI Research & Training Institute, Inc. for Community Health Assessment, Innovation, and Improvement Plan Consultant
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or his designee to execute an amendment to Contract No. 32300185 with JSI Research & Training Institute, Inc increasing the contract by $25,000 to serve as a Community Health Assessment, Innovation, and Improvement Plan consultant for the City of Berkeley's Health, Housing, and Community Services Department (HHCS) in a total amount not to exceed $274,413 with a contract end date of November 1, 2025.
Financial Implications: See report
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 71,666–N.S.

6. Berkeley Police Association – Amendments to Retiree Medical Benefits
From: City Manager
Recommendation: Adopt a Resolution approving a side letter between the City of Berkeley and the Berkeley Police Association amending Sections 32.3, 32.5, and 32.6 of the City's Memorandum of Understanding (MOU) with the union to expand and clarify existing provisions that pertain to retiree health benefits.
Financial Implications: None
Contact: Monica Walker, Human Resources, (510) 981-6800
Action: Adopted Resolution No. 71,667–N.S.

7. ***Item Removed by the City Manager* Contract No. 32000118 Amendment: Nexgen Asset and Work Order Management Software Maintenance**
From: City Manager
Contact: Kevin Fong, Information Technology, (510) 981-6500

Consent Calendar

8. Contract No. 105921-1 Amendment: TruePoint Solutions, LLC for Professional Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or his designee to amend Contract No. 105921-1 with TruePoint Solutions, LLC for professional services, increasing the amount by $180,000, for a total not-to-exceed amount of $1,477,200 and extending the term by two years for the term beginning June 1, 2015 to June 30, 2027.
Financial Implications: See report
Contact: Kevin Fong, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 71,668–N.S.

9. Contract: Ashlar Structural LLC for Strawberry Creek Culvert Maintenance Project – Phase 1 (Specification No. 25-11689-C)
From: City Manager
Recommendation: Adopt a Resolution: 1. Approving plans and specifications for the Strawberry Creek Culvert Maintenance Project – Phase 1; and 2. Accepting the bid of Ashlar Structural LLC (Ashlar Structural) as the lowest, responsive and responsible bidder; and 3. Authorizing the City Manager or his designee to execute a contract and any amendments, extensions, or other change orders until completion of the project, in accordance with the approved plans and specifications in an amount not to exceed $4,544,232.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300
Action: Adopted Resolution No. 71,669–N.S.

10. Contract: Mark Lee and Yong Kay, Inc., DBA Bay Construction Co. for Fire Station #2 Improvements Project
From: City Manager
Recommendation: Adopt a Resolution: 1. Approving plans and specifications for Fire Station #2 Improvements (Project), Specification No. 23-11575-C; and 2. Accepting the bid of Mark Lee and Yong Kay, Inc., DBA Bay Construction Co. as the lowest, responsive and responsible bidder; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions, or change orders until the Project is completed in accordance with the approved plans and specifications for an amount not to exceed $1,104,000, which includes a contingency of $184,000.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300
Action: Adopted Resolution No. 71,670–N.S.

Consent Calendar

11. Contract No. 32500082 Amendment: Telegraph Property and Business Management Corporation
From: City Manager
Recommendation: Adopt a Resolution amending Contract No. 32500082 with the Telegraph Property and Business Management Corporation, commonly known as the Telegraph Business Improvement District, for the janitorial maintenance of the new 24 hour, 7 days a week (24/7), public restroom with a new not to exceed amount of $150,000 and extend the contract through June 30, 2026.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300
Action: Adopted Resolution No. 71,671–N.S.

12. Contract No. 32500098 Amendment: Pacific Site Management: Landscaping Services for Public Works Department
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32500098 with Pacific Site Management to increase the spending authority by $150,000 for a new total not to exceed of $300,000 and extend the contract through June 30, 2027.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300
Action: Adopted Resolution No. 71,672–N.S.

Council Consent Items

13. Supporting the Free and Safe Passage of Whales, Sea Turtles, and other Marine Animals in the San Francisco Bay Area's Coastal Waters and the State Of California's Vision Zero Target of Zero Mortality for Whales and Sea Turtles
From: Councilmember Lunaparra (Author), Councilmember O'Keefe (Co-Sponsor)
Recommendation: Adopt a resolution Supporting the Free and Safe Passage of Whales, Sea Turtles, and other Marine Animals in the San Francisco Bay Area's Coastal Waters and the State Of California's Vision Zero Target of Zero Mortality for Whales and Sea Turtles.
Financial Implications: None
Contact: Cecilia Lunaparra, Councilmember, District 7, (510) 981-7170
Action: Adopted Resolution No. 71,673–N.S.

Action Calendar – Public Hearings

14. Inclusionary Housing Ordinance In-Lieu Fee; Amending Berkeley Municipal Code Chapter 23.328
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion:
1. Adopt a Resolution setting the Inclusionary Housing in-lieu fee at $56.25 per square foot of the Residential Unit Floor Area (RUFA) of a Housing Development Project; and
-Include a provision in the resolution to allow a project paying the full in-lieu fee instead of providing Affordable Units to deduct 5,000 square feet from the RUFA calculation in order to continue to exempt projects under 5,000 square feet in full and proportionally reduce the fee for projects above 5,000 square feet; and
-Include a provision in the resolution dedicating 80% of very low-income Units for Section 8 and Shelter Plus Care voucher holders; and
-Include a provision in the resolution to adjust the fee biennially by the Construction Cost Index (CCI) starting on July 1, 2025; and
2. Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 23.328 (F) to remove the exemption for projects with 5,000 square feet or less of RUFA.
Financial Implications: See report
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

Public Testimony: The Mayor opened the public hearing. 7 speakers.
M/S/C (Humbert/Tregub) to close the public hearing.
Vote: All Ayes.

Action: M/S/C (Lunaparra/Kesarwani) to:
1. Adopt Resolution No. 71,674–N.S.
2. Adopt first reading of Ordinance No. 7,954–N.S. Second reading scheduled for March 11, 2025.
3. Refer to staff and the City Attorney's Office an economic and legal analysis of extending the in-lieu fee to 2,500 - 5,000 square foot detached single-unit dwellings per one parcel and return with a recommendation to Council as part of the biennial adjustments report.
4. Conduct an economic feasibility study within three years of Middle Housing zoning amendments and in lieu fees.
Vote: All Ayes.

Recess 8:20 p.m. – 8:35 p.m.

Action Calendar – Public Hearings

15. Zoning Ordinance Amendments to Title 23 of the Berkeley Municipal Code for Consistency with State Law Related to Electric Vehicle Charging and Technical Edits

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt the first reading of an Ordinance amending the following sections of the Zoning Ordinance to align the Berkeley Municipal Code (BMC) with state law related to electric vehicle charging, as well as additional non-substantive edits and corrections:
-23.106.020 Lot Coverage
-23.106.080 Building Separation
-23.202.020 Allowed Land Uses (Residential Districts)
-23.204.020 Allowed Land Uses (Commercial Districts)
-23.204.090 C-NS North Shattuck Commercial District
-23.204.100 C-SA South Area Commercial District
-23.204.130 C-DMU Downtown Mixed-Use District
-23.204.140 C-W West Berkeley Commercial District
-23.204.150 C-AC Adeline Corridor Commercial District
-23.206.020 Allowed Land Uses and Permit Requirements (Manufacturing Districts)
-23.206.040 Use-Specific Regulations (Manufacturing Districts)
-23.206.050 Protected Uses (Manufacturing)
-23.302.070 Use-Specific Regulations (Supplemental Use Regulations)
-23.306.010 Purpose (Accessory Dwelling Units)
-23.306.030 Development Standards (Accessory Dwelling Units)
-23.306.040 Permit Procedures (Accessory Dwelling Units)
-23.310.020 General Requirements Excluding Incidental Beer and Wine
-23.310.030 Alcohol Beverage Standards When Incidental to Food Service
-23.322.030 Required Parking Spaces
-23.322.080 Parking Layout and Design
-23.334.030 Transportation Demand Management Program Requirements
-23.502.020 Defined Terms (Glossary)
Financial Implications: None
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Public Testimony: The Mayor opened the public hearing. 0 speakers.
M/S/C (Tregub/Humbert) to close the public hearing.
Vote: All Ayes.

Action: M/S/C (Tregub/Humbert) to adopt first reading of Ordinance No. 7,955–N.S. Second reading scheduled for March 11, 2025.
Vote: All Ayes.

Information Reports

16. Community Health Assessment Report
From: City Manager
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400
Action: Received and filed.

Public Comment – Items Not Listed on the Agenda - 5 speakers.

Adjournment

Action: M/S/C (Humbert/Taplin) to adjourn the meeting.
Vote: All Ayes.

Adjourned at 8:52 p.m.

I hereby certify that the foregoing is a true and correct record of the City Council regular meeting held on February 25, 2025.

_____
Rose Thomsen, Deputy City Clerk

Communications

Civic Center
1. Bhima Sheridan
2. Rebecca Levenson
3. John Craner, Albert Chan, Martin Bourque, Ann Harlow, David Flores, and J.K. Fowler
4. Samantha Johnston (2)
5. Rosemary Hardy
6. Megan Bates
7. Stacey Zolt Hara
8. Julie Elis (3)
9. Nicole Herron
10. Daniel Korson
11. Jeff Vincent
12. Michelle Mascarenhas
13. Jennifer Ito
14. Ken Lim
15. Nirav Bisarya
16. Abby Cook
17. Elise Proulx

Cesar Chavez Park
18. Jennifer Chinlund
19. Alexis

20. Sherry Shannon
21. Catherine Mattison
22. Alexis Frasz
23. Camille Watts-Zagha
24. David Rice
25. Joyce Freedman
26. Lynda Vigil
27. Noah Guyunn
28. Molly Van Der Molen
29. Isabel Choi and Igor Ranitovic
30. Lesley Fernow
31. Whitney K. Taylor
32. Michael Ciarleglio
33. Micky Duxbury
34. Andrea Fernandes
35. Mason Scharf
36. Gillian Scharff
37. Kellie Gan
38. Lauren Kaneko-Jones
39. Steve Kemnitz
40. David Tepper
41. Hannah Meara
42. Maureen Fitzgerald
43. Jennifer Chou
44. Scott Willson
45. Tanya Johnson
46. Kathy Gee

Fire Concerns
47. Brent Blackaby
48. Rachel Bradley
49. George Tharisayi
50. Jacques Watteyne and Ellen Archilla
51. Ruth Langridge

8th and Harrison Encampment
52. Moni T. Law
53. Summer Brenner
54. Elana Auerbach
55. Yesica Prado on behalf of the Berkeley Homeless Union

Treasury Department
56. Kellie Stoddart (2)

Draft Bicycle Plan
57. Jim McGrath (2)

58. Charles Siegel
59. Wahid Amiri

Safety Concern
60. Carl Martineau

Berkeley Restaurant Week
61. Jeffrey Church

Flood Zone
62. Inetjalopy

Berkeley Properties
63. Eids TV

Community Mural
64. Angelina Record

Auditor Report
65. Steve Lipson

Middle Class
66. Tillymaui

Request for Targeted Strategic Action
67. Henry DeNero

MLK Safety Concern
68. Matthew Lewis

Chess Club
69. Jesse Sheehan

Round Park Letter
70. Andy Robson and the residents of Parkside Drive (2)

Planning Commission Meetings
71. Carol Denney

California Civilians
72. Director of Security

Letter
73. Eids TV

Cannabis Policies

74. Alisa A. Padon, Aurush J. Soroosh, Lynn Silver, Kiara Gonzalez Garcia, and Ryan Whitacre on behalf of the Getting it Right from the Start

Pedestrian Safety
75. Nadine Simons

Measure FF
76. Lisa Chow on behalf of Berkeleyans for Accessible Rights-of-Way

Zone Zero Fines
77. Isabelle Gaston (2)

UC Berkeley Class
78. Eli and Nava Marmur

Middle East Conflict
79. Nanette Lashuay
80. Suzanna Loper

Escrow Deposit
81. Oren (2)

Council Meeting Concern
82. Ben Buettner

SSBPPE Commission
83. Roberto Terrones on behalf of the Sugar-Sweetened Beverage Product Panel of Experts Commission

Electric Scooters
84. Robert Byler
85. Steven Schuyler
86. Gregory Kalkanis

City Tree Planting
87. Stephen Rosenbaum

Golden Gate Fields Inquiry
88. Roger Hooks

Private Citizen
89. Jeff W. (2)

Ohlone Greenway
90. Clifford Fred

Housing Concern
91. Bingo Fantasy Football (8)

Legal Education
92. Fatima Martos

Survey
93. John Craner

High Fire Area Workshops
94. Molly Brown

Forwards
95. Barbara Gilbert (2)
96. Russbumper (2)

Screenshots
97. Josh Atwood (2)

URL's
98. Russbumper (3)

Public Toilets
99. Heike Helmer

2138 Kittredge St.
100. Fatema Crane
101. Carol A. Bagshawe

Supplemental Communications and Reports 1

Item #15: Zoning Ordinance Amendments to Title 23 of the Berkeley Municipal Code for Consistency with State Law Related to Electric Vehicle Charging and Technical Edits
102. James M. Lloyd on behalf of the California Housing Defense Fund ("CalHDF")

Supplemental Communications and Reports 2

- None

Supplemental Communications and Reports 3

Urgency Item: Additional 2025 Council Appointments
103. Urgency item submitted by Mayor Ishii

Item #13: Supporting the Free and Safe Passage of Whales, Sea Turtles, and other Marine Animals in the San Francisco Bay Area's Coastal Waters and the State Of California's Vision Zero Target of Zero Mortality for Whales and Sea Turtles

104. Ben Grundy on behalf of the California Institute or Biodiversity, Center for Biological Diversity, Clean Earth 4 Kids, and the Natural Resources Defense Council
105. Fabiola Delgado on behalf of the Center for Biological Diversity supporters

Item #14: Inclusionary Housing Ordinance In-Lieu Fee; Amending Berkeley Municipal Code Chapter 23.328

106. Presentation submitted by the Health, Housing, & Community Services Department

Item #15: Zoning Ordinance Amendments to Title 23 of the Berkeley Municipal Code for Consistency with State Law Related to Electric Vehicle Charging and Technical Edits

107. Presentation submitted by Robert Rivera on behalf of the Planning & Development Department

Miscellaneous

108. Steve Tracy

Internal

04

Office of the City Manager

CONSENT CALENDAR
March 25, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on March 25, 2025

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 **$6,575,000**

PROJECT	Fund	Source	Amount
South Berkeley Bikeway and Bus Stop Improvements	306 134 306 134	PROF SVCS – MISC.	$3,740,000
T1 Phase 2 Bollard Conversion and Infrastructure Improvement Project	511 501 616 127 133 134		$2,835,000
Total:			**$6,575,000**

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 Walia-Soorma, Senior Buyer, Finance, 510-981-7311

Attachments:

1. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance
   a. South Berkeley Bikeway and Bus Stop Improvements
   b. T1 Phase 2 Bollard Conversion and Infrastructure Improvement Project

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
25-11716-C	South Berkeley Bikeway and Bus Stop Improvements City Project Nos.: PWTRBP2205 & PWTRCS2202	2/20/2025	3/20/2025	Construction of Class 3 bikeway on Fulton, Prince, Wheeler, and Woolsey Streets connecting the Southside neighborhood to the Ashby BART station. Intersection safety improvements at MLK/Prince (PHB), Adeline/Woolsey (RRFB), Woolsey/Prince (RRFB), Wheeler/Prince (traffic circle), Fulton/Oregon (traffic circle), Adeline/Russell (RRFB), and Shattuck/Russell (PHB). Bus stop improvements at Shattuck/Ashby, MLK/Prince, and Shatuck/Woolsey.	$3,740,000 (includes 10% constr. contingency) $1,800,000 $1,123,414 $540,000 $276,586	306-54-622-668-0000-000-431-665110 (PWTRBP2205) 134-54-622-668-0000-000-431-665110 (PWTRBP2205) 306-54-622-668-0000-000-431-665110 (PWTRCS2202) 134-54-622-668-0000-000-431-665110 (PWTRCS2202)	Public Works - Transportation	Jesse Peoples 981-6449 Ken Jung 981-7028
25-11717-C	T1 Phase 2 Bollard Conversion and Infrastructure Improvement Project	4/15/2025	5/13/2025	Converting traffic bollards to green infrastructure. Improvement work on various existing retaining walls, sidewalk gap improvements, repair of University bridge deck	$2,835,000	511-54-623-673-0000-000-431-665110-PWT1ST2202; $97,000 501-54-623-673-0000-000-431-665110-PWT1ST2202; $384,400 616-54-623-675-0000-000-473-665120-PWENRW2301 $240,000 127-54-623-673-0000-000-431-665110-PWT1ST2202; $200,000 133-54-623-673-0000-000-431-665110-PWT1ST2202; $135,227 134-54-623-673-0000-000-431-665110-PWT1ST2202; $1,644,154 149-54-623-674-0000-000-431-665110-PWT1ST2202; $134,219	Public Works/ Engineering	Terrence Salonga 981-6447 Ron Nevels 981-6439
Dept Total					**$2,835,000**			
TOTAL					**$6,575,000**			

Office of the City Manager

CONSENT CALENDAR
March 25, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Kevin Fong, Director, Information Technology

Subject: Contract No. 32000118 Amendment: NEXGEN Asset and Work Order Management Software Maintenance

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000118 with NEXGEN Asset Management to provide additional funding for software maintenance and professional services, increasing the amount by $1,123,457, for a total not-to-exceed amount of $2,830,366 through June 30, 2029.

FISCAL IMPACTS OF RECOMMENDATION

Funding for FY 25 through FY 29 software maintenance are available in the Public Works and Parks, Recreation and Waterfront funds as itemized below. Any future expenditures are subject to Council approval of the proposed citywide budget and Annual Appropriations Ordinances.

Software Maintenance:

	Funding Source	**Budget Code**	
FY 2025			**$185,220**
	Public Works Department Tech Svcs – Software Maint Fund	142-54-624-694-3018-000-426-612990- 601-54-625-714-0000-0000-472-612990- 611-54-621-654-0000-000-472-612990- 616-54-625-713-0000-000-472-612990- 673-54-624-692-0000-000-472-612990- 134-54-625-715-0000-000-431-612990-	$148,176
	Parks Tax, PRW, Software Maintenance	138-52-541-598-0000-000-461-613130	$37,044
FY 2026			**$294,481**

	Public Works Department Tech Svcs – Software Maint Fund	142-54-624-694-3018-000-426-612990- 601-54-625-714-0000-0000-472-612990- 611-54-621-654-0000-000-472-612990- 616-54-625-713-0000-000-472-612990- 673-54-624-692-0000-000-472-612990- 134-54-625-715-0000-000-431-612990-	$155,585
	Parks Tax, PRW, Software Maintenance	138-52-541-598-0000-000-461-613130	$38,896
	Public Works – Ongoing training, support, and Contractors Portal	142-54-624-694-3018-000-426-612990- 601-54-625-714-0000-0000-472-612990- 611-54-621-654-0000-000-472-612990- 616-54-625-713-0000-000-472-612990- 673-54-624-692-0000-000-472-612990- 134-54-625-715-0000-000-431-612990-	$100,000
FY 2027			**$204,205**
	Public Works Department Tech Svcs – Software Maint Fund	142-54-624-694-3018-000-426-612990- 601-54-625-714-0000-0000-472-612990- 611-54-621-654-0000-000-472-612990- 616-54-625-713-0000-000-472-612990- 673-54-624-692-0000-000-472-612990- 134-54-625-715-0000-000-431-612990-	$163,364
	Parks Tax, PRW, Software Maintenance	138-52-541-598-0000-000-461-613130	$40,841
FY 2028			**$214,415**
	Public Works Department Tech Svcs – Software Maint Fund	142-54-624-694-3018-000-426-612990- 601-54-625-714-0000-0000-472-612990-	$171,532

		611-54-621-654-0000-000-472-612990- 616-54-625-713-0000-000-472-612990- 673-54-624-692-0000-000-472-612990- 134-54-625-715-0000-000-431-612990-	
	Parks Tax, PRW, Software Maintenance	138-52-541-598-0000-000-461-613130	$42,883
FY 2029			**$225,136**
	Public Works Department Tech Svcs – Software Maint Fund	142-54-624-694-3018-000-426-612990- 601-54-625-714-0000-0000-472-612990- 611-54-621-654-0000-000-472-612990- 616-54-625-713-0000-000-472-612990- 673-54-624-692-0000-000-472-612990- 134-54-625-715-0000-000-431-612990-	$180.109
	Parks Tax, PRW, Software Maintenance	138-52-541-598-0000-000-461-613130	45,027
Total Software Maintenance			**$1,123,457**

CURRENT SITUATION AND ITS EFFECTS

The departments of Public Works and Parks, Recreation and Waterfront use NEXGEN's Asset and Work Order management system to perform all maintenance and asset management for the City. Implemented in 2021, NEXGEN streamlines the work order process, makes services more accessible, and replaces paper-based processes with workflow automation and mobile technology. City staff use custom reports to gain in-depth insights for informed decision making and leverage City specific end user guides to provide an improved user experience, efficient onboarding, and technical accuracy. The City continues to partner with the vendor to further enhance the system with high-quality guidelines and standards. The City seeks additional funding to pay for year 4 through year 8 software maintenance.

NEXGEN advances the City's strategic goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

The City's previous work order and maintenance management systems (FUND$, Accela, and Verint) were antiquated and inadequate to perform proper maintenance of City assets

and retrieve information needed to comply with mandated reporting requirements and internal performance measures. These systems were not well integrated, lacked digital field communications, and could not provide effective fiscal management and data analytics typically offered by a modern Computerized Maintenance Management System/Enterprise Asset Management (CMMS/EAM) system. The situation led to inefficiencies in business workflow, delayed community response times, and limited reporting and analysis required to manage City assets effectively.

On October 23, 2018, the City issued Request for Proposals (RFP) #19-11259-C for an improved CMMS/EAM System based upon business analysis completed by the Departments of Parks, Recreation and Waterfront, Public Works and Information Technology in partnership with ThirdWave Corporation.

The City received seven (7) responses to the CMMS/EAM System RFP by the December 18, 2018 deadline. A committee of 12+ staff from the Parks, Recreation & Waterfront, Public Works, and Information Technology departments conducted a comprehensive evaluation process that included proposal reviews, vendor demonstrations, and reference checks. Staff selected NEXGEN Asset Management as presenting the most comprehensive, user-responsive, and effective solution for the City's current and future work order and asset management needs.

In 2019, with Council approval, the City entered into a contract agreement (No. 32000118) with NEXGEN Asset Management to provide the new work order and asset management software. In November 2021, the software went live.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

An improved system, with greater efficiency, lessens the number of trips field employees have to visit a site to address an issue which reduces greenhouse gas emissions associated with travel time. This reduces the City's carbon footprint and supports the goals of the City's Climate Action Plan. Further, the mobile application capability of the new CMMS/EAM system eliminates the use of paper previously used by virtually all field staff thus working towards the City's goal of achieving zero waste to landfills.

RATIONALE FOR RECOMMENDATION

Software maintenance is required. Further, NexGen has provided prompt resolution for issues and requests and will continue to provide ongoing support and maintenance for the system.

ALTERNATIVE ACTIONS CONSIDERED

None. City staff do not recommend using this enterprise software without software support and maintenance.

CONTACT PERSON

Kevin Fong, Director, Information Technology, 510-981-6541

Attachments:
1: Resolution

Public

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

CONTRACT NO. 32000118 AMENDMENT: NEXGEN ASSET AND WORK ORDER MANAGEMENT SOFTWARE MAINTENANCE

WHEREAS, the City of Berkeley has identified the need to improve the efficiency of its asset management and work order processes; and

WHEREAS, on October 23, 2018, the City of Berkeley issued Request for Proposal No. 19-11259-C for an improved computerized maintenance management system & enterprise asset management system and received seven bids; and

WHEREAS, in response to the City's Request for Proposal, NEXGEN Asset Management responded with a proposal that was rated as the highest response submitted by competing vendors; and

WHEREAS, on June 11, 2019, by Resolution No. 68,948 - N.S., the Council approved a contract (No. 32000118) with NEXGEN Asset Management for software hosting, implementation, maintenance and related services, for an amount not to exceed $1,017,509; and

WHEREAS, on January 31, 2023, by Resolution No. 70,677 - N.S., the Council approved a contract amendment (No. 32000118) with NEXGEN Asset Management for software maintenance and professional services related, for an amount not to exceed $1,706,909; and

WHEREAS, funding for this recommendation will be provided by the FY 2025, 2026, 2027, 2028, and 2029 Public Works, Parks, Recreation & Waterfront Software Maintenance and Parks Tax funds, and spending for this contract and related amendments in future fiscal years is subject to Council's approval of the proposed city-wide budget and annual appropriation ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 32000118 with NEXGEN Asset Management for additional funding, increasing the amount by $1,123,457, for a total not-to-exceed amount of $2,830,366 for software maintenance through June 30, 2029.

06

Office of the City Manager

CONSENT CALENDAR
March 25, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

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

Subject: Contracts: On-Call Landscape Architectural Services for Capital Improvement Projects

RECOMMENDATION

Adopt five Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call landscape architectural services for capital improvement projects, for contract periods of May 1, 2025 through April 30, 2028:

1. Carducci & Associates, Inc., for an amount not to exceed $450,000.
2. Moore Iacofano Goltsman, Incorporated (MIG, Inc.), for an amount not to exceed $450,000.
3. PGAdesign, Inc., for an amount not to exceed $450,000.
4. Royston Hanamoto Alley & Abey (RHAA), for an amount not to exceed $450,000.
5. RRM Design Group, for an amount not to exceed $450,000.

FISCAL IMPACTS OF RECOMMENDATION

Initial funding for the on-call contracts is available in the Fiscal Year (FY) 2025 budget, as follows:

Parks Tax Fund:	138-52-545-000-0000-000-461-612320	$85,000
Measure T1 Fund:	511-52-545-000-0000-000-461-612320	$170,000

Funding for FY 2026 through FY 2029 is project-based, subject to appropriation in the capital improvement budget and will be identified as projects arise.

CURRENT SITUATION AND ITS EFFECTS

The City has used consultants in the past to design and manage projects to supplement City staff. These include situations where the nature of the work is specialized such as landscape architectural design, architectural design, electrical design, mechanical design, structural engineering, permitting, construction administration, inspections, and commissioning of systems. On-call consultants have also allowed the City to meet tight

schedules when short-term work needs to be performed. On-call contracts will provide design and consulting services when needed and not expose the City to the long-term burden of hiring additional staff and creating significant overhead.

BACKGROUND

Requests for Qualifications (RFQ) were issued on July 12, 2024 seeking qualified firms or individuals to provide on-call landscape architectural services for capital improvement projects. As of the due date of August 27, 2024, the City received fifteen proposals from landscape architectural firms. A panel of City staff reviewed the proposals and reviewed, evaluated, and ranked the firms according to the criteria in the RFQ. After evaluation by the review panel, Carducci & Associates, MIG, PGAdesign, RHAA, and RRM Design Group were selected as the best qualified to provide these services.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Consultants and City staff evaluate water and energy efficiency upgrade opportunities during the design of improvement and renovation projects. Improving City facilities and reducing water and energy consumption is consistent with the City's Climate Action Plan goals.

RATIONALE FOR RECOMMENDATION

The teams assembled by Carducci & Associates, MIG, PGAdesign, RHAA, and RRM Design Group are highly qualified. They have particular expertise in site analysis, landscape design, community process, construction documentation, project management, and project support.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director, Parks, Recreation & Waterfront, 981-6711
Evelyn Chan, Supervising Civil Engineer, Public Works, 981-6430

Attachments:
1: Resolution for contract with Carducci & Associates, Inc.
2: Resolution for contract with MIG, Inc.
3: Resolution for contract with PGAdesign, Inc.
4: Resolution for contract with RHAA
5: Resolution for contract with RRM Design Group

RESOLUTION NO.:-N.S.

CONTRACT: CARDUCCI & ASSOCIATES, INC. FOR ON-CALL LANDSCAPE ARCHITECTURAL SERVICES FOR CAPITAL IMPROVEMENT PROJECTS

WHEREAS, on July 12, 2024, the City released a Request for Qualifications (Specification No. 24-11667-C) seeking firms or individuals to provide on-call landscape architectural services for capital improvement projects; and

WHEREAS, as of August 27, 2024, the City received fifteen submissions, which were reviewed and ranked according to the criteria in the Request for Qualifications; and

WHEREAS, based on the results of the rating of the submission, Carducci & Associates, Inc. has been found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with Carducci & Associates, Inc. for on-call landscape architectural services for capital improvement projects for the contract period of May 1, 2025 through April 30, 2028 in an amount not to exceed $450,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

RESOLUTION NO.:-N.S.

CONTRACT: MOORE IACOFANO GOLTSMAN, INCORPORATED (MIG, INC.) FOR ON-CALL LANDSCAPE ARCHITECTURAL SERVICES FOR CAPITAL IMPROVEMENT PROJECTS

WHEREAS, on July 12, 2024, the City released a Request for Qualifications (Specification No. 24-11667-C) seeking firms or individuals to provide on-call landscape architectural services for capital improvement projects; and

WHEREAS, as of August 27, 2024, the City received fifteen submissions, which were reviewed and ranked according to the criteria in the Request for Qualifications; and

WHEREAS, based on the results of the rating of the submission, MIG, Inc. has been found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with MIG, Inc. for on-call landscape architectural services for capital improvement projects for the contract period of May 1, 2025 through April 30, 2028 in an amount not to exceed $450,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

RESOLUTION NO.:-N.S.

CONTRACT: PGADESIGN, INC. FOR ON-CALL LANDSCAPE ARCHITECTURAL SERVICES FOR CAPITAL IMPROVEMENT PROJECTS

WHEREAS, on July 12, 2024, the City released a Request for Qualifications (Specification No. 24-11667-C) seeking firms or individuals to provide on-call landscape architectural services for capital improvement projects; and

WHEREAS, as of August 27, 2024, the City received fifteen submissions, which were reviewed and ranked according to the criteria in the Request for Qualifications; and

WHEREAS, based on the results of the rating of the submission, PGAdesign, Inc. has been found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with PGAdesign, Inc. for on-call landscape architectural services for capital improvement projects for the contract period of May 1, 2025 through April 30, 2028 in an amount not to exceed $450,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

RESOLUTION NO.:-N.S.

CONTRACT: ROYSTON HANAMOTO ALLEY & ABEY (RHAA) FOR ON-CALL LANDSCAPE ARCHITECTURAL SERVICES FOR CAPITAL IMPROVEMENT PROJECTS

WHEREAS, on July 12, 2024, the City released a Request for Qualifications (Specification No. 24-11667-C) seeking firms or individuals to provide on-call landscape architectural services for capital improvement projects; and

WHEREAS, as of August 27, 2024, the City received fifteen submissions, which were reviewed and ranked according to the criteria in the Request for Qualifications; and

WHEREAS, based on the results of the rating of the submission, RHAA has been found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with RHAA for on-call landscape architectural services for capital improvement projects for the contract period of May 1, 2025 through April 30, 2028 in an amount not to exceed $450,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

RESOLUTION NO.:-N.S.

CONTRACT: RRM DESIGN GROUP FOR ON-CALL LANDSCAPE ARCHITECTURAL SERVICES FOR CAPITAL IMPROVEMENT PROJECTS

WHEREAS, on July 12, 2024, the City released a Request for Qualifications (Specification No. 24-11667-C) seeking firms or individuals to provide on-call landscape architectural services for capital improvement projects; and

WHEREAS, as of August 27, 2024, the City received fifteen submissions, which were reviewed and ranked according to the criteria in the Request for Qualifications; and

WHEREAS, based on the results of the rating of the submission, RRM Design Group has been found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with RRM Design Group for on-call landscape architectural services for capital improvement projects for the contract period of May 1, 2025 through April 30, 2028 in an amount not to exceed $450,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

07

Office of the City Manager

CONSENT CALENDAR
March 25, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

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

Subject: Adopt a Mitigated Negative Declaration for the Tom Bates Regional Sports Complex Restroom and Community Space Project

RECOMMENDATION

Adopt a Resolution adopting the Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Plan (MMRP) for the Tom Bates Regional Sports Complex Restroom and Community Space Project.

FISCAL IMPACTS OF RECOMMENDATION

There are no direct fiscal impacts associated with the adoption of mitigated negative declaration environmental documents. The Mitigated Negative Declaration for the Tom Bates Regional Sports Complex Restroom and Community Space Project was prepared by TranSystems, Inc. under contract number 32000263. Funding for the engineering and environmental consulting services from TranSystems, Inc. was appropriated in FY 2023 Measure T1, Phase 2 (Fund 511).

CURRENT SITUATION AND ITS EFFECTS

In August of 2022, the City retained TranSystems, Inc. to prepare the Initial Study / Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Plan (MMRP) environmental documents to assess the environmental impacts of the proposed restrooms and community space improvements at the Tom Bates Regional Sports Complex facility as required by the California Environmental Quality Act (CEQA). The MND determined that the project will have less than significant environmental impacts if mitigation measures identified in the MND are implemented. The specific mitigation measures are shown in the attached Final Initial Study / Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan.

On November 6, 2024, the Draft MND was distributed to the State Clearinghouse, all regulatory agencies having jurisdiction over the Project, interested stakeholders and members of the public for the required 30-day public review period ending on December 7, 2024, as required by CEQA. On November 13, 2024, the MND was presented at the regular meeting of the Parks, Recreation and Waterfront Commission. During the 30-day public review period, a total of 42 written comment letters from both agencies and members of the public were received. The Draft MND published on State Clearinghouse

website along with the Notice of Intent (NOI) and the Notice of Completion (NOC) and can be accessed through the following link: https://ceqanet.opr.ca.gov/2024110156.

On November 6, 2024, the City also recorded the Draft IS/MND at the Alameda County Clerk-Recorder's Office, located at 1106 Madison St, Oakland, CA 94607.

BACKGROUND

The Tom Bates Regional Sports Complex, located at 400 Gilman Street was completed in 2008, and is one of the most highly used public sports complexes in the region. The master plan for the Tom Bates Fields includes a fieldhouse and restroom; however, these elements have not been constructed-to-date due to insufficient funding, and therefore the City currently provides portable toilets at the facility. In 2019, the City completed the conceptual plan for the new fieldhouse and restroom in collaboration with the field user groups and the five Joint Powers Agreement cities (Albany, Berkeley, El Cerrito, Emeryville, and Richmond), using Measure T1 infrastructure bond funding. The project will also convert the vacant north field into a youth soccer field, with a plaza and stairway entrance, and six pickleball courts. In August of 2022, the City retained TranSystems, Inc. to prepare final design including construction documents, and prepare applicable permitting and CEQA environmental documents.

The total Project budget estimate is approximately $8 Million, which includes planning, design, permitting, environmental review, and construction. The Project is being funded by Measure T1 Phase 2, General Fund and Parks Tax. The City currently anticipates beginning construction in the Fall of 2025, with a goal to complete construction by end of 2026.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Mitigated Negative Declaration for the proposed project contains a comprehensive environmental assessment of the project. The assessment determined that the Project will have a less-than significant impact on the environment if the City implements specific mitigation measures. The Mitigation, Monitoring and Reporting Plan includes detailed roles, responsibilities, and methods for implementing and documenting compliance with the mitigation measures.

RATIONALE FOR RECOMMENDATION

The adoption of the Mitigated Negative Declaration for the proposed Tom Bates Regional Sports Complex Restroom and Community Space Project will allow the City to move into the bidding phase of the Project in May, 2025. The approval of project and award of construction contract will take place at a Council Meeting in July, 2025.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director, 510-981-6700
Nelson Lam, Supervising Civil Engineer, PRW,981-6395
Jesus Espinoza, Associate Civil Engineer, PRW, 981-6708

Attachments:
1: Resolution
Exhibit A: Final CEQA Initial Study / Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for Tom Bates Regional Sports Complex and Community Space

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

ADOPTING MITIGATED NEGATIVE DECLARATION (MND) AND MITIGATION MONITORING AND REPORTING PLAN (MMRP) FOR THE TOM BATES REGIONAL SPORTS COMPLEX RESTROOM AND COMMUNITY SPACE PROJECT

WHEREAS, the Tom Bates Regional Sports Complex, located at 400 Gilman Street was completed in 2008, and is one of the most highly used public sports complexes in the region; and

WHEREAS, the master plan for the Tom Bates Fields includes a fieldhouse and restroom; however, these elements have not been constructed to-date due to insufficient funding, and the City currently provides portable toilets at the facility; and

WHEREAS, in 2019, the City completed the conceptual plan for a new fieldhouse and restroom in collaboration with the field user groups and the five Joint Powers Agreement cities (Albany, Berkeley, El Cerrito, Emeryville, and Richmond); and

WHEREAS, the project will also convert the vacant north field into a youth soccer field, with a plaza and stairway entrance, and six pickleball courts, and

WHEREAS, the City retained Transystems, Inc. to prepare an Initial Study / Mitigated Negative Declaration environmental documents and associated Mitigation Monitoring and Reporting Plan to assess the environmental impacts of the proposed Tom Bates Regional Sports Complex Restroom and Community Space Project as required by the California Environmental Quality Act (CEQA); and

WHEREAS, on November 6, 2024, the City issued a Notice of Intent to Adopt a Mitigated Negative Declaration; and

WHEREAS, on November 6, 2024, the IS/MND was distributed to responsible agencies and the public for review and comment for a 30-day period that ended December 7, 2024; and

WHEREAS, the MND concluded that significant environmental effects on Biological Resources, Cultural Resources, and Hazards & Hazardous Materials would be avoided or reduced to less-than-significant levels by implementation of mitigations measures identified in the IS/MND; and

WHEREAS, on November 13, 2024, the MND was presented at the regular meeting of the Parks, Recreation and Waterfront Commission to receive staff’s presentation and public testimony, and to consider the information in the IS/MND and written and oral comments; and

WHEREAS, following the close of the public comment period on the IS/MND, the City received 42 letters and emails containing comments on the Draft IS/MND; and

WHEREAS, the City has received and responded to comments from the public and regulatory agencies and made text revisions to the Draft Initial Study / Mitigated Negative Declaration to clarify, amplify or make insignificant modifications to the IS/MND and recirculation of the IS/MND is not required; and

WHEREAS, the City Council has independently reviewed and considered the IS/MND together with the comments and the responses to those comment prior to adopting the MND and taking action on the Project; and

WHEREAS, the comments received by the City do not require major revisions to the IS/MND due to new or substantially more severe significant effects on the environment; and

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley adopts the Tom Bates Regional Sports Complex Restroom and Community Space Project Final Initial Study / Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Plan (Exhibit A) in accordance with the California Environmental Quality Act (CEQA).

Exhibits
A: Final CEQA Initial Study / Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for Tom Bates Regional Sports Complex and Community Space.

1883539.2

Exhibit A

City of Berkeley
Parks, Recreation & Waterfront

Final CEQA Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for Tom Bates Regional Sports Complex Restroom and Community Space
#SCH 2024110156

Prepared for:
City of Berkeley Parks, Recreation & Waterfront
1947 Center Street, 5th Floor
Berkeley, California 94704

Prepared by:
TranSystems
2000 Center Street, St 303
Berkeley, California 94704

March 2025

INTRODUCTION

The City of Berkeley Parks, Recreation & Waterfront proposes a series of improvements to the existing Tom Bates Regional Sports Complex. These enhancements include the construction of a new Community Space Facility featuring restrooms, a multi-use room, and a storage area; the development of a soccer field for players under the age of 8 (U8); the addition of eight pickleball courts with bleachers for two of the courts; a reconfigured parking lot to increase capacity, including the addition of electric vehicle (EV) charging stations and a temporary lot during construction; new bicycle racks and lockers; accessible walkways in compliance with the Americans with Disabilities Act (ADA); stormwater bioretention features; landscaped areas; new electric service; and a sanitary sewer lift station.

As part of the development process, it is essential to assess and address any potential environmental impacts associated with the project in accordance with CEQA guidelines. This environmental review ensures the project complies with applicable state and local environmental regulations, minimizing adverse effects on the environment and public health. This document evaluates the potential environmental impacts of the project, outlines necessary mitigation measures, and demonstrates the project's compliance with CEQA standards, ensuring its responsible and sustainable advancement.

A Draft Initial Study (IS)/Mitigated Negative Declaration (MND) was prepared by the City of Berkeley and made available to the public for comments. This Final Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Plan (MMRP) includes the Draft IS/MND, appendices, written comments, responses to comments, and text revisions. The City of Berkeley serves as the CEQA lead agency for the Tom Bates RSC Project.

COMMENTS RECEIVED ON THE DRAFT MITIGATED NEGATIVE DECLARATION

As required by CEQA guidelines, the Draft IS/MND, was made available to the public and 16 regulatory agencies for review and comment during a 30-day period between November 7, 2024, and December 7, 2024. The City notified the public via email and posted signs at the park, requesting comments on the Draft IS/MND, which was published on the State Clearinghouse website. Five copies of the draft IS/MND were also made available for public comments at Alameda County Clerk-Records's Office on November 6, 2024 for 30 days.

Although Public Hearing is not required per CEQA Section 15202 (a), on November 13, 2024, the City held a public hearing during the City of Berkeley Parks, Recreation, and Waterfront commissioners meeting, where the Draft IS/MND was presented to both the Commissioners and the public, providing an opportunity for comments on the Draft IS/MND. A presentation summarizing the Tom Bates RSC Project and the Draft IS/MND was provided at the meeting and City staff and consultants were available to answer questions regarding the CEQA document. No verbal public comments were received in relation to the Draft IS/MND during the public hearing, except for those made by Erin Diehm, Commissioner - City of Berkeley Parks, Recreation and Waterfront.

RESPONSE TO COMMENTS

This section presents a list of public agencies and individuals who provided comments on the Draft IS/MND, along with their corresponding comment letters and the associated responses. The comments have been numbered, and there is a response for each comment from the three agency comment letters received, as well as a standard response for the individuals' comments in the next section.

- **Comment Letter S1 -** Yusheng Luo, Branch Chief, Local Development Review, California Department of Transportation (Caltrans)
- **Comment Letter L1** - David J. Rehnstrom, Manager of Water Distribution Planning - East Bay Municipal Utility District (EBMUD)
- **Comment Letter L2** - Erin Diehm, Commissioner - City of Berkeley Parks, Recreation and Waterfront
- **Comment Letter I1 –** April Gilber - Individual
- **Comment Letter I2 -** Bryon Sutherland – Individual
- **Comment Letter I3 -** Carmen Padrón – Individual
- **Comment Letter I4 -** Carol Moyer – Individual
- **Comment Letter I5 -** Catherine Cassel – Individual
- **Comment Letter I6 -** Christie Look – Individual
- **Comment Letter I7 –** Collenn Whitney – Individual
- **Comment Letter I8 -** Dana Tillson – Individual
- **Comment Letter I9 –** Debbie DeVoe – Individual
- **Comment Letter I10 -** Dominic Valerian – Individual
- **Comment Letter I11 –** Gadi Meir – Individual
- **Comment Letter I12 –** Holly Wing – Individual
- **Comment Letter I13 –** Inette Dishler – Individual
- **Comment Letter I14 -** Jeannette Hilgert – Individual
- **Comment Letter I15 -** Jenny Lu Foo – Individual
- **Comment Letter I16 -** Jill Shinkle – Individual
- **Comment Letter I17 –** Jim French – Individual
- **Comment Letter I18 -** Jimmy T Tran – Individual
- **Comment Letter I19 –** John Poppleton – Individual
- **Comment Letter I20 –** Joyce Kanyuk – Individual
- **Comment Letter I21 –** Kai Shen – Individual
- **Comment Letter I22 –** Karen Gee – Individual
- **Comment Letter I23 –** Kevin Rose Williams – Individual
- **Comment Letter I24 –** Kyle Muro – Individual
- **Comment Letter I25 –** Laura Leaverton – Individual
- **Comment Letter I26 –** Lauren Quock – Individual
- **Comment Letter I27 –** Lesley Turner – Individual
- **Comment Letter I28 –** Lori Lee – Individual
- **Comment Letter I29 –** Lovell Jarvis – Individual
- **Comment Letter I30** – Margaret Ostrander – Individual
- **Comment Letter I31 –** Marguerite Lee – Individual
- **Comment Letter I32 –** Mei Griebenow - Individual
- **Comment Letter I33 –** Molly Reno – Individual
- **Comment Letter I34 –** Nicole Naffaa – Individual

- **Comment Letter I35 –** Nina Broeddeker – Individual
- **Comment Letter I36 –** Paul Gee – Individual
- **Comment Letter I37 –** Terry Robinson Kochi – Individual
- **Comment Letter I38 –** Tiger Whittermore – Individual
- **Comment Letter I39 –** Wayne Huber – Individual
- **Comment Letter I40 –** William Florian– Individual
- **Public Hearing Oral Comment PH1 –** Brennan Cox, Commissioner - City of Berkeley Parks, Recreation and Waterfront
- **Public Hearing Oral Comment PH2–** Bill Powning - Individual
- **Public Hearing Oral Comment PH3 -** Kathy Teraskin - Individual
- **Public Hearing Oral Comment PH4 -** Kelly Hammargren - Individual
- **Public Hearing Oral Comment PH5** - Ted Steen – Individual

The following pages include comments received on the Draft IS/MND in their entirety and the associated responses.

State Agency

DISTRICT 4
OFFICE OF REGIONAL AND COMMUNITY PLANNING
P.O. BOX 23660, MS–10D | OAKLAND, CA 94623-0660
www.dot.ca.gov

December 6, 2024

SCH #: 2024110156
GTS #: 04-ALA-2024-00873
GTS ID: 34574
Co/Rt/Pm: ALA/80/6.594

Jesus Espinoza, Associate Civil Engineer
City of Berkeley Planning Department
1947 Center Street, 3rd Floor
Berkeley, CA 94704

Re: Tom Bates Regional Sports Complex Restroom and Community Space Project – Mitigated Negative Declaration (MND)

Dear Jesus Espinoza:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Tom Bates Regional Sports Complex Restroom and Community Space Project. The Local Development Review (LDR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities. The following comments are based on our review of the November 2024 MND.

Please note this correspondence does not indicate an official position by Caltrans on this project and is for informational purposes only.

Project Understanding

The proposed project would construct a new community space facility with restrooms, multi-use room and storage room; new youth soccer field, eight pickleball courts; reconfigured parking lot with electric vehicle charging stations and temporary lot during construction; bicycle racks and lockers, walkways; stormwater bioretention features, landscaped areas; new electric service and a sanitary sewer lift station. The project site is adjacent to the Interstate (I)-80 corridor. **S1-A**

Climate Change/Sea Level Rise

Please keep Caltrans informed about the various climate stressors and ongoing adaptation and resilience initiatives as they are developed and implemented at this project location. Caltrans is interested in engaging in multi-agency and regional **S1-B**

collaboration, to find multi-benefit solutions that protect vulnerable shorelines, communities, infrastructure, and the environment.

Using the Bay Area Conservation and Development Commission (BCDC)'s Adapting to Rising Tides data, the project location is identified as vulnerable to flooding at a Total Water Level of 4 feet above Mean Higher-High Water (MHHW). This includes contributions from sea level rise, storm surge, and king tides, exceeding 2050 projections by 2 feet. We encourage incorporating adaptation measures to address the rising water table and align with the city or subregion's Regional Shoreline Adaptation Plan (RSAP), as required under SB 272.

Caltrans actively collaborates with regional partners to address climate vulnerabilities and would like to remain updated on any potential adaptation measures or initiatives at this location and will greatly appreciate being included in ongoing local efforts as this project develops. Caltrans prioritizes working with regional and local partners to strategize and adopt effective adaptation measures for the transportation system in the area.

For any questions or concerns, please feel free to contact the Caltrans Bay Area Climate Change Planning Coordinators at D4_ClimateResilience@dot.ca.gov.

Project Coordination

The proposed project is adjacent to Alameda County Transportation Commission (ACTC)'s I-80 Gilman Interchange Improvement Project, which includes the Gilman Street Pedestrian Overcrossing Project and Gilman Street Roundabouts Project. The Gilman Street Roundabouts Project is in active construction and should be completed in Spring 2025. The plantings surrounding the double roundabouts will be maintained by the contractor for 3 years so it may overlap with the City's project. The City of Berkeley is also expected to sign a quitclaim deed for a portion of Gilman Street that has been taken into the State Highway System for the ACTC project. **S1-C**

East Bay Regional Parks District (EBRPD) has initiated their North Basin Strip Project adjacent to and just south of the Gilman soccer fields (*link*). Please coordinate with EBRPD, as there is utility relocation/accommodation work from that project that may impact the service connections proposed for the sports complex improvements. Also of note, there is a transfer of 1-acre of property that was acquired from EBRPD by ACTC that is still awaiting transfer from ACTC to Caltrans.

Construction-Related Impacts

Project work that requires movement of oversized or excessive load vehicles on State roadways requires a transportation permit that is issued by Caltrans. To apply, please visit Caltrans Transportation Permits (*link*). **S1-D**

Prior to construction, coordination may be required with Caltrans to develop a Transportation Management Plan (TMP) to reduce construction traffic impacts to the State Transportation Network (STN).

Equitable Access

If any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion. As well, the project must maintain bicycle and pedestrian access during construction. These access considerations support Caltrans' equity mission to provide a safe, sustainable, and equitable transportation network for all users. S1-E

Encroachment Permit

Please be advised that any permanent work or temporary traffic control that encroaches onto Caltrans' ROW requires a Caltrans-issued encroachment permit. A portion of Gilman Street and the West Frontage Road is within Caltrans Right-Of-Way (ROW). Any access openings within the State ROW will have to go under Caltrans review. S1-F

The Office of Encroachment Permit requires 100% complete design plans and supporting documents to review and circulate the permit application package. The review and approval of encroachment projects is managed through the Encroachment Permits Office Process (EPOP) or the Project Delivery Quality Management Assessment Process (QMAP), depending on project scope, complexity, and completeness of the application. Please use the following resources to determine the appropriate review process:

- TR-0416 Applicant's Checklist (*link*)
- Flowchart, Figure 1.2 in Chapter 100 – The Permit Function, Caltrans Encroachment Permit Manual (*link*)

The permit approval may take 30 days to 6 months or more depending on the project scope, size, complexity, completeness, compliance with policies and quality of the permit package submitted. Projects requiring exceptions to design standards or external agency approvals may need more time to process.

To obtain more information and download the permit application, please visit Caltrans Encroachment Permits (*link*). When the applicant is ready to pursue a Caltrans encroachment permit, please contact D4Permits@dot.ca.gov to initiate the process.

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Melissa Hernandez, Associate Transportation Planner via LDR-D4@dot.ca.gov.

For future early coordination opportunities or project referrals, please visit Caltrans LDR website (*link*) or contact LDR-D4@dot.ca.gov.

Sincerely,



YUNSHENG LUO
Branch Chief, Local Development Review
Office of Regional and Community Planning

c: State Clearinghouse

Letter #S1 Response: California Department of Transportation (Caltrans)

A letter from Caltrans was submitted to the City on December 6, 2024. Below are the responses to the comments provided:

Response S1-A: Comment noted. No revisions to the Draft IS/MND are necessary in response to this comment.

Response S1-B: Comment noted. The City will coordinate with Caltrans as necessary. No revisions to the Draft IS/MND are necessary in response to this comment.

Response S1-C: Comment noted. The City will coordinate with the agencies as necessary. No revisions to the Draft IS/MND are necessary in response to this comment.

Response S1-D: Comment noted. The City will coordinate with Caltrans as necessary. No revisions to the Draft IS/MND are necessary in response to this comment.

Response S1-E: Comment noted. No Caltrans facilities are anticipated to be impacted by the project. No revisions to the Draft IS/MND are necessary in response to this comment.

Response S1-F: Since no portion of the project falls within State right-of-way, an encroachment permit will not be necessary. No revisions to the Draft IS/MND are necessary in response to this comment.

Local Agencies

EAST BAY
MUNICIPAL UTILITY DISTRICT

December 4, 2024

Jesus Espinoza, Associate Civil Engineer
City of Berkeley
Parks, Recreation and Waterfront
1947 Center Street, 5th Floor
Berkeley, CA 94704

Re: Notice of Intent to a Adopt an Initial Study/Mitigated Negative Declaration for the Tom Bates Regional Sports Complex Restroom and Community Space Project, Berkeley

Dear Mr. Espinoza:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Initial Study/Mitigated Negative Declaration (IS/MND) for the Tom Bates Regional Sports Complex Restroom and Community Space Project located in the City of Berkeley (City). EBMUD has the following comments.

WATER SERVICE

EBMUD's Central Pressure Zone, with a service elevation between 0 and 100 feet, will serve the proposed development. Separate structures on a single parcel require separate water services. EBMUD will need to evaluate whether the existing water meters serving the existing park can be used to serve the project. When the development plans are finalized, the City should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions for providing water service to the project. Engineering and installation of water services require substantial lead time, which should be provided for in the City's development schedule.

L1-A

EBMUD's Standard Site Assessment Report and the project's IS/MND indicate the potential for contaminated soils or groundwater to be present within the project site boundaries. The City should be aware that EBMUD will not install piping or services in contaminated soil or groundwater (if groundwater is present at any time during the year at the depth piping is to be installed) that must be handled as a hazardous waste or that may be hazardous to the health and safety of construction and maintenance personnel wearing Level D personal protective equipment. Nor will EBMUD install piping or services in areas where groundwater contaminant concentrations exceed specified limits for discharge to the sanitary sewer system and sewage treatment plants. The City must submit copies to EBMUD of all known information regarding soil and groundwater quality within or adjacent to the project boundary and a legally sufficient, complete, and specific written remediation plan establishing the methodology, planning and design of all necessary systems for the removal, treatment, and disposal of contaminated soil and groundwater.

375 ELEVENTH STREET . OAKLAND . CA 94607-4240 . TOLL FREE 1-866-40-EBMUD

Recycled Paper

EBMUD will not design piping or services until soil and groundwater quality data and remediation plans have been received and reviewed and will not start underground work until remediation has been carried out and documentation of the effectiveness of the remediation has been received and reviewed. If no soil or groundwater quality data exists, or the information supplied by the City is insufficient, EBMUD may require the City to perform sampling and analysis to characterize the soil and groundwater that may be encountered during excavation. Alternatively, EBMUD may perform such sampling and analysis at the City's expense. If evidence of contamination is discovered during EBMUD work on the project site, work may be suspended until such contamination is adequately characterized and remediated to EBMUD standards. L1-A

WASTEWATER

EBMUD's Main Wastewater Treatment Plant (MWWTP) and interceptor system are anticipated to have adequate dry weather capacity to accommodate the proposed wastewater flows from this project and to treat such flows provided that the wastewater generated by the project meets the requirements of the EBMUD Wastewater Control Ordinance. However, wet weather flows are a concern. The East Bay regional wastewater collection system experiences exceptionally high peak flows during storms due to excessive infiltration and inflow (I/I) that enters the system through cracks and misconnections in both public and private sewer lines. EBMUD has historically operated three Wet Weather Facilities (WWFs) to provide primary treatment and disinfection for peak wet weather flows that exceed the treatment capacity of the MWWTP. Due to reinterpretation of applicable law, EBMUD's National Pollutant Discharge Elimination System (NPDES) permit now prohibits discharges from EBMUD's WWFs. Additionally, the seven wastewater collection system agencies that discharge to the EBMUD wastewater interceptor system ("Satellite Agencies") hold NPDES permits that prohibit them from causing or contributing to WWF discharges. These NPDES permits have removed the regulatory coverage the East Bay wastewater agencies once relied upon to manage peak wet weather flows. L1-B

A federal consent decree, negotiated among EBMUD, the Satellite Agencies, the Environmental Protection Agency (EPA), the State Water Resources Control Board (SWRCB), and the Regional Water Quality Control Board (RWQCB), requires EBMUD and the Satellite Agencies to eliminate WWF discharges by 2036. To meet this requirement, actions will need to be taken over time to reduce I/I in the system. The consent decree requires EBMUD to continue implementation of its Regional Private Sewer Lateral Ordinance (www.eastbaypsl.com), construct various improvements to its interceptor system, and identify key areas of inflow and rapid infiltration over a 22-year period. Over the same time period, the consent decree requires the Satellite Agencies to perform I/I reduction work including sewer main rehabilitation and elimination of inflow sources. EBMUD and the Satellite Agencies must jointly demonstrate at specified intervals that this work has resulted in a sufficient, pre-determined level of reduction in WWF discharges. If sufficient I/I reductions are not achieved, additional investment into the

region's wastewater infrastructure would be required, which may result in significant financial implications for East Bay residents.

To ensure that the proposed project contributes to these legally required I/I reductions, the lead agency should require the project applicant to comply with EBMUD's Regional Private Sewer Lateral Ordinance. Additionally, it would be prudent for the lead agency to require the following mitigation measures for the proposed project: (1) replace or rehabilitate any existing sanitary sewer collection systems, including sewer lateral lines to ensure that such systems and lines are free from defects or, alternatively, disconnected from the sanitary sewer system, and (2) ensure any new wastewater collection systems, including sewer lateral lines, for the project are constructed to prevent I/I to the maximum extent feasible while meeting all requirements contained in the Regional Private Sewer Lateral Ordinance and applicable municipal codes or Satellite Agency ordinances. L1-B

RECYCLED WATER

EBMUD's Policy 9.05 requires that customers use non-potable water for non-domestic purposes when it is of adequate quality and quantity, available at reasonable cost, not detrimental to public health and not injurious to plant life, fish, and wildlife to offset demand on EBMUD's limited potable water supply. The proposed project is within the boundaries of EBMUD's East Bayshore Recycled Water Project Water Reuse Zone and has a potential for significant recycled water demand. The development facilities are adjacent to the recently installed recycled water pipeline terminating on Gilman Street across from Golden Gate Fields by the shoreline. This pipeline is not currently in service but EBMUD's future expansion plans include connecting the pipeline to the existing East Bayshore Recycled Water Project infrastructure and supply. EBMUD requests all plumbing for recycled water use be planned, designed, and installed in order to accept recycled water for all landscape and irrigation needs and that all landscape irrigation, including the parks, be plumbed separately from the on-site potable system in order to accept recycled water when it becomes available. The City would be responsible for installation and associated costs of all recycled water pipelines and appurtenances to and within the proposed project site per EBMUD current regulations and requirements. EBMUD also requests that an estimate of expected water irrigation demand be provided. L1-C

Meanwhile, the City should coordinate closely with EBMUD regarding standard specifications and infrastructure requirements for installation of the recycled water system during the planning and design phases of the development. The City should contact EBMUD's New Business Office to submit service application and determine conditions for providing recycled water service to the proposed project.

WATER CONSERVATION

The project presents an opportunity to incorporate water conservation measures. EBMUD L1-D

requests that the City comply with Assembly Bill 325, "Model Water Efficient Landscape Ordinance," (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). The City should be aware that Section 31 of EBMUD's Water Service Regulations requires that water service shall not be furnished for new or expanded service unless all the applicable water-efficiency measures described in the regulation are installed at the City's expense. L1-D

If you have any questions concerning this response, please contact Sandra Mulhauser, Senior Civil Engineer, Major Facilities Planning Section at (510) 287-7032.

Sincerely,

David J. Rehnstrom
Manager of Water Distribution Planning

DJR:CRS:kn
wdpd24_217 1039 Tom Bates Regional Sports Complex Restroom and Community Space Project.doc

Letter #L1 Response: East Bay Municipal Utility District (EBMUD)

A letter from EBMUD was submitted to the City on December 4, 2024. The responses to the comments are provided below:

Response L1-A: There are currently no structures on the project parcel, however potable water service is in place. The existing water service infrastructure was originally installed to support a future restroom building. The new community center is replacing the previously assumed restroom use and therefore, no additional water service is required.

As discussed on pages 108-111 in the Hazard and Hazardous Materials section, the area has a known history of contamination, including TPH-d, metals (primarily lead, arsenic, and mercury), and methane. Elevated concentrations of combustible gases, mainly methane, were detected beneath the northern section of the project site. However, in December 2003, the San Francisco Bay Regional Water Quality Control Board determined that the site investigations had been completed.

In March 2024, an Environmental Screening was conducted by Haley & Aldrich for the project site to preliminarily evaluate the presence of constituents of concern. The purpose of the screening was to plan for soil disposal. A total of seven borings were drilled (SB-01 through SB-07). Based on the soil screening results, disposal of most of the on-site soil is expected to be acceptable for disposal at a Class II or III landfill as non-hazardous waste. Soils collected from areas close to SB-01 and SB-03 could be classified as non-RCRA California hazardous waste, due to lead Soluble Threshold Limit Concentration (STLCs) results. Depending on analytical results for soil excavated during construction, disposal at a Class I landfill may be required.

No revisions to the Draft IS/MND are necessary in response to this comment.

Response L1-B: The City will ensure any new wastewater collection systems, including sewer lateral lines, for the project are constructed to prevent I/I to the maximum extent feasible while meeting all requirements contained in the Regional Private Sewer Lateral Ordinance and applicable municipal codes or Satellite Agency ordinances. The new building will have a new lateral and will be constructed of fusion welded High-Density Polyethylene (HDPE) to prevent I/I. No revisions to the Draft IS/MND are necessary in response to this comment.

Response L1-C: The site is set up with separate meters and downstream plumbing for both domestic and non-potable water. Therefore, the site can easily connect recycled water once it is available. No revisions to the Draft IS/MND are necessary in response to this comment.

Response L1-D: The landscape and irrigation system has been designed to comply with the Assembly Bill 325, "Model Water Efficient Landscape Ordinance," (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). No revisions to the Draft IS/MND are necessary in response to this comment.

Comment on Draft CEQA Initial Study/Mitigated Negative Declaration for Tom Bates Regional Sports Complex Restroom and Community Space - November 13, 2024 - from Erin Diehm (Parks, Rec & Waterfront Commissioner)

EXTERIOR LIGHTING
RECOMMENDATION: All fixtures (even on exterior of restroom) must fully shielded, a warm spectrum (at or less than 3,000 kelvin), with adjustable intensity and turned off at night L2-A
RECOMMENDATION: Fixture on ADA ramp should be as low as possible to ground (to minimize light spillage)

NOISE
Freeway noise measured at 61-68 dBa (east), 54-62 dBa (west) L2-B
Pickleball documented at 70 dBa
RECOMMENDATION: The 70 dBa noise level of pickleball should be documented and a mitigation added

The IS-MND Fails to Adequately Assess and Mitigate the Environmental Impact on: L2-C



Burrowing Owl[1]
Candidate for CA ESA (interim full protections)
Migratory – here only in Winter
Survey too limited in time
Even if no burrows, nearby owls likely forage here for food
CONCLUSION: Paving over this field may eliminate ability for future owls to overwinter here; definitely will eliminate a food source for owls nearby
RECOMMENDATION: Identify additional land nearby that will mitigate this loss of food source and possible burrrows



White-Tailed Kite[2]
CA Fully Protected Species
Documented at the Waterfront Area
Survey too limited in time
Likely forage here for food (voles, etc.)
CONCLUSION: Paving over this field will eliminate a food source that nearby Kites depend on
RECOMMENDATION: Identify additional land nearby that will mitigate this loss of food source



Large Marble Butterfly[2]
Petition for Federal ESA submitted 2023
In steep decline, at risk of extinction in 50 years
Used to be common at Meadow/Waterfront, now rare
Non-native mustard is host plant
CONCLUSION: IS-MND didn't survey for the Large Marble (immatures and adults) on mustard
RECOMMENDATION: Identify area to strategically plant mustard and other host plants as mitigation



Western Bumble Bee
CA Endangered Species Candidate (Sept 2022)
Ground nesting
CONCLUSION: IS-MND Survey didn't rule out their presence "As a habitat generalist, the western bumble bee may be found in the BSA. Due to the BSA being dominated by non- native annual grassland, the area is not likely to provide particularly valuable habitat."
RECOMMENDATION: Identify area nearby to strategically create suitable habitat.

Photo Credits. 1 & 2. Burrowing Owl & White Tailed Kite. https://www.audubon.org/field-guide/bird/burrowing-owl; 3. Large Marble. Jeff Pippen. https://www.jeffpippen.com/butterflies/largemarble.htm; 4. Western Bumble Bee https://www.xerces.org/endangered-species/species-profiles/at-risk-bumble-bees/western-bumble-bee

Letter #L2 Response: Erin Diehm, Commissioner - City of Berkeley Parks, Recreation and Waterfront

On November 13, 2024, the City held a public hearing during the City of Berkeley Parks, Recreation, and Waterfront meeting, where the draft IS/MND was presented to both the Commissioners and the public, providing an opportunity for comments on the draft IS/MND. The Commissioner Erin Diehm provided comments related to lighting, noise and biological resources. The responses to the comments are provided below:

Response L2-A: The Project does not propose to add additional lighting to the existing facilities nor to the new pickleball courts and soccer fields. The Project does include for safety purposes wall-mounted lighting to illuminate the area around the community space facility and one additional light pole to illuminate the ADA-compliant switchback ramp. New exterior lights will use fixtures approved by the International Dark-Sky Association and consistent with the City's Condition of Approval (COA) - Exterior Lighting. This condition requires that all exterior lighting to be energy efficient where feasible and shielded and directed downward and inward into the facility and away from property lines to prevent excessive glare beyond the subject property.

While the Project does include minor additional lighting, the specific types have been chosen so that the project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area nor negative biological impacts. Color temperature can be specified per the comment.

No revisions to the Draft IS/MND are necessary in response to this comment.

Response L2-B: Noise generated from pickleball activities varies depending on the location, duration and intensity or use, and measurements can differ depending on the time of day, weather conditions, and proximity to the source. In addition, noise attenuation decreases significantly over distance with the proposed new courts located 680 feet from existing commercial uses (and 1,000 ft from residential uses), and in a location where the existing I-80 interstate presents a consistently high noise generator (freeway noise measurements typically range between 60-70 dBA) between the proposed courts and existing commercial and residential land uses.

Speaking noises from recreational users are expected to be similar to those from recreational users at the existing fields within the RSC. The Project would not install any types of loudspeakers that would amplify speech or music for sporting events.
Given the significant distance of the proposed new pickleball courts from sensitive receptors coupled with the existing and consistent noise levels from the interstate, it is not anticipated that the additional noise generated by the proposed pickleball courts users will cause a significant increase in noise from existing conditions.

No revisions to the Draft IS/MND are necessary in response to this comment.

Response L2-C:

- Burrowing Owl (*Athene cunicularia*)
    - As of October 2024, California Department of Fish and Wildlife (CDFW) has designated the burrowing owl as a candidate for potential listing as a protected species under the CESA. During the review period, candidate species receive the same protections as fully

listed species under CESA. Any potential take will require an Incidental Take Permit (ITP), which will be coordinated with the CDFW if potential for Take is identified during surveys. Any other mitigation will be acquired at the direction of CDFW. During the public hearing on November 13, 2024, the City informed the public about the new regulatory changes and explained how the updated process will be followed, as required by CDFW. Revisions have been made to this report to address these changes, which are shown as underlined text in the following section, below on page 62 titled *TEXT REVISION TO THE DRAFT IS/MND*, as well as in the Biological Resources and Mandatory Findings Significance sections.
    - Project commitments include pre-construction surveys and coordination with CDFW as necessary.
- White-tailed Kite (*Elanus leucurus*)
    - White-tailed kites are known to be present near the Biological Study Area (BSA), having been documented at the McLaughlin Eastshore State Park and Cesar Chavez Park.
    - The BSA does not contain any suitable nesting habitat.
    - A limited amount of foraging area is located within the BSA. However, more contiguous foraging acreage is located in Eastshore State Park and Cesar Chavez State Park or along the shoreline.
    - Coordination for any ITP or additional mitigation will occur, if directed by CDFW.
    - No revisions to the Draft IS/MND are necessary in response to this comment.
- Large Marble Butterfly (*Euchloe ausonides*)
    - This species does not have federal or state designation. There is a subspecies native to Washington State that has federal status. That subspecies does not occupy this area. This species is not currently considered a federal “proposed” species, which would provide federal protection and guidance.
    - There is no regulatory mechanism to address this species.
    - No revisions to the Draft IS/MND are necessary in response to this comment.
- Western Bumble Bee (*Bombus occidentalis*)
    - This species' status is currently under review under the Endangered Species Act (ESA), and species under ESA review does not automatically receive protections under the Endangered Species Act (ESA) until it is officially listed as endangered or threatened.
    - The western bumblebee has three primary habitat requirements: suitable nesting sites for colonies, access to nectar and pollen from floral resources throughout the colony's active period, and appropriate overwintering sites for queens. Larger, contiguous areas of potential habitat are found at McLaughlin Eastshore State Seashore and Cesar Chavez Park. As a habitat generalist, the species can thrive in a variety of environments, meaning any open space could potentially serve as a habitat. Therefore, it cannot be ruled out that this species may inhabit the area in question.
    - No revisions to the Draft IS/MND are necessary in response to this comment.

Individuals

Espinoza, Jesus

From: April Gilbert <april@aprilgilbert.com>
Sent: Wednesday, November 13, 2024 9:57 AM
To: Espinoza, Jesus
Subject: Yay for pickleball courts in Berkeley!!!

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello Mr. Espinoza,
I am a Berkeley native, a Berkeley resident, and an avid pickleball player, having been a tennis player earlier in my life. I play twice a week at the **Cedar Rose courts** and strongly support more pickleball courts in Berkeley as Cedar Rose is becoming more crowded by the month. I1

Please do build new pickleball courts at the Tom Bates center but be aware that wind is a huge issue so please also maintain the Cedar Rose courts which are also much closer to my home in Berkeley's Elmwood.
Thank you,
April Gilbert
2512 Russell Street

Espinoza, Jesus

From: Bryon Sutherland <bryons@gmail.com>
Sent: Thursday, November 14, 2024 2:02 PM
To: Espinoza, Jesus
Subject: ☑ Pickleball & Soccer at Tom Bates

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I2

Hi Jesus,
Just wanted to express my support for Pickleball courts, additional Soccer fields & restaurooms at Tom Bates.

Thanks,
Bryon Sutherland, Berkeley Resident.

Espinoza, Jesus

From: Carmen Padron <carmenpadron@gmail.com>
Sent: Wednesday, November 13, 2024 11:13 AM
To: Espinoza, Jesus
Subject: Support for Pickleball Courts and other improvements at Tom Bates Sports Complex

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hi Mr. Espinoza,

My name is Carmen Padrón, and I have lived in Berkeley for over 15 years. I want to voice my support for adding pickleball courts to the Tom Bates Sports Complex, the proposed new soccer field, and the bathroom.

I3

Expanding our recreational facilities would greatly benefit our city by providing more opportunities for exercise and community engagement. The only PB options in the town, Cedar-Rose and the James Kenney Court, are far from meeting our residents' growing interest in pickleball, especially senior citizens who shouldn't have to wait two hours to play one game.

Finally, as a "soccer mom," I see the potential for these courts to serve a variety of activities and foster community connection, especially now that improvements have been made to the nearby intersection, making it easier to access the complex.

Thank you for this initiative to increase our community's recreational offerings. I am looking forward to playing in there.

Best regards,
Carmen Padrón

Espinoza, Jesus

From: Carol Moyer <carolfmoyer@gmail.com>
Sent: Sunday, November 10, 2024 3:22 PM
To: Espinoza, Jesus
Subject: Pickleball at Tom Bates Sports Complex

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mr. Espinosa,

I support the addition of pickleball courts at the Tom Bates Sports Complex. Pickleball has provided an opportunity for me and other seniors to maintain good health and a social community while having fun. Additional courts would allow for more people to participate. I4

Thank you,
Carol Moyer

Espinoza, Jesus

From: CATHERINE CASSEL <catherinescassel@gmail.com>
Sent: Sunday, November 10, 2024 3:04 PM
To: Espinoza, Jesus
Subject: Tom Bates Sports Complex

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

As a long-time Berkeley resident, I support the addition of pickleball courts at the Tom Bates Sports Complex in Berkeley. **I5**

This incredibly popular and fast-growing sport is enjoyed by all ages and provides a wonderful, healthy way to socialize and strengthen our community.

Thank you for your attention,

Catherine Cassel

Espinoza, Jesus

From: Christie Look <looksbooks@comcast.net>
Sent: Sunday, November 10, 2024 3:40 PM
To: Espinoza, Jesus
Subject: So excited! Pickleball courts!

Importance: High

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

So excited and looking forward to playing on REAL, dedicated pickleball courts! I play 2-3x/wk (great to keep us retirees in healthy shape) and dedicated courts means better quality play! "Calls" are easy and accurate! Balls don't roll off into the far corner of a tennis court. Court surfaces won't be all cracked and make balls bounce crazily! Four players at once per court versus the typical 2/person at a time tennis courts.

16

Oh goody - can't wait!
Thank you!!!

Christie Look
59 Harborview Dr.
Richmond 94804
510-453-0319

Espinoza, Jesus

From: Colleen W <whitney.colleen@gmail.com>
Sent: Wednesday, November 13, 2024 10:08 AM
To: Espinoza, Jesus
Subject: Tom Bates Sports Complex Pickleball

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Mr. Espinoza,

I7

I am a Berkeley resident. I play pickleball for both exercise and social contact regularly, but I have to travel (mostly by car) to El Cerrito, Richmond, Albany or Oakland most of the time. There are very few courts in Berkeley, and they are often booked up far in advance. Moreover, the tension between the residents near the Cedar-Rose courts and the players there has led to restricted hours, exacerbating the problem.

Additional courts in Berkeley would be very beneficial for me and for the fast-growing Berkeley pickleball community. I strongly support the addition of pickleball courts to the Tom Bates Sports Complex.

Best,

Colleen Whitney
1335 Kains Ave., Berkeley

Espinoza, Jesus

From: Dana Tillson <dhtchk@gmail.com>
Sent: Sunday, November 10, 2024 10:11 PM
To: Espinoza, Jesus
Subject: Tom Bates Fields updates

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello, Jesus,

I8

As a 40 resident of Berkeley, the proposal to add 8 pickleball courts and an additional youth soccer field, along with LONG OVER DUE bathrooms to Tom Bates Fields would dramatically increase the quality of life for our residence.

Yes please!

Thank you.

Dana Tillson
1953 Yosemite Rd, Berkeley, CA 94707

Espinoza, Jesus

From: Debbie DeVoe <debbiedevoe@msn.com>
Sent: Sunday, November 10, 2024 5:26 PM
To: Espinoza, Jesus
Subject: Add pickleball courts at Tom Bates

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mr. Espinoza,

im writing you as a Berkeley resident asking you to support the addition of pickleball courts at the Tom Bates Sports Complex. Pickleball is incredibly popular and there is too long of waittimes at all of the courts in town. Please also consider more on the south side of town as well! Thank you. 19

Debbie DeVoe
2737 Forest Ave, Apt 301
Berkeley, CA 94705
debbiedevoe@msn.com

Espinoza, Jesus

From: Dominic Valerian <dvalerian@gmail.com>
Sent: Monday, November 11, 2024 8:46 AM
To: Espinoza, Jesus
Subject: Support for Tim Bates Pickleball

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

As a Berkeley resident, I support the addition of pickleball courts at the Tom Bates Sports Complex because it is often hard to find open courts to play on. The Cedar Rose courts are nice but the three reservable courts are usually booked during prime hours, the single open play court isn't conducive to balanced games, there are problems with neighbors, and the hours are limited (closed Mondays and after dark). **I10**

I hope the new courts will have good lights for night time play. The lighting at the James Kenney pickleball court is inadequate but the new Ocean View courts in Albany are well lit. Wind mitigation is also critical as pickleball doesn't work with significant wind and that part of the waterfront is very windy. Without effective wind mitigation, the courts will be unplayable much of the time.

Thanks,
Dominic Valerian
1123 Camelia St, Berkeley, CA 94702

Espinoza, Jesus

From: gaditravels@yahoo.com
Sent: Sunday, November 10, 2024 5:30 PM
To: cathytaruskin@yahoo.com; Espinoza, Jesus
Subject: Re: [Oakland Pickleball] Update on new Pickleball Courts in Berkeley

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hi Jesus.
I support 100% adding more Pickleball courts in Piedmont. It is fabulous. It is very social and very community oriented. It is amazing exercise for all ages especially seniors. And it is a tremendous asset for the community. I fully support it. **I11**

Gadi at 43 Park way in Piedmont.
Gadi Meir

On Sunday, November 10, 2024 at 02:56:21 PM PST, 'Cathy Taruskin' via Oakland Pickleball <oaklandpickleball@googlegroups.com> wrote:

The Berkeley Parks Dept. has been working on plans to add 8 pickleball courts to the **Tom Bates Sports Complex** at the west end of Gilman St. The project will also add bathrooms and a youth soccer field. One of the many steps in the process is an environmental review (**CEQA**). A public hearing is scheduled at the **Parks Commission meeting on Wed 11/13, 7pm at the Frances Albrier Community Center auditorium**, 2800 Park St in Berkeley. Here is the agenda: https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/PRW%20Agenda%202024-11-13.pdf

Pickleball and soccer enthusiasts are encouraged to attend to show support for the project in case there is some opposition to it for whatever reason. You are welcome to attend and speak if you'd like, or write to the commission to show your support.

WHY WRITE? Since Cathy Taruskin's original presentation to the Berkeley Parks and Rec Commission in 2019 asking for pickleball courts in Berkeley, 156 members of our group have written to the Berkeley City Council and to the Parks Department on various occasions to request pickleball courts in Berkeley, to defend Cedar Rose pickleball, and to request additional courts in Berkeley. These letters have been successful on all three counts and this show of support is what has led to the inclusion of Pickleball in the Tom Bates Project. But the City hasn't heard from us as a group in years, and we need to remind them that we are still here, that the community has grown exponentially and that the need for more courts is even greater. **Even if you think you'll never play at the new Tom Bates pickleball courts, their existence will certainly help offset the overflow of players at other nearby courts and make wait times shorter for all of us.** Just a simple one-line message to

Espinoza, Jesus

From: Holly Wing <hollywing@comcast.net>
Sent: Tuesday, November 12, 2024 8:23 AM
To: Espinoza, Jesus
Subject: Adding more pickleball courts in Berkeley

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Jesus Espinoza,

I am writing regarding the proposed pickle ball courts to be added to Tom Bates sports complex.

As a Berkeley resident, I support the addition of pickleball courts at the Tom Bates Sports Complex because it will provided much needed additional space for Berkeley community members to play this fun and healthy sport. I started playing just over 1 year ago and have since improved my fitness and developed new community connections. I love how this sport is available to people from almost any age group and better still, brings us together! Berkeley high students, college students, middle aged working people like me, and retirees all play together. It is such a warm and welcoming sport and it needs more space in Berkeley. I12

Thank you for making it more available

Sincerely,
Holly Wing

Sent from my iPhone

Espinoza, Jesus

From: Inette Dishler <idishler@gmail.com>
Sent: Wednesday, November 13, 2024 4:26 PM
To: Espinoza, Jesus
Subject: Berkeley Pickleball

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I13

As a Berkeley resident, and pickleball enthusiast, I support the addition of more pickleball courts in Berkeley. The interest in the sport keeps growing and it's getting harder and harder to get court time.

This addition to courts can include the Tom Bates Sports Complex, as long as there is a wind mitigation strategy. Wind is the enemy of pickleball, and playing so close to the Bay is problematic. There would also have to be more parking, as the Tom Bates facilities stay very busy and crowded.

I also hope you're looking to add courts to other parks in Berkeley, or at least to stripe more tennis courts for dual purpose use.

My favorite place to play is Cedar Rose, because they are dedicated courts, and you can reserve them, and I don't have to drive to them, making it an environmentally friendly option! I do constantly ask people there to be respectful of the neighbors by limiting noise and using the quieter balls!

Thanks for helping us pickleball players get good exercise and stay healthy!

Sincerely,
Inette Dishler

Espinoza, Jesus

From: Silvertrek <luggedsilvertrek@gmail.com>
Sent: Wednesday, November 13, 2024 1:54 PM
To: Espinoza, Jesus
Subject: Yes to Tom Bates Sports Complex and Pickleball

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hi Mr. Espinoza,

I'm a resident of Berkeley (1809 Curtis St) and I'm very excited about the possibility of additional pickleball courts at the Tom Bates Sports Complex. I started playing pickleball seven months ago and it has been a wonderful opportunity to exercise and make new friends. **I14**

The courts at Cedar Rose are great but they are often full. I hope that the courts at the Tom Bates Sports Complex would encourage other Berkeley residents to enjoy this sport and build community.

Thank you,

Jeannette Hilgert

Espinoza, Jesus

From: Jenny Lu Foo <mingmang.jennylu@gmail.com>
Sent: Sunday, November 10, 2024 3:27 PM
To: Espinoza, Jesus
Subject: Tom Bates Pickleball Courts

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello,
I support the addition of pickleball courts at the Tom Bates Sports Complex. **I15**
Thank you

Espinoza, Jesus

From: Jill Shinkle <jill.shinkle@gmail.com>
Sent: Thursday, November 14, 2024 12:19 PM
To: Espinoza, Jesus
Subject: please support new pickleball courts at the Tom Bates Complex

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mr. Espinoza,

I16

Additional pickleball courts are definitely needed in Berkeley. Current players desire to increase access to this healthy and easy-to-learn sport for additional members of the community. We particularly think that these new courts will enable youth and younger adult players to become involved in the game. Thank you so much for supporting these courts and increasing healthy opportunities to play.

--
Jill Shinkle
(510) 332-1761

Espinoza, Jesus

From: Jim French <jimfrench.pe@gmail.com>
Sent: Sunday, November 10, 2024 3:48 PM
To: Espinoza, Jesus
Subject: Pickleball courts at Bates Sports Complex

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I17

As a 5th generation Berkeley resident (my kids, were 6th generation Berkeley residents, and also BHS graduates), I support the addition of pickleball courts at the Tom Bates Sports Complex. I live in Berkeley but mostly play pickleball now in crowded courts in Albany, El Cerrito, and Richmond, because that's where I can get on courts. More pickleball courts in Berkeley will benefit the fitness and social lives of many, including me.

Thanks for your consideration.
--Jim French
Thousand Oaks neighborhood resident

Sent from my phone.
========

Espinoza, Jesus

From: Jimmy T Tran <jimmytran@hey.com>
Sent: Sunday, December 1, 2024 12:55 PM
To: Espinoza, Jesus
Subject: Support for Pickleball Courts at the Tom Bates Sports Complex

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mr. Jesus Espinoza,

I18

As a Berkeley resident, I support the addition of pickleball courts at the Tom Bates Sports Complex because it will provide more available courts which would help with creating more access to all local residents. Personally, Pickleball brought me out of the Pandemic and back into the community, and other than the Golden State Warriors is one of the remaining activities that all East Bay residents can get agree on and get behind. Please continue to help us bring the community together. Thank you.

Jimmy T Tran
STEM Makerspace Teacher @ Longfellow Middle

Espinoza, Jesus

From: John Poppleton <johnapoppleton@gmail.com>
Sent: Tuesday, November 12, 2024 7:25 AM
To: Espinoza, Jesus
Subject: Pickleball

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

There is a vibrant community of Pickleball players in Berkeley with too few courts available. I am writing to urge the city council to keep the Cedar Rose courts so that these are available in addition to the new courts at the Tom Bates Sports Complex.

I19

John Poppleton

Personal mobile: 250-241-1011

Work mobile: 925-683-3673

Espinoza, Jesus

From: Joyce Kanyuk <joycekanyuk@gmail.com>
Sent: Sunday, November 10, 2024 8:31 PM
To: Espinoza, Jesus
Subject: Pickleball

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

I20

As a Berkeley resident I strongly support adding pickleball courts to theTomBates Sports Complex.
Thank you
Joyce Kanyuk

Espinoza, Jesus

From: Kai Shen <shenkerry@yahoo.com>
Sent: Sunday, November 10, 2024 3:36 PM
To: Espinoza, Jesus
Subject: Pickleball courts

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I21

Hello, I'm writing in support of having pickleball courts at the Tom Bates center. There is a huge pickleball community and need for courts in the area.
Thank you!
Kai Shen

Espinoza, Jesus

From: Karen Gee <ka.gee@sbcglobal.net>
Sent: Tuesday, November 12, 2024 3:44 PM
To: Espinoza, Jesus
Subject: Pickleball courts at Tom Bates Sports Complex

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

I am writing to support building pickleball courts in the plan for new facilities at the Tom Bates Sports Complex. The courts will support the fastest growing sports in the U.S. and help ease overcrowding at the few courts currently in Berkeley. I am an Oakland resident, and players from Berkeley are having to use Oakland pickleball courts because there is insufficient court space in Berkeley. Locating courts at the Tom Bates Sports Complex will also accommodate pickleball in an area that is away from residential housing that might be disturbed by noise if the courts were built in residential areas. I22

Thank you for considering the courts.

Karen Gee

Espinoza, Jesus

From: Kevin RoseWilliams <krow947@gmail.com>
Sent: Wednesday, November 13, 2024 7:27 PM
To: Espinoza, Jesus
Subject: New Pickleball and Soccer facilities at Tom Bates Sports Complex

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

I23

Jesus,
As a long time resident of Berkeley I'd like to let you know that I whole-heartedly support the further development of the Tom Bates Sports complex to include 8 pickleball courts, a small soccer field, and a fully developed toilet facility.
I coached youth soccer at Albany Berkeley Soccer Club from 1995 to 2010 and always appreciated whatever field, or scrap of grass, we could use in order to develop the players and reach our goals; every extra field will help the current coaches and players.
I have been playing pickleball since the pandemic, I love playing at Cedar/Rose Park, but it is often so booked-up it is unavailable.
There have been many times that I have had to travel to El Cerrito, Albany, Richmond or North Oakland to find a court to play on, we really need a lot more more courts here in Berkeley.

As you've probably heard ten thousand times already, wind affects the game of pickleball a lot; please invest time and effort in coming up with a plan that shields the courts from the worst of the afternoon winds that we can expect down at the side of the Bay.

thanks
Kevin Rose-Williams

P.S. the courts at Cedar/Rose Park are very popular, especially for local residents who arrive on foot and by bicycle, please do everything you can to keep them open, even after the new complex of courts is open down by the Bay.

Espinoza, Jesus

From: Kyle Muro <kyle.muro@gmail.com>
Sent: Monday, November 11, 2024 12:55 PM
To: Espinoza, Jesus
Subject: Berkeley Pickleball Courts

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

As a Berkeley resident I support the addition of pickleball courts at the Tom Bates Sports Complex because of how much I and others use the Cedar Rose pickleball courts.

I24

Please include lights to play at night at the Tom Bates complex and wind mitigation so that the courts are usable! I think it is a great location to have night pickleball for the winter when the sun is setting at 5 pm like it is now. There are no neighbors to be disturbed so it should be feasible for players to go until 10 PM at night and have time to play after they finish their work day.

Thank you!

Kyle Muro
1502 Francisco St, Berkeley, CA 94703
559-707-8088

Espinoza, Jesus

From: laura leaverton <lauraleaverton@gmail.com>
Sent: Friday, November 15, 2024 9:35 PM
To: Espinoza, Jesus
Subject: Tom Bates Pickleball Courts

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello,
I'm a Berkeley resident for 22+years, and would like to express my support for additional pickleball courts in Berkeley. I understand a plan includes them at the Tom Bates fields. I currently play at Bushrod, because it has the greatest capacity. There are many players competing for limited court space. I hope you will add new courts soon! **I25**
Thanks,
Laura Leaverton
1910 Sacramento St, Berkeley, CA 94702
510-847-6365

Espinoza, Jesus

From: Lauren <lsquock@gmail.com>
Sent: Wednesday, November 13, 2024 7:07 PM
To: Espinoza, Jesus
Subject: In support of Pickleball courts at Tom Bates Sports Complex

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mr. Espinoza,

My name is Lauren Quock and I live in North Berkeley and have been a Berkeley resident for 20 years. I am writing to voice my support for pickleball courts at the Tom Bates Sports Complex. I recently started playing pickleball and love how accessible the sport is for people of various ages and fitness levels. I currently drive 30 minutes to Oakland to play pickleball. Having pickleball courts closer to my house would mean that I could play more frequently and stay more active. **I26**

Thank you!

Sincerely,
Lauren Quock

Espinoza, Jesus

From: Lesley Turner <lesleyturner44@gmail.com>
Sent: Wednesday, November 13, 2024 1:25 PM
To: Espinoza, Jesus
Subject: New pickleball courts!

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello Mr Espinosa,

I27

As a resident of Berkeley i want to register my support for the proposed pickleball courts! I began the sport two years ago and am an a id enthusiast!! I often have to wait to play at the Richmond ones so i am all for more having more!!
Thank you so much!
Margaret Lesley Turner

Espinoza, Jesus

From: LORI LEE <loriannlee@icloud.com>
Sent: Sunday, November 10, 2024 7:28 PM
To: Espinoza, Jesus
Subject: Pickleball

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mr. Espinoza-

I28

I have been a resident of Berkeley on and off since attending CAL in 1992. I now own a home since 2010. I love pickleball and it has saved my mental and physical health especially since the pandemic. I go to Oakland and Richmond to play. I find it a bit harder to access Cedar Rose. But I would really enjoy having a court closer to me on the West end. I hope you will consider making some more courts in our City and support public courts for all to enjoy also night lights so we can play at night.

Thanks

~Lori Lee
2330 10th Street

Espinoza, Jesus

From: Lovell S Jarvis <lsjarvis@ucdavis.edu>
Sent: Monday, November 11, 2024 7:31 PM
To: Espinoza, Jesus
Subject: I support the addition of pickleball courts at the Tom Bates Sports Complex and also retention of the Cedar-Rose pickleball courts

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Jesus,

I strongly support the construction of pickleball courts at the Tom Bates Sports Complex. Pickleball is a rapidly growing sport in Berkeley, played by children and a wide age-range of adults. It's a place where pickleball players have fun, get beneficial exercise, and build community. I've been playing at the Cedar-Rose Courts for three and a half years with a large co-ed group that now numbers 19 players. Each week, on Tuesdays and Thursdays, we rent two courts for two hours each and take turns, mixing up teams, laughing, lamenting our failures, celebrating our successes, and becoming better and better friends. I've never played sports with such an enjoyable group of people – and very few of the group even knew each other before coming to the courts. I29

The courts are packed most of the time. More are needed – so adding courts at the Tom Bates Sporting Complex is an investment that will allow many additional players to start playing – and they will. The game is really enjoyable and very accessible athletically.

Also, please do retain the Cedar-Rose courts. They're also needed.

Thanks to the City Council for its consideration.

Lovell (Tu) Jarvis
670 Creston Road
Berkeley, CA 94708

Espinoza, Jesus

From: Margaret Ostrander <margaretostrander@gmail.com>
Sent: Monday, November 11, 2024 12:13 AM
To: Espinoza, Jesus
Cc: Margaret Ostrander
Subject: Yes to Pickleball at the Tom Bates Sports Complex

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello!
I am writing with enthusiasm and hope! The addition of pickleball courts to the Tom Bates Sports Complex will bring joy to the community, provide exercise opportunity to those of all levels/ages, and the opportunity create positive relationships. **I30**

Stories like mine are not unusual — but do require our cities and parks departments to provide the infrastructure to make pickleball accessible to all. Here's my story:

When I arrived in the Bay Area (just a year ago!), pickleball became the primary way for me to connect to my new community. What a surprise!! I had never played an organized sport or had an exercise routine.

I went to Bushrod Park in Oakland, a city-run park, where I've played pickleball ever since. I didn't know anyone in the area. I soon came to know that the pickleball community loves to have fun, creates intentional space for new players, and are simply kind.

Pickleball has made me a much healthier person, with the following impacts on my life:

1. Decreased anxiety, depression and other mental health symptoms
2. Increased range of motion and reduced pain I my arm, which is affected by breast cancer surgery. (Lymphadema)
3. Increased strenuous exercise, with more time outdoors
5. Increased healthy social relationships
6. Affordable & accessible self-care and motivator.

Thank you for considering this letter of support for pickleball courts at Tom Bates.

Do not hesitate to reach out if there are any questions via email or cell 612-559-7623.

Sincerely,
Margaret Ostrander

Margaret Ostrander
Pronouns: she/her
+1 612 559 7623
LinkedIn.com/in/margaretostrander

Espinoza, Jesus

From: Marguerite Lee <mlee94707@gmail.com>
Sent: Sunday, November 10, 2024 3:44 PM
To: Espinoza, Jesus
Subject: Pickleball Courts at Tom Bates

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

I31

I live in Berkeley and I support the construction of more pickleball courts at the Tom Bates Sports Complex. If approved, wind mitigation should be part of the construction planning process.
Thank you,
Marguerite Lee

Espinoza, Jesus

From: Mei G <meigrieb@gmail.com>
Sent: Monday, November 11, 2024 2:11 PM
To: Espinoza, Jesus
Subject: pickleball courts in Berkeley

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

I have lived and worked in Berkeley (I'm currently a homeowner) for almost 45 years. I want to add my support for the addition of pickleball courts at the Tom Bates Sports Complex and any additional locations in Berkeley. I encourage the City to mitigate as much as possible the wind issues that are prevalent along the Bay as it makes it very challenging if not almost impossible to play with a "wiffle-like" plastic ball. I play pickleball 4-6 times a week and it has been a lifesaver in my retirement with significant physical, social, mental benefits. I32

Thank you for your kind consideration.

Mei Griebenow
2100 block of California Street
Berkeley, CA 94703

Espinoza, Jesus

From: Molly Reno <mollyhreno@aol.com>
Sent: Sunday, November 10, 2024 5:13 PM
To: Espinoza, Jesus
Subject: Tom Bates Pickleball Courts

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hi,

I33

As a Berkeley resident, I appreciate the existing pickleball courts and hope more courts are added at Tom Bates facility.

Thanks for considering my input.

Molly

Molly H. Reno
Pronouns: she/her
Sent from my iPhone

Espinoza, Jesus

From: Nicole Naffaa <nnaffaa@gmail.com>
Sent: Wednesday, November 13, 2024 10:44 AM
To: Espinoza, Jesus
Subject: Support for Pickleball Courts

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Dear Me Espinoza,

I34

As a Berkeley resident, I would like to register my strong support for the addition of pickleball courts at the Tom Bates Sports Complex.

thank you,
Nicole Naffaa
--
Nicole Naffaa
(she/her/hers)
(510) 684-0277

Espinoza, Jesus

From: NINA BOEDDEKER <nina.bo@icloud.com>
Sent: Wednesday, November 13, 2024 9:27 PM
To: Espinoza, Jesus
Cc: Taplin, Terry
Subject: More Pickleball courts for Berkeley please!

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Jesus, and dear Terry,

I am writing to support the idea of building more Pickleball courts in Berkeley, as well as preserving and maintaining the existing courts at Cedar Rose park. **I35**

I am a longterm resident of Berkeley, but until a few years ago I had never ventured into any of the Sports facilities that our city has to offer. However, when a friend introduced me to Pickleball about 4 years ago I was instantly hooked.
I have been playing mostly at Cedar Rose park since then. I am part of a group that meets there regularly, and it has become an important part of my community and social network. We play, we laugh, we get lots of exercise, and I am always meeting new people.

The sport is so accessible, very beginner-friendly, and the equipment needed is inexpensive. No wonder it's been the fastest growing sport across the nation!

With all that said, please prioritize building more courts! Just imagine that on the size of one tennis court one could have 4 pickleball courts with a total of 16 players at a time!

May thanks for your work and your consideration,

Nina Boeddeker
2319 Curtis St
Berkeley

Espinoza, Jesus

From: Paul Gee <paulgee2@gmail.com>
Sent: Sunday, November 10, 2024 3:16 PM
To: Espinoza, Jesus
Subject: Tom Bates Sports Complex - Pickleball

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hi Jesus,
I want to express my full support for the plan to improve the Tom Bates Sports Complex to support the large and rapidly growing pickleball community. **I36**

I have been playing pickleball for the last two years and appreciate when I can find a good community and courts to support our game.

Thanks for all you do,
Paul Gee
510-502-8465
Berkeley resident

Espinoza, Jesus

From: Terry Robinson-Kochi <tlrkochi@gmail.com>
Sent: Sunday, November 10, 2024 5:40 PM
To: Espinoza, Jesus
Subject: Tom Bates Sports Complex

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

As a Berkeley resident, I support the addition of pickleball courts at the Tom Bates Sports Complex because our town needs more courts in response to the growing numbers of pickleball players. **I37**

Thank you,

Terry Robinson-Kochi

Terry
.·´¯`·.. <º))))><`·.¸¸.·´¯`·.¸.·´¯`·...¸<º))))><
¸.·´¯`·.¸., . .·´¯`·..¸¸.·´><((((º>¸¸.·´¯`·..¸¸.·´><((((º>

Espinoza, Jesus

From: Tiger Whittemore <tigerwhittemore@gmail.com>
Sent: Wednesday, November 13, 2024 7:01 PM
To: Espinoza, Jesus
Subject: Pickleball at the Gilman Sports Complex

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

I38

Please support the proposed 8 pickleball courts at the Gilman Sports Complex. While the wind will be a small issue for Pickleball, the location is the very best for no possible concerns for the potential noise issues that impact nearby residences in other locations.

Thanks for your consideration!
--Tiger Whittemore
510-612-2001

Espinoza, Jesus

From: wayneh3412@aol.com
Sent: Sunday, November 10, 2024 10:15 PM
To: Espinoza, Jesus
Subject: Pickleball

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mr. Espinoza :

I'm a long term resident of Berkeley . I play piclkebaaa twice a week in Oakland. **I39**

I would appreciate it if you could do what you can to establish piclkleball courts at the Tom Bates field.

Sincerely,

Wayne Huber
1185 Sterling Avenue

Espinoza, Jesus

From: William Florian <william@florianmusic.com>
Sent: Sunday, November 10, 2024 4:42 PM
To: Espinoza, Jesus
Subject: Pickleball in Berkeley

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

I play Pickleball in Berkeley. I support the addition of pickleball courts at the Tom Bates Sports Complex because there are so many players and there will be hundreds more every year. It will be great to have this additional place to play. I40

Warmly
William

707-548-2187 cell
william@florianmusic.com
www.thosewerethedays.org

Letter #I1-I40 Response:

The Draft IS/MND was made available to the public for comments between November 7, 2024 and December 7, 2024. The City has notified the public via email and posted signs at the park, requesting comments on the Draft IS/MND, which has been published on the State Clearinghouse website. Five copies of the draft IS/MND were also made available for public comments at Alameda County Clerk-Records's Office on November 6, 2024. A total of 40 individuals submitted their support via email. Below is the standard response to the comments received.

Response I1-I40: Standard Response

The City appreciates and acknowledges the positive feedback from all those who voiced their support in their comments. No revisions to the Draft IS/MND are necessary in response to those comments.

Public Hearing Oral Comments

Although Public Hearing is not required per CEQA Section 15202 (a), on November 13, 2024, the City held a public hearing during the City of Berkeley Parks, Recreation, and Waterfront commissioners meeting, where the Draft IS/MND was presented to both the Commissioners and the public, providing an opportunity for comments on the Draft IS/MND. A presentation summarizing the Tom Bates RSC Project and the Draft IS/MND was provided at the meeting and City staff and consultants were available to answer questions regarding the CEQA document. The comments below were provided orally during the meeting.

Public Hearing Oral Comments PH1: Brennan Cox, Commissioner – City of Berkeley Parks, Recreation and Waterfront
The commissioner suggested that the pickleball courts be clustered on one side of the site, with benches placed centrally and was concerned about the location of the pick-up/drop-off area being close to the ADA parking stalls. Additionally, they questioned about the location of the bioswale.

Public Hearing Oral Comments PH2: Bill Powning
The individual thanked the City for advancing the project and being receptive to the community.

Public Hearing Oral Comments PH3: Kathy Teraskin
The individual thanked the City for advancing the project and being receptive to the community.

Public Hearing Oral Comments PH4: Kelly Hammargren
The individual expressed concerns about the noise generated by the pickleball courts and the wind screening used, suggesting that it should be designed to be bird-friendly.

Public Hearing Oral Comments PH5: Ted Steen
The individual recommended the use of synthetic turf for the new soccer field, the removal of two pickleball courts to make the soccer field larger. Additionally, they requested improved lighting in the parking lot and enhanced lighting for the new soccer field.

Public Hearing Oral Comments Response #PH1-PH4 Response:

Response PH1-PH5: Please see **Standard Response** in the previous section. No revisions to the Draft IS/MND are necessary in response to those comments.

TEXT REVISION TO THE DRAFT IS/MND

This section includes revisions to the Draft IS/MND by errata as allowed by CEQA. The revisions reflect new information that merely clarifies, amplified, or makes minor modifications based on information gathered since the publication of the Draft IS/MND. New text is underlined to indicate additions, and deletions are shown with ~~strikeout~~ for clarity. The changes are organized according to the section and page order in the Final Initial Study Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Plan. Following the publication of the Draft IS/MND, some text updates were made the text:

Description of project

- Pages 74-76 - Description of Project section, is modified as follows:

The City adopted an Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Plan (MMRP) on October 18, 2005 for a General Plan/Waterfront Specific Plan Amendment, Zoning Ordinance Amendment and Gilman Street Playing Fields Project. The Gilman Street Playing Fields are now known as the Tom Bates RSC. The IS/MND described the project in two phases:

- Phase I – construct two artificial turf soccer fields, Gilman Street parking lot, basic drainage, and utility systems.
- Phase II – construct three natural turf fields for softball and hardball, irrigation, a second parking lot, tot lot, a field house and lighting system.

The phases were to be built as funding became available. In 2008, the City installed a lighting system for the two soccer fields, grass fields, and an irrigation system. In 2011, the City completed the baseball field and part of the second parking lot. The City is currently proposing to develop the remainder of Phase 2, which includes three natural turf fields, a tot lot, a field house, and additional upgrades, as described in this section. The project site is owned by the East Bay Regional Park District (EBRPD) and managed under a sublease by the City. The project is sponsored by the City which is serving as the lead agency for the land use approvals under the terms of a Joint Exercise of Powers Agreement executed in 2003 by the cities of Berkeley, Emeryville, Albany, Richmond, and El Cerrito calling for the collaborative development of sports fields for regional use.

The City proposes implementing various new elements to the existing Tom Bates RSC (Project). Figure 1 (all figures are in Attachment 1) shows the Project location and existing layout. Figure 2 shows the proposed conceptual layout which includes a new Community Space Facility with restrooms, multi-use room and storage room; new soccer field for players under the age of 8 (U8), eight pickleball courts and bleachers for two of the courts; reconfigured parking lot to add more stalls and electric vehicle (EV) charging stations and temporary lot during construction; bicycle racks and lockers and walkways that are compliant with the Americans with Disability Act (ADA); stormwater bioretention features and landscaped areas; new electric service and a sanitary sewer lift station. The project components are discussed in more detail below. The City will ensure the implementation of the commitments outlined ~~implement the commitments listed~~ in Attachment 2 – Commitment list for design, construction, and operation ~~as part of the Project and will continue to implement best practices for site maintenance~~. This will include the ongoing adoption of best practices aimed at minimizing environmental impacts and promoting sustainability throughout the project's lifecycle and site maintenance.

Construction is anticipated to commence in ~~April~~ August 2025 and last approximately six months. The construction workdays and hours would be Monday to Friday inclusive, 7:00 AM to 5:00 PM local time. Work at the site on weekends or holidays will not be permitted unless the construction contractor requests otherwise from City in writing at least 48 hours in advance and City approves in its sole discretion.

Community Space Facility

The 1,408 square foot community space facility is a prefabricated concrete masonry building comprised of four transportable modules constructed and fabricated in Minden, Nevada, about 200 miles from the site. A mobile crane would lower the building modules into place on the project site. The facility would include a multi-use room for light storage and meetings, five gender neutral restrooms three of which will be ADA compliant, a storage room, and drinking fountains. Concrete piles to support the Community Space Facility would be cast in auger and drilled into 25-foot-deep holes. Pile driving would not occur.

The area surrounding the proposed community space facility would include security gates and fencing, access stairs, an ADA-compliant switchback ramp, and retaining wall to accommodate the approximately 6-foot change in elevation. Wall-mounted lighting would illuminate the area around the community space facility. In addition, one light pole and light would illuminate the ADA-compliant switchback ramp. All lighting would use fixtures approved by the International Dark-Sky Association.

The building will be Leadership in Energy and Environmental Design (LEED) certified as per the U.S. Green Building Council Certified Level LEED Building Design and Construction Version 4.1 (2023). The project is designed for LEED certification. If the LEED designation is not awarded, the design would still meet the requirements of the California State Green Building Code (CALGreen) by following the CALGreen Code Compliance Checklist (Non-Residential).

The facility will contain a new sanitary sewer lift station and force main, electrical, communications, and potable water service. The Project also includes the expansion of the existing post-construction stormwater treatment bioswale and a new bioretention basin, compliant with the Clean Water Program

C.3 Stormwater Technical Guidance (2023), to accommodate the proposed site improvements.

Pickleball Courts

Eight pickleball courts will be installed featuring a concrete or asphalt surface. Six courts will measure approximately 30 x 64 feet, and two courts will measure approximately 34 x 64 feet. Excavations will be to a depth of up to two feet. All will have corresponding court striping and nets. The two larger courts will have a bleacher installed to the west of the courts. No new lighting for the courts is proposed as part of the project.

U8 Soccer Field

A U8 soccer field will be constructed to accommodate youth soccer leagues. In addition, adult users may utilize the field for practices. Excavations will be to a depth of up to two feet. The field will be comprised of natural grass. Full irrigation will be included. The field will have security gates and fencing where required. No additional lighting for the field is proposed as part of the project.

Parking

Parking facility improvements are included as part of the Project. The existing parking lot will be reconfigured, increasing parking spaces from 94 to 125, and improved by adding 13 active and 25 ready EV charging stations. The number of proposed charging stations meets CALGreen Code 5.106.5.3.3 and City of Berkeley Municipal Code 19.37.040: 10 percent of the parking spaces will be wired, and 20 percent of the parking spaces will have the infrastructure for future EV charging stations. ADA-compliant walkways will be provided connecting the parking lot and community space facility. The Project also includes optimization measures for traffic circulation to be able to accommodate the additional parking stalls.

During construction, the existing paved area to the west of the RSC will be striped and utilized as a temporary parking lot with capacity for up to 94 automobile parking stalls, including four ADA stalls. This will also include widening the access driveway to accommodate traffic circulation and the inclusion of an ADA-compliant walkway.

The design of the parking facilities includes pedestrian and bike access to the Bay Trail extension which is part of the Gilman Street project (Caltrans, 2019).

The Project includes new bicycle parking. Bicycle parking capacity will increase from the existing approximately eight bicycle rack spaces to include up to 18 bike lockers.

Additional parking is currently available at the unpaved parking lot (Figure 1) with approximately 70 stalls, including 3 ADA-compliant stalls. An existing paved road bordering the west side of the grass field provides access from this lot to the south end of the Project.

Utilities

The Project will include improvements to on-site drainage through the creation of a new ~~three~~ two-foot deep bioretention basins and enhancement of the existing bioswale. The storm drain connection will be constructed at a maximum depth of about six feet.

The project will include a connection to potable water, a new sanitary sewer lift station, force main and sanitary sewer gravity pipe.~~, communication and potable water.~~ The lift station foundation will be 13 feet deep. Connections to water and sanitary sewer will be made to existing infrastructure that is already located onsite within the park boundaries. The capacity of the existing water and sewer infrastructure ~~on-site utilities~~ is adequate to serve the new park uses. The storm drain connection will be constructed at a depth of six feet.

A new electric service and transformer will be required from Pacific Gas & Electric Company (PG&E) to provide sufficient capacity for the EV charging stations and the new Community Space Facility. This connection will be made at the existing PG&E power pole ~~switch~~ located on City property at the northeast corner of the RSC and will run underground along the north side of the existing soccer fields, then south to the new Community Space Facility through the existing parking lot. The electrical service will be designed to accommodate a planned 1000-amp service. Of those, 200 amps of electrical capacity are designated for use by the proposed Community Space Facility, with the remaining 800 amps dedicated to electric ~~car~~ vehicle charging stations in the parking lot. A new communications service from AT&T and sanitary sewer lift station will also be required to serve the new Community Space Facility. The point of connection will be an AT&T handhole located within the sidewalk on Gilman Street near the northeast corner of the RSC site.

Biological Resources

Following the publication of the Draft IS/MND, the City became aware that in October 2024, the California Department of Fish and Wildlife (CDFW) designated the burrowing owl as a candidate species for potential listing under the California Endangered Species Act (CESA). During the review period, candidate species receive the same protections as fully listed species under CESA. As a result, an Incidental Take Permit (ITP) would be required if take is identified during surveys, and coordination with CDFW will take place.

It is important to clarify that the Draft IS/MND already anticipated potential impacts to burrowing owls and included mitigation measure BIO-1 to reduce these impacts. The inclusion of coordination with CDFW regarding the ITP does not change the conclusions of the analysis and/or the significance findings in the Draft IS/MND for the project site; rather, it strengthens the mitigation measures for potential impacts on burrowing owls.

After reviewing all comments received on the Draft IS/MND and incorporating new information regarding the change in the burrowing owl's status under CESA into the document, the lead agency has determined that these changes do not necessitate recirculation of the Draft IS/MND.

Per Section 15073.5(c) of the CEQA Guidelines, recirculation is not required under the following circumstances:

(1) Mitigation measures are replaced with equally or more effective measures, pursuant to Section 15074.1.
(2) New project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declaration, provided these revisions do not result in new significant effects.
(3) Measures or conditions of project approval are added after circulation of the negative declaration that are not required by CEQA, do not create new significant environmental effects, and are not necessary to mitigate an avoidable significant effect.
(4) New information added to the negative declaration merely clarifies, amplifies, or makes insignificant modifications to the original declaration.

Recirculation of the Draft IS/MND is not required when mitigation measures are replaced with equally or more effective measures, as outlined in Section 15074.1 of CEQA Guidelines. As mentioned above, the inclusion of additional coordination with CDFW strengthens the mitigation measures for potential impacts on burrowing owls. Additionally, during the public hearing on November 13, 2024, the City informed the public about the new regulatory changes and explained how the updated process will be followed, as required by CDFW. Revisions made to this report to address these changes meets these criteria.

- Pages 89-94 – Section IV. Biological Resources is modified as follows:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife and Game or U.S. Fish and Wildlife Service?

Less Than Significant Impact with Mitigation Incorporated:

Short-term Construction-Related Impacts

Short-term construction-related effects would result from the presence and movement of construction equipment, construction fencing, and additional lighting sources provided on the Project site, which could affect or destroy habitat, or otherwise "take" protected plant or animal species. As identified in Attachment 3, the BSA does not contain habitat to support any of the special-status plant species known to occur in the larger vicinity. The Project would therefore not result in impacts to any special-status plant species. No avoidance, mitigation, or minimization measures are proposed for special status plant species.

As identified in Attachment 3, no special status animal species, other than the burrowing owl, has any likelihood of use of habitat within the BSA. While they would likely avoid the construction area, it is feasible that special status bird species may fly through the BSA; however, they are unlikely to interact with construction equipment during this brief pass-through. The burrowing owl has a low likelihood of presence in the BSA based on analysis of habitat presence but has been observed in the general area in the past, such as at Tom Bates RSC and Cesar Chavez Park (City of Berkeley, 2005; Golden Gate Bird Alliance, 2023). Impacts to burrowing owls would be significant. To avoid significant impacts to the burrowing owl, mitigation measure BIO-1 would be implemented:

- **BIO-1 -** Burrowing Owl Survey Protocol and Mitigation: Prior to ground disturbing activity, a pre-construction survey for burrowing owls shall be completed by a qualified biologist according to Burrowing Owl Survey Protocol and Mitigation Guidelines and the California Department of Fish and Wildlife (CDFW) protocol identified in the Staff Report on Burrowing Owl Mitigation prior to disturbance of non-native annual grassland areas occupied by ground squirrels (Attachment 4, CDFW, 2012). After the survey is complete, the qualified biologist shall prepare a report that includes but is not limited to: Description of the proposed project or proposed activity, including the proposed project start and end dates, as well as a description of disturbances or other activities occurring on-site or nearby. The survey report will be provided to the City's Planning Department for review and approval. If any occupied burrows are identified during the breeding season, buffer areas will be established around them and protected until the nesting activities are complete. Any occupied burrow identified outside the nesting season (June-July) will have a one-way gate installed to allow burrowing owls to leave the site. Any identification of burrowing owls will be coordinated with the CDFW. The phases listed below shall be completed by the qualified biologist:
    - Phase I: Habitat assessment
    - Phase II: Burrow survey
    - Phase III: Burrowing owl surveys, census, and mapping
    - Phase IV: Resource summary, written report

As of October 2024, CDFW has designated the burrowing owl as a candidate for potential listing as a protected species under the California Endangered Species Act (CESA). During the review period, candidate species receive the same protections as fully listed species under CESA. Any potential take will require an Incidental Take Permit (ITP), which will be coordinated with the California Department of Fish and Wildlife (CDFW) if potential for Take is identified during surveys. Any mitigation will be acquired at the direction of CDFW.

The City will consult with the CDFW Bay Delta Region and submit the required documentation, including this Initial Study Mitigated Negative Declaration, as directed by CDFW.

In addition to construction controls, the project shall comply with the City's COA - Avoid Disturbance of Nesting Birds to prevent disturbance of nesting birds and initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 31), if feasible.

If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided.

The proposed project could result in a potential impact to burrowing owls. However, with required adherence to California Department of Fish and Wildlife requirements, existing regulations, and implementation of Mitigation Measure BIO-1, the impact would be less than significant.

To avoid the destruction of active nests and to protect the reproductive success of birds protected by the Migratory Bird Treaty Act and the California Fish and Game Code, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest).

No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed, and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

Wildfire

- Page 132 – Section XX Wildfire is modified as follows:

No Impact: The Project site is located in a developed urban area and is not located in or near a state responsibility area or lands classified as very high fire hazard severity zones. The Project would have no impact with respect to Wildfire.

The implementation of the proposed project would not interfere with any adopted emergency response or evacuation plans, nor would it increase wildfire risks. It would not require the installation or maintenance of infrastructure that could heighten fire hazards, nor would it expose people or structures to significant risks, including flooding, landslides, or downslopes caused by runoff, post-fire slope instability, or drainage changes, particularly in areas designated as state responsibility zones or classified as very high fire hazard severity zones. While the project includes the installation of a new electric service line and transformer, it will be constructed in full compliance with local and state regulations concerning power lines, related infrastructure, and fire suppression requirements. ~~As the Project~~

~~involves no installation of new infrastructure, it does not include the construction or modification of roads, fuel breaks, emergency water sources, power lines, or other utilities. Additionally, there will be no maintenance or alteration of existing infrastructure that could influence fire safety.~~ Therefore, there would be no impact.

Mandatory Findings of Significance

- Page 134 – Section XXI. Mandatory Findings of Significance is modified as follows:

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Less Than Significant Impact with Mitigation Incorporated: The proposed Project could affect burrowing owls or their habitat. Impacts to burrowing owls would be significant. As of October 2024, the California Department of Fish and Wildlife (CDFW) has designated the burrowing owl as a candidate for potential listing as a protected species under the California Endangered Species Act (CESA). During the review period, candidate species receive the same protections as fully listed species under CESA. In addition to Mitigation Measure BIO-1, and to ensure compliance with the new regulation, any potential take of the burrowing owl will require an Incidental Take Permit (ITP). If take potential is identified during surveys, coordination with CDFW will be required, and mitigation will be implemented as directed by CDFW. The City will coordinate with CDFW – 3 Bay Delta Region.

To avoid significant impacts to the burrowing owl, mitigation measure BIO-1 would be implemented:

- **BIO-1 -** Burrowing Owl Survey Protocol and Mitigation: Prior to ground disturbing activity, a pre-construction survey for burrowing owls shall be completed by a qualified biologist according to Burrowing Owl Survey Protocol and Mitigation Guidelines and the California Department of Fish and Wildlife (CDFW) protocol identified in the Staff Report on Burrowing Owl Mitigation prior to disturbance of non-native annual grassland areas occupied by ground squirrels (Attachment 4, CDFW, 2012). After the survey is complete, the qualified biologist shall prepare a report that includes but is not limited to: Description of the proposed project or proposed activity, including the proposed project start and end dates, as well as a description of disturbances or other activities occurring on-site or nearby. The survey report will be provided to the City's Planning Department for review and approval. If any occupied burrows are identified during the breeding season, buffer areas will be established around the burrow and protected until the nesting activities are completed. Any occupied burrow identified outside the nesting season (June-July) will have a one-way gate installed to allow burrowing owls to leave the site. Any identification of burrowing owls will be coordinated with the CDFW. The phases listed below shall be completed by the qualified biologist:
    - Phase I: Habitat assessment
    - Phase II: Burrow survey
    - Phase III: Burrowing owl surveys, census, and mapping
    - Phase IV: Resource summary, written report

In addition to construction controls, the project shall comply with the City's COA - Avoid Disturbance of Nesting Birds to prevent disturbance of nesting birds and initial site disturbance activities, including

vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 31), if feasible.

If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided.

The proposed project could result in a potential impact to burrowing owls. However, with required adherence to California Department of Fish and Wildlife requirements, existing regulations, and implementation of Mitigation Measure BIO-1, Therefore, the impact would be less than significant with mitigation incorporated.

In 1989, the Legislature amended CEQA to require that public agencies adopting feasible mitigation measures outlined in Environmental Impact Reports (EIRs) and negative declarations also implement a mitigation monitoring and reporting program. This program is designed to ensure compliance with any project modifications mandated by the public agency to reduce or avoid significant environmental impacts. A Mitigation Monitoring and Reporting Plan (MMRP) has been developed for the project (Attachment 5).

Attachment 2: Commitment List

- Attachment 2: Commitment List – Biological Resources Section is modified as follows:

Resource Area	Commitment	Responsible Party	Before	During	After	Verification of Compliance Date
Biological Resources	BIO-1: Burrowing Owl Survey Protocol and Mitigation: Prior to ground disturbing activity, a pre-construction survey for burrowing owls shall be completed by a qualified biologist according to Burrowing Owl Survey Protocol and Mitigation Guidelines and the California Department of Fish and Wildlife (CDFW) protocol identified in the Staff Report on Burrowing Owl Mitigation prior to disturbance of non-native annual grassland areas occupied by ground squirrels (Attachment 4, CDFW, 2012). After the survey is complete, the qualified biologist shall prepare a report that includes but is not limited to: Description of the proposed project or proposed activity, including the proposed project start and end dates, as well as a description of disturbances or other activities occurring on-site or nearby. The survey report will be provided to the City's Planning Department for review and approval. If any occupied burrows are identified during the breeding season, buffer areas will be established	Contractor	X			Verified by:

Resource Area	Commitment	Responsible Party	Before	During	After	Verification of Compliance Date
	around the burrow and protected until the nesting activities are completed. Any occupied burrow identified outside the nesting season (June-July) will have a one-way gate installed to allow burrowing owls to leave the site. Any identification of burrowing owls will be coordinated with the CDFW. The phases listed below shall be completed by the qualified biologist: Phase I: Habitat assessment Phase II: Burrow survey Phase III: Burrowing owl surveys, census, and mapping Phase IV: Resource summary, written report Incidental Take Permit (ITP): Any potential take will require an Incidental Take Permit (ITP), which will be coordinated with the CDFW if potential for Take is identified during surveys. Any other mitigation will be acquired at the direction of CDFW.					

Attachment 5: Mitigation Monitoring and Reporting Plan (MMRP)

- Attachment 5: Mitigation Monitoring and Reporting Plan (MMRP) is modified as follows:

Mitigation Measure	Mitigation Activities	Implemented by	Monitored by	Before	During	After	Verification of Compliance date:
BIO-1	BIO-1 - Burrowing Owl Survey Protocol and Mitigation: In order to avoid any impacts to Burrowing Owl, a pre-construction survey for burrowing owls will be completed by a qualified biologist according to Burrowing Owl Survey Protocol and Mitigation Guidelines and the CDFW protocol identified in the Staff Report on Burrowing Owl Mitigation prior to disturbance of non-native annual grassland areas occupied by ground squirrels (Attachment 4, CDFW, 2012). After the survey is complete, the qualified biologist will develop a report that includes but is not limited to: Description of the proposed project or proposed activity, including	Contractor	City of Berkeley	X			Verified by: Date:

Mitigation Measure	Mitigation Activities	Implemented by	Monitored by	Before	During	After	Verification of Compliance date:
	the proposed project start and end dates, as well as a description of disturbances or other activities occurring on-site or nearby. The survey report will be provided to the City's Planning Department for review and approval. If any occupied burrows are identified during the breeding season, buffer areas will be established around the burrow and protected until the nesting activities are completed. Any occupied burrow identified outside the nesting season (June-July) will have a one-way gate installed to allow burrowing owls to leave the site. Any identification of burrowing owls will be coordinated with the California Department of Fish and Wildlife. The Steps below would be followed: Phase I: Habitat assessment Phase II: Burrow survey Phase III: Burrowing owl surveys, census, and mapping Phase IV: Resource summary, written report. Incidental Take Permit (ITP): Any potential take will require an Incidental Take Permit, which will be coordinated with the CDFW if potential for Take is identified during surveys. Any other mitigation will be acquired at the direction of CDFW.						

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INITIAL STUDY

1. Project title: Tom Bates Regional Sports Complex Restroom and Community Space

2. Lead agency name and address: City of Berkeley - Parks, Recreation & Waterfront
2180 Milvia St, 3rd Floor, Berkeley, CA 94704

3. Contact person and phone number:
Jesus Espinoza
Email: jespinoza@berkeleyca.gov
Phone number: (510) 981-6708

4. Project location: 400-408 Gilman St, Berkeley, County of Alameda, CA 94710

5. Project sponsor's name and address: City of Berkeley; Parks, Recreation & Waterfront,
1947 Center St 5th Floor, Berkeley, CA 94704

6. **General plan designation**: Waterfront/Marina

7. Zoning: Specific Plan

8. Surrounding land uses and setting:

The Tom Bates RSC encompasses approximately 20 acres; the proposed Project is planned for approximately 3.69 acres (Figure 1) of the total area. The project site is located along the City of Berkeley shoreline. A geotechnical investigation conducted at the project site in November 2022 by CE&G (2023) revealed subsurface soil conditions that were generally consistent with regional geological mapping. The findings identified three primary soil types: artificial fill, young bay mud, and older alluvium.

The project site is bounded by Gilman Street to the north, West Frontage Road, and Interstate 80/Interstate 580 (I-80/I-580) to the east, McLaughlin Eastshore State Park to the south, and the San Francisco Bay to the west.

In proximity to the Tom Bates Regional Sports Complex (RSC), west of I-80/I-580, there are various recreational and entertainment venues. These include the recently closed Golden Gate Fields Racetrack located to the north of Gilman Street, McLaughlin Eastshore State Park situated just south of the complex, and the Berkeley Marina to the southwest/west of the project. The Bay Trail runs along the north and east perimeter of the McLaughlin Eastshore State Park.

To the west of the project site, the San Francisco Bay watershed spans an area of 4,600 square miles, with the San Francisco Bay covering 1,600 square miles, constituting the largest Pacific estuary in the Americas (EPA, 2023). The area located directly east of I-80/I-580 is zoned for manufacturing uses.

9. Description of project:

The City adopted an Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Plan (MMRP) on October 18, 2005 for a General Plan/Waterfront Specific Plan Amendment, Zoning Ordinance Amendment and Gilman Street Playing Fields Project. The Gilman Street Playing Fields are now known as the Tom Bates RSC. The IS/MND described the project in two phases:

- Phase I – construct two artificial turf soccer fields, Gilman Street parking lot, basic drainage, and utility systems
- Phase II – construct three natural turf fields for softball and hardball, irrigation, a second parking lot, tot lot, a field house and lighting system

The phases were to be built as funding became available. In 2008, the City installed a lighting system for the two soccer fields, grass fields, and an irrigation system. In 2011, the City completed the baseball field and part of the second parking lot. The City is currently proposing to develop the remainder of Phase 2, which includes three natural turf fields, a tot lot, a field house, and additional upgrades, as described in this section. The project site is owned by the East Bay Regional Park District (EBRPD) and managed under a sublease by the City. The project is sponsored by the City which is serving as the lead agency for the land use approvals under the terms of a Joint Exercise of Powers Agreement executed in 2003 by the cities of Berkeley, Emeryville, Albany, Richmond, and El Cerrito calling for the collaborative development of sports fields for regional use.

The City proposes implementing various new elements to the existing Tom Bates RSC (Project). Figure 1 (all figures are in Attachment 1) shows the Project location and existing layout. Figure 2 shows the proposed conceptual layout which includes a new Community Space Facility with restrooms, multi-use room and storage room; new soccer field for players under the age of 8 (U8), eight pickleball courts and bleachers for two of the courts; reconfigured parking lot to add more stalls and electric vehicle (EV) charging stations and temporary lot during construction; bicycle racks and lockers and walkways that are compliant with the Americans with Disability Act (ADA); stormwater bioretention features and landscaped areas; new electric service and a sanitary sewer lift station. The project components are discussed in more detail below. The City will ensure the implementation of the commitments outlined in Attachment 2 – Commitment list for design, construction, and operation. This will include the ongoing adoption of best practices aimed at minimizing environmental impacts and promoting sustainability throughout the project's lifecycle.

Construction is anticipated to commence in August 2025 and last approximately six months. The construction workdays and hours would be Monday to Friday inclusive, 7:00 AM to 5:00 PM local time. Work at the site on weekends or holidays will not be permitted unless the construction contractor requests otherwise from City in writing at least 48 hours in advance and City approves in its sole discretion.

Community Space Facility

The 1,408 square foot community space facility is a prefabricated concrete masonry building comprised of four transportable modules constructed and fabricated in Minden, Nevada, about 200 miles from the site. A mobile crane would lower the building modules into place on the project site. The facility would include a multi-use room for light storage and meetings, five gender neutral restrooms three of which will be ADA compliant, a storage room, and drinking fountains. Concrete piles to support the Community Space Facility would be cast in auger and drilled into 25-foot-deep holes. Pile driving would not occur.

The area surrounding the proposed community space facility would include security gates and fencing, access stairs, an ADA-compliant switchback ramp, and retaining wall to accommodate the approximately

6-foot change in elevation. Wall-mounted lighting would illuminate the area around the community space facility. In addition, one light pole and light would illuminate the ADA-compliant switchback ramp. All lighting would use fixtures approved by the International Dark-Sky Association.

The building will be Leadership in Energy and Environmental Design (LEED) certified as per the U.S. Green Building Council Certified Level LEED Building Design and Construction Version 4.1 (2023). The project is designed for LEED certification. If the LEED designation is not awarded, the design would still meet the requirements of the California State Green Building Code (CALGreen) by following the CALGreen Code Compliance Checklist (Non-Residential).

The facility will contain a new sanitary sewer lift station and force main, electrical, communications, and potable water service. The Project also includes the expansion of the existing post-construction stormwater treatment bioswale and a new bioretention basin, compliant with the Clean Water Program C.3 Stormwater Technical Guidance (2023), to accommodate the proposed site improvements.

Pickleball Courts
Eight pickleball courts will be installed featuring a concrete or asphalt surface. Six courts will measure approximately 30 x 64 feet, and two courts will measure approximately 34 x 64 feet. Excavations will be to a depth of up to two feet. All will have corresponding court striping and nets. The two larger courts will have a bleacher installed to the west of the courts. No new lighting for the courts is proposed as part of the project.

U8 Soccer Field
A U8 soccer field will be constructed to accommodate youth soccer leagues. In addition, adult users may utilize the field for practices. Excavations will be to a depth of up to two feet. The field will be comprised of natural grass. Full irrigation will be included. The field will have security gates and fencing where required. No additional lighting for the field is proposed as part of the project.

Parking
Parking facility improvements are included as part of the Project. The existing parking lot will be reconfigured, increasing parking spaces from 94 to 125, and improved by adding 13 active and 25 ready EV charging stations. The number of proposed charging stations meets CALGreen Code 5.106.5.3.3 and City of Berkeley Municipal Code 19.37.040: 10 percent of the parking spaces will be wired, and 20 percent of the parking spaces will have the infrastructure for future EV charging stations. ADA-compliant walkways will be provided connecting the parking lot and community space facility. The Project also includes optimization measures for traffic circulation to be able to accommodate the additional parking stalls.

During construction, the existing paved area to the west of the RSC will be striped and utilized as a temporary parking lot with capacity for up to 94 automobile parking stalls, including four ADA stalls. This will also include widening the access driveway to accommodate traffic circulation and the inclusion of an ADA-compliant walkway.

The design of the parking facilities includes pedestrian and bike access to the Bay Trail extension which is part of the Gilman Street project (Caltrans, 2019).

The Project includes new bicycle parking. Bicycle parking capacity will increase from the existing approximately eight bicycle rack spaces to include up to 18 bike lockers.

Additional parking is currently available at the unpaved parking lot (Figure 1) with approximately 70 stalls, including 3 ADA-compliant stalls. An existing paved road bordering the west side of the grass field provides access from this lot to the south end of the Project.

Additional parking is currently available at the unpaved parking lot (Figure 1) with approximately 70 stalls, including 3 ADA-compliant stalls. An existing paved road bordering the west side of the grass field provides access from this lot to the south end of the Project.

Utilities
The Project will include improvements to on-site drainage through the creation of a new two-foot deep bioretention basins and enhancement of the existing bioswale. The storm drain connection will be constructed at a maximum depth of about six feet.

The project will include a connection to potable water, a new sanitary sewer lift station, force main and sanitary sewer gravity pipe. The lift station foundation will be 13 feet deep. Connections to water and sanitary sewer will be made to existing infrastructure that is already located onsite within the park boundaries. The capacity of the existing water and sewer infrastructure is adequate to serve the new park uses. The storm drain connection will be constructed at a depth of six feet.

A new electric service and transformer will be required from Pacific Gas & Electric Company (PG&E) to provide sufficient capacity for the EV charging stations and the new Community Space Facility. This connection will be made at the existing PG&E power pole located on City property at the northeast corner of the RSC and will run underground along the north side of the existing soccer fields, then south to the new Community Space Facility through the existing parking lot. The electrical service will be designed to accommodate a planned 1000-amp service. Of those, 200 amps of electrical capacity are designated for use by the proposed Community Space Facility, with the remaining 800 amps dedicated to electric vehicle charging stations in the parking lot. A new communications service from AT&T and sanitary sewer lift station will also be required to serve the new Community Space Facility. The point of connection will be an AT&T handhole located within the sidewalk on Gilman Street near the northeast corner of the RSC site.

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.):

The City would construct the Project as funding becomes available. The City will obtain permits from and/or coordinate with agencies as listed below:

- California Department of Fish and Wildlife (CDFW) - permit
    - Incidental Take Permits (ITP) - Burrowing Owls
- EBRPD – coordination to review and, if needed, modify, the lease agreement under which the City operates the RSC.
- San Francisco Bay Conservation and Development Commission (BCDC) – permit as needed.
- San Francisco Bay Regional Water Quality Control Board (SFBRWQCB)
    - Coordination for construction in area with contaminated soil
    - Notice of Intent for construction on areas exceeding 1 acre

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1?

California Native American tribes traditionally and culturally affiliated with the project area--the Ohlone Indian Tribe and the Confederated Villages of Lisjan Nation--requested consultation. The City consulted with both of these tribes and no project-related concerns or tribal cultural resources were identified as a result and no topics requiring confidentiality were discussed.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:		
☐ Aesthetics	☐ Agriculture and Forestry Resources	☐ Air Quality
☒ Biological Resources	☒ Cultural Resources	☐ Energy
☐ Geology /Soils	☐ Greenhouse Gas Emissions	☒ Hazards & Hazardous Materials
☐ Hydrology / Water Quality	☐ Land Use / Planning	☐ Mineral Resources
☐ Noise	☐ Population / Housing	☐ Public Services
☐ Recreation	☐ Transportation	☐ Tribal Cultural Resources
☐ Utilities / Service Systems	☐ Wildfire	☒ Mandatory Findings of Significance

DETERMINATION:

On the basis of this initial evaluation:

☐I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.



Signature	Date
Jesus Espinoza	Associate Civil Engineer
Printed Name	Title

EVALUATION OF ENVIRONMENTAL IMPACTS:

In preparing this Report, the City considered the MND it adopted on October 18, 2005 for the General Plan/Waterfront Specific Plan Amendment, Zoning Ordinance Amendment and Gilman Street Playing Fields Project which is now known as the Tom Bates RSC. After reviewing the 2005 MND and materials prepared to accompany the Initial Study, no Significant Impacts were identified for the Project. The Initial Study determined that the project would either have no impact or a less than significant impact to the environment with mitigation measures implemented and a Mitigated Negative Declaration was prepared.

I. AESTHETICS

Environmental Setting

The Project is located at the Tom Bates RSC, 400-408 Gilman Street, in the City of Berkeley in Alameda County, California. The City's Parks, Recreation & Waterfront Department manages and operates the Tom Bates RSC under a sub-lease to the EBRPD. The project site is generally bounded by Gilman Street on the north, West Frontage Road, and I-80/I-580 on the east, McLaughlin Eastshore State Park on the south, and the San Francisco Bay on the west. The Tom Bates RSC is located in an area of the city with several other recreational and entertainment venues including the Golden Gate Fields Racetrack north of Gilman Street (which is now closed); McLaughlin Eastshore State Park just south of the complex; and the Berkeley Marina to the southwest/west of the project. The Bay Trail runs along the east and north perimeter of the park.

The Tom Bates RSC encompasses approximately 20 acres; the proposed Project is planned for approximately 3.69 acres (Figure 1) of the total area. The site currently consists of two synthetic turf full-size soccer fields and a parking lot on the northern side, and a natural turf multi-use sports fields and baseball field on the southern side. The Project site is located on the northwest portion of the Tom Bates RSC on the site of the existing parking lot and the vacant land to the south and west of the parking lot.

Impact Analysis

Except as provided in Public Resources Code Section 21099, would the project:

Question	CEQA Determination
a) Have a substantial adverse effect on a scenic vista?	Less Than Significant Impact
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	No Impact
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings. (Public views are those that are experienced from a publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	No Impact
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	Less Than Significant Impact

a) Have a substantial adverse effect on a scenic vista?

Less Than Significant Impact: The Berkeley Municipal Code defines view corridors in Section 23.502.020 as the following: "A significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz Island or any other significant vista that substantially enhances the value and enjoyment of real property..." The City's General Plan also notes that construction should avoid blocking views of San Francisco Bay but does not go as far as to designate any specific vantage points. There are no notable public vantage points of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or other significant landmarks from areas east of the Project site. If any unofficial vantage points exist, the Project area is at a lower elevation than the land east of it, allowing the only physical structure being added to the project site (the community space facility) to fall lower than an existing viewshed. While it is unlikely that the construction of the Project will impact a scenic vista, a small structure is being added to the Project site that may fall within existing viewsheds of the San Francisco Bay. Due to higher elevations east of the Project site and the small size of the building, impacts are expected to be negligible, if any. Therefore, the impact would be less than significant.

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

No Impact: The Project area is not on an officially designated scenic highway, with the closest designated highway located over five (5) miles away outside of the City of Berkeley. Therefore, there would be no impact.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings. (Public views are those that are experienced from a publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

No Impact: The Project is located in an urbanized area and located in the Specific Plan zoning district as detailed in the City's Waterfront Master Plan. The proposed uses of the Project are consistent with the uses envisioned in the goals and policies established by the Waterfront Master Plan and are also consistent with existing uses at the project site. Therefore, the project would not conflict with applicable zoning or other regulations governing scenic quality, and there would be no impact.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Less Than Significant Impact: The Project does not propose to add any additional lighting for the parking lot, pickleball fields, or soccer fields. The Project does include wall-mounted lighting to illuminate the area around the community space facility and, in addition, one light pole and in-ground fixtures would illuminate the ADA-compliant switchback ramp. Exterior lights will use fixtures approved by the International Dark-Sky Association and consistent with the City's COA - Exterior Lighting. This condition requires that all exterior lighting to be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

While the Project does include some additional lighting, the specific types have been chosen so that the project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. Therefore, the impact would be less than significant.

II. AGRICULTURE AND FOREST RESOURCES

Environmental Setting

The project site is a park in Berkeley, California and does not contain agricultural or forestry resources (see Figure 1). The project site is not located on or adjacent to agricultural land or forest land and the proposed project would not involve development that could result in the conversion of farmland to non-agricultural uses.

Impact Analysis

Would the project:

Question	CEQA Determination
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	No Impact
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	No Impact
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	No Impact
d) Result in the loss of forest land or conversion of forest land to non-forest use?	No Impact
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	No Impact

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

No Impact: The Project site has never been in agricultural use and is not considered Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. Therefore, there would be no impact.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

No Impact: The Project site is not zoned for agricultural use, nor is it under a Williamson Act Contract. Therefore, there would be no impact.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

No Impact: The Project would not conflict with existing zoning for forest land, or timberland zoned Timberland Production. Therefore, there would be no impact.

d) Result in the loss of forest land or conversion of forest land to non-forest use?

No Impact: The Project would not result in the loss of forest land or conversion of forest land to non-forest use. Therefore, there would be no impact.

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

No Impact: The Project would not involve other changes in the existing environment which, due to their location or nature, could result in the conversion of farmland to non-agricultural use or conversion of forest land to non-forest use. Therefore, there would be no impact.

III. AIR QUALITY

Environmental Setting

The Project site is located within the San Francisco Bay Area Air Basin. Air quality in the region is affected by natural factors, such as proximity to the bay and ocean, topography, meteorology, and existing air pollution sources. The San Francisco Bay Area is characterized by a Mediterranean-type climate, with warm, dry summers and cool, wet winters. The prevailing winds are from the west. The Project site is directly exposed to strong, unbuffered, winds that blow across the open Bay waters from the westerly directions.

Certain land uses are considered more sensitive to air emissions than others. Examples of these land uses include residential areas, educational facilities, hospitals, childcare facilities, and senior housing. Residences are not located adjacent the Project site, while the closest residential areas are more than 1,300 feet to the east on the other side of Interstate 80. The closest school is the Black Pine Circle School, which is located 0.8 miles from the limits of the Sports Complex.

Under the National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS), the six criteria pollutants are carbon monoxide (CO), lead, nitrogen dioxide (NO_2), ozone (O_3), particulate matter (PM), and sulfur dioxide (SO_2). PM is regulated both as PM with an aerodynamic diameter less than or equal to 2.5 micrometers ($PM_{2.5}$), and as PM with an aerodynamic diameter less than or equal to 10 micrometers (PM_{10}).

For individual criteria pollutants, geographical areas have been designated as attainment or nonattainment areas in regard to both federal and California air-quality standards. “Attainment” status means that the region meets the standard for a pollutant, while “nonattainment” status means air pollutant concentrations for a specific pollutant have not met the federal or state standards. An area is considered “unclassified” if it cannot be designated, based on available information, as meeting or not meeting the standards.

The Project area is designated as nonattainment for the federal 8-hour O_3 and 24-hour $PM_{2.5}$ standards, while is in attainment or unclassified for all other federal NAAQS standards. For the state CAAQS, the area is designated nonattainment for 1-hour and 8-hour O_3, 24-hour PM_{10}, annual PM_{10}, and annual $PM_{2.5}$ (Bay Area Air Quality Management District [BAAQMD], 2023).

Impact Analysis

Would the project:

Question	CEQA Determination
a) Conflict with or obstruct implementation of the applicable air quality plan?	No Impact
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	Less Than Significant Impact
c) Expose sensitive receptors to substantial pollutant concentrations?	Less Than Significant Impact
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	No Impact

a) Conflict with or obstruct implementation of the applicable air quality plan?

No Impact: The applicable air quality plan for the Project area is the 2017 Clean Air Plan: Spare the Air, Cool the Climate (BAAQMD 2017). The 2017 Clean Air Plan provides a regional strategy to protect public health and protect the climate. The proposed Project would be consistent with the control measures in the 2017 Clean Air Plan to reduce motor vehicle trips, increase use of electric vehicles, promote energy efficiency by LEED certification, reuse and recycle construction debris, and support the use of alternative means of transportation. The control measures are evaluated below.

Transportation Control Measures. The 2017 Clean Air Plan includes measures to reduce demand for motor vehicle travel by promoting alternative means of transportation (such as walking, bicycling, and transit), and by providing the charging/fueling infrastructure for zero-emission vehicles (such as battery electric). To support use of electric vehicles, the proposed Project would provide electric vehicle charging capabilities consistent with the City and CALGreen requirements. To encourage bicycle use, the proposed Project would include additional bicycle parking by installing bike lockers. The additional bicycle racks and lockers included in the Project, in addition to the Project's location adjacent to the Bay Trail, would support the ability to use alternative modes of transportation and therefore reduce motor vehicle travel.

Building Control Measures. The 2017 Clean Air Plan includes control measures for buildings, by promoting energy and water efficiency in new buildings. To reduce electric power consumption and associated emissions under the proposed Project, the Community Space Facility would be designed to be certified as LEED, consistent with the latest City requirements. The 2017 Clean Air Plan also includes control measures for new buildings to use electricity, rather than fossil fuels such as natural gas. The Project would be designed to be all-electric and would not include the use of any traditional natural gas systems.

Waste Management Control Measures. A variety of air pollutants are produced as waste decomposes in landfills and composting operations. The 2017 Clean Air Plan includes measures to increase the waste diversion rates through efforts to reduce, reuse, and recycle. The proposed Project would be consistent with the Berkeley Green Code that requires 100 percent of concrete, asphalt, excavated soil, and land clearing debris to be reused and recycled during construction.

If approval of a project would not disrupt, delay, or otherwise hinder the implementation of any control measures in an air quality plan, the project is considered consistent with the air quality plan for the Project area, 2017 Clean Air Plan). The BAAQMD Air Quality Guidelines (BAAQMD, 2022) identify examples of projects that may cause disruption or delay of control measures, such as projects that preclude an extension of a transit line or bike path, and projects that propose parking beyond parking requirements. The proposed Project would not create any barriers or impediments to planned or future improvements to transit or bicycle facilities in the area. The proposed Project would tie in with the Bay Trail improvements to be constructed by Caltrans on Gilman Street. In addition, the number of parking spaces would comply with the City code provisions. Therefore, there would be no impact.

b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?

Less Than Significant Impact: This question addresses construction and operational emissions of criteria pollutants. The six criteria pollutants in the federal NAAQS and state CAAQS are ground-level O_3, CO, PM_{10}, $PM_{2.5}$, SO_2, NO_2, and lead. For the criteria pollutants, the San Francisco Bay Area Air Basin is currently designated as a nonattainment area for the California and NAAQS for O_3 and PM.

Emissions of criteria pollutants and GHGs under the proposed Project have been estimated with the California Emissions Estimator Model (CalEEMod) Version 2022.1 (CAPCOA 2022). CalEEMod is a statewide land use emissions model developed by the California Air Pollution Control Officers Association (CAPCOA) in collaboration with California air districts. CalEEMod quantifies O_3 precursors, criteria pollutants, and GHG emissions from the construction and operation of new land use development and linear projects in California.

CalEEMod utilizes widely accepted methodologies for estimating emissions combined with default data that can be used when site-specific information is not available. Because the proposed Project is in the conceptual design phase, the default assumptions from CalEEMod have been used to estimate Project emissions.

Short-Term Construction-Related

Site preparation and construction activities would intermittently generate PM, odors, and engine exhaust in the vicinity of the Project site. PM (dust, $PM_{2.5}$ and PM_{10}) can be emitted from ground clearing, excavation, material piles, building construction, and trucks depositing mud on streets. Exhaust emissions from construction vehicles and equipment can include CO, O_3 precursors, $PM_{2.5}$ and PM_{10}, and GHGs. Diesel-powered construction equipment can emit small amounts of diesel exhaust and air toxics. Engine exhaust and paving activities can be sources of odors at times. Emissions during construction would be short-term, vary daily as construction-activity levels change, and be mostly localized to the vicinity of the construction activity.

Construction of the proposed Project is anticipated to start in August 2025 and would occur over approximately six months. Construction-related emissions of criteria pollutants under the proposed Project have been estimated with CalEEMod. Table 1 compares the construction emissions under the proposed Project to the emission thresholds (BAAQMD, 2022). Table 1 presents emissions of reactive organic gases (ROG) and nitrogen oxides (NO_x), which are the precursors of O_3.

Table 1: Estimated Construction Pollutant Emissions

	ROG (pounds/day)	NO_x (pounds/day)	PM_{10} Exhaust (pounds/day)	$PM_{2.5}$ Exhaust (pounds/day)
2025 Construction Unmitigated Proposed Project	0.7	6	0.2	0.2
BAAQMD Construction Thresholds	54	54	82	54
Exceed Threshold?	No	No	No	No

Source: Thresholds from BAAQMD, 2022

As shown by Table 1, construction emissions under the proposed Project be minimal and would not exceed the BAAQMD thresholds for criteria pollutants. Off-road construction equipment and dust from material moving would be the sources of the majority of the emissions. In addition to construction controls, the project would comply with the City's COA - Construction and Demolition Diversion, which requires the applicant to submit a Construction Waste Management Plan that meets the criteria outlined in BMC Chapter 19.37. This includes 100% diversion of asphalt, concrete, excavated soil, and land-clearing debris, as well as a minimum of 65% diversion of other nonhazardous construction and demolition waste, in addition to the City's COA requirements for Low-Carbon Concrete. The project will also ensure compliance with the Berkeley Green Code (BMC Chapter 19.37), which mandates the use of a concrete mix design that reduces cement content by at least 25%. Documentation of the concrete mix design will be available at all times on-site for review by City staff. (The project must comply with the applicable code at the time of the building permit application, should it differ from the requirements listed above.)
Public Works – Implement BAAQMD-Recommended Measures during Construction: For all proposed projects, BAAQMD recommends implementing all the Basic Construction cult Measures, listed below to meet the best management practices (BMP) threshold for fugitive dust.

Construction Best Management Practices

The Project will implement the BMPs to reduce fugitive dust emissions, consistent with the BAAQMD's (2022) and the City's requirements (Table 2).

Table 2: BMPs for Construction-Related Air Quality Emissions

BMP ID	Basic Best Management Practice
B-1	All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
B-2	All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

BMP ID	Basic Best Management Practice
B-3	All visible mud or dirt track out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
B-4	All vehicle speeds on unpaved roads shall be limited to 10 mph.
B-5	All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
B-6	All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 15 mph.
B-7	All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
B-8	Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.
B-9	Publicly visible signs shall be posted with the telephone number and name of the person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's General Air Pollution Complaints number shall also be visible to ensure compliance with applicable regulations.
B-10	Ensure that idling time for all heavy equipment is minimized to reduce on-site emissions
B-11	Maintain equipment in good mechanical condition.

Source: B-1 through B-9, BAAQMD, 2022. B-10 and B-11, City of Berkeley, Division 1 General Requirements, Section 01 1100 Summary of Work, Part 1 General, 1.13 Air Quality Standards

Note: The City of Berkeley has lower vehicle speed (B-4) and wind speeds (B-6) than BAAQMD. The table reflects the City's limits in accordance with Division 1 General Requirements, Section 01 1100 Summary of Work, Part 1 General, 1.13 Air Quality Standards. Compliance with the above COA would ensure that construction-related fugitive dust emissions would be less than significant impact.

Long-term Permanent Impacts

After a project is built, operational emissions are anticipated to occur continuously throughout a project's lifetime. Operational emissions can include stationary sources (e.g., industrial processes), mobile sources (e.g., vehicle trips), and energy sources (e.g., electricity). Operational emissions under the proposed Project would primarily be increases in vehicular traffic and indirect emissions from electricity consumption. The proposed Project would not include any new stationary sources such as backup diesel generators, boilers, or other types of combustion equipment. The proposed Project would be designed to be all electric and would not utilize natural gas. Therefore, the impact would be less than significant.

Operational emissions under the proposed Project have been estimated with CalEEMod. Table 3 compares the net operation emissions under the proposed Project to the emission thresholds (BAAQMD, 2022). Table 3 presents emissions of ROG and NO_x, which are the precursors of O_3.

Table 3: Estimated Operational Criteria Pollutant Emissions

	ROG (pounds/day)	NO_x (pounds/day)	PM_{10} Exhaust (pounds/day)	$PM_{2.5}$ Exhaust (pounds/day)
2026 Operations Unmitigated Proposed Project	0.1	<0.1	<0.1	<0.1
BAAQMD Operational Thresholds	54	54	82	54
Exceed Threshold?	No	No	No	No

Source: Thresholds from BAAQMD, 2022

As shown by Table 3, changes in operational emissions under the proposed Project would be minimal and would not exceed the BAAQMD thresholds for criteria pollutants. The major sources of emissions during operation would be mobile exhaust and on-road fugitive dust. Vehicle-related emissions would be low because the proposed Project would generate few additional vehicle trips. Therefore, the impact would be less than significant.

Localized Carbon Monoxide Impacts

Although the San Francisco Bay Area Air Basin is in attainment for CO, elevated localized concentrations of CO can still warrant consideration in the environmental review process in limited situations. The major source of CO is vehicular exhaust, and potential CO impacts from traffic tend to be localized. The highest levels of CO typically occur in urban areas along roads with heavy traffic and at congested intersections.

The BAAQMD Air Quality Guidelines provide a screening-level analysis of potential local CO impacts, to determine whether a project would result in CO emissions that exceed the thresholds of significance (BAAQMD 2022). If all the following screening criteria are met, then operation of the proposed Project would result in a less-than-significant impact related to CO:

- The project is consistent with an applicable congestion management program established by the county congestion management agency for designated roads or highways, the regional transportation plan, and local congestion management agency plans.
- Project-generated traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour.
- Project-generated traffic would not increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnel, parking garage, bridge underpass, natural or urban street canyon, below-grade roadway).

Implementation of the proposed Project would not conflict with the policies or programs of the Alameda County Transportation Commission. The proposed Project would generate minimal additional traffic volumes, as evaluated in the Transportation Section of the Environmental Checklist. The proposed Project would meet the BAAQMD screening criteria for CO. No further analysis is required for local CO impacts. Therefore, the impact would be less than significant.

Cumulative Impacts

A cumulative impact is the change in the environment that results from the incremental impact of the project under review in conjunction with other past, present, and reasonably foreseeable probable future projects.

The San Francisco Bay Area Air Basin is currently designated under the NAAQS and CAAQS as nonattainment areas for the O_3 and PM, which are considered regional pollutants. Past, present, and future development and transportation projects have contributed or will contribute to the region's nonattainment status on a cumulative basis. A single project is not sufficient in size, by itself, to result in nonattainment of ambient air quality standards at the regional level. Instead, a project's individual emissions could contribute to existing cumulatively significant adverse air quality impacts.

The BAAQMD provides project-level thresholds of significance for criteria air pollutants for which the Air Basin is in nonattainment. These are the levels at which the BAAQMD has determined whether an individual project's contribution to the cumulative impact would be cumulatively considerable. If a project exceeds the significance thresholds, then its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions.

Under the proposed Project, the construction and operational emissions of criteria pollutants would be minimal and would be well below the BAAQMD thresholds of significance (Table 1 and Table 3). In additional, the proposed Project would implement BMPs B-1 through B-11 listed in Table 2 to further reduce the impact of construction-related fugitive dust and vehicle emissions. Therefore, the Project would not result in a cumulatively considerable net increase of the criteria pollutants for which the region is non-attainment. Therefore, the impact would be less than significant.

c) Expose sensitive receptors to substantial pollutant concentrations?

Less Than Significant Impact: Certain community members are more susceptible to poor air quality. These individuals, referred to as sensitive receptors, are typically children, the elderly, and those with preexisting serious health problems. Examples of sensitive receptors include residential communities, schools and playground, hospitals and hospices, childcare facilities, and senior housing. None of these sensitive receptors are located within 1,000 feet of the Project site. The closest residential areas are more than 1,300 feet to the east on the other side of I-80/I-580. The closest school is the Black Pine Circle School, which is located 0.8 miles from the limits of the Tom Bates RSC.

PM is the most important health risk driver in Bay Area air, both as fine $PM_{2.5}$ and as diesel PM, a toxic air contaminant. $PM_{2.5}$ is a complex mixture of substances that includes elements such as carbon and metals; compounds such as nitrates, organics, and sulfates; and complex mixtures such as diesel exhaust and wood smoke. $PM_{2.5}$ can be emitted directly and also can be formed in the atmosphere through reactions among different pollutants. Both long-term and short-term exposure to $PM_{2.5}$ can cause a wide range of health effects, and epidemiological studies have

established that exposure to $PM_{2.5}$ has serious adverse health impacts because $PM_{2.5}$ can travel deep into lungs and enter the bloodstream (BAAQMD, 2022).

Construction and operational emissions of $PM_{2.5}$ under the proposed Project have been estimated with CalEEMod (Table 1 and Table 3). Daily emissions of $PM_{2.5}$ during operation are estimated to be less than 0.1 pounds per day, which would be well below the BAAQMD thresholds.

The major sources of long-term emissions during operation would be mobile exhaust. Mobile emissions of $PM_{2.5}$ would be negligible because the proposed Project would generate few additional vehicle trips (see Transportation Section of the Environmental Checklist). The majority of vehicle trips would be passenger cars, and not a substantial number of diesel vehicles.

Because sensitive receptors are more than 1,000 feet away and emissions of $PM_{2.5}$ and associated toxic hazards would be negligible, the proposed Project would not expose sensitive receptors to substantial pollutant concentrations. Therefore, the impact would be less than significant.

d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

No Impact: Odor impacts could occur if a project introduces a new odor source near existing receptors. The BAAQMD Air Quality Guidelines identify typical odor-generating sources, such as wastewater treatment plants, landfills, composting facilities, refineries, food processing facilities, chemical manufacturing, and rendering plants (BAAQMD, 2022). No such sources are included in the proposed Project.

During construction of the proposed Project, diesel-powered vehicles, and equipment in use on site would intermittently create localized odors. Any construction odors would be temporary, typically dissipate quickly, and are not likely to be noticeable for extended periods of time beyond the Project site. Therefore, there would be no impact.

IV. BIOLOGICAL RESOURCES

Since the publication of the Draft Initial Study and Mitigated Negative Declaration (IS/MND), the following change has been incorporated into this section:

- As of October 2024, California Department of Fish and Wildlife (CDFW) has designated the burrowing owl as a candidate for potential listing as a protected species under the California Endangered Species Act (CESA). During the review period, candidate species receive the same protections as fully listed species under CESA. In addition to Mitigation Measure BIO-1, and to mitigate potential impacts while ensuring compliance with the new regulation, any potential take will require an Incidental Take Permit (ITP), which will be coordinated with the CDFW if potential for Take is identified during surveys. Any mitigation will be acquired at the direction of CDFW.

Environmental Setting

The Biological Study Area (BSA) is within the city limits at the Tom Bates RSC located at 400-408 Gilman Street in the City in Alameda County, California. The City's Parks, Recreation & Waterfront Department manages and operates the Tom Bates BSA under a sub-lease to the EBRPB. The Project site is generally bounded by Gilman Street on the north, West Frontage Road, and Interstate 80/Interstate 580 (I-80/I-580) on the east, McLaughlin Eastshore State Park on the south, and the San Francisco Bay on the west.

The Tom Bates RSC encompasses approximately 20.16 acres, of which the Project footprint is approximately 3.69 acres. The full RSC site currently consists of two synthetic turf full-size soccer fields

and a parking lot on the northern side, and a natural turf multi-use sports fields and baseball field on the southern side. The BSA is located on the northwest portion of the Tom Bates RSC. The BSA includes the existing parking lot and the vacant land to the south and west of the parking lot.

The BSA is part of an urban developed area bordering the San Francisco Bay. The *Environmental Initial Study for the Gilman Street Playing Fields* (City of Berkeley, 2005) analysis identifies the area defined by the BSA as being a paved area, with uses including employee parking, hay storage, horse trailer parking, and semi-trailer parking. During the post-2005 development of the Tom Bates Regional Sports Complex, the southern half of the BSA was built up with soil to a height of approximately 7 feet above the surrounding area. The southern portion of the BSA is now vegetated with a mix of ruderal species, such as pampas grass (*Cortaderia jubata*), brome grass (*Bromus* species), foxtail barley (*Hordeum murinum*), bermuda grass (*Cynodon dactylon*), black mustard (*Brassica nigra*) and scattered oak (*Quercus* species) shrubs. This area was classified based on field observations on October 11, 2023 as non-native annual grassland, covering an area of approximately 1.4 acres. The remainder of the BSA (2.29 acres) is paved. There is no likelihood of wetlands present in the BSA based on the resource review in combination with field observations. No waterbodies are present in the BSA. Figure 3 shows the landcover in the BSA. The multi-database search identified 58 species that may have or have occurred in or near the BSA. Figures 4 and 5 show the approximate locations of plant and animal species, respectively, identified by the California Natural Diversity Database (CNDDB) within five miles of the BSA. Due to the BSA being a combination of paved areas and recently vegetated non-native grassland, the potential for suitable protected species habitat to be present in the BSA is limited. San Francisco Bay, west of the BSA, does contain designated critical habitat. As the BSA defines the potential limits of impact, which does not intersect with San Francisco Bay.

Impact Analysis

Would the project:

Question	CEQA Determination
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife and Game or U.S. Fish and Wildlife Service?	Less Than Significant with Mitigation Incorporated
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or by the California Department of Fish and Game or US Fish and Wildlife Service?	No Impact
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	No Impact
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	Less Than Significant with Mitigation Incorporated

Question	CEQA Determination
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	No Impact
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	No Impact

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife and Game or U.S. Fish and Wildlife Service?

Less Than Significant Impact with Mitigation Incorporated:

Short-term Construction-Related Impacts

Short-term construction-related effects would result from the presence and movement of construction equipment, construction fencing, and additional lighting sources provided on the Project site, which could affect or destroy habitat, or otherwise "take" protected plant or animal species. As identified in Attachment 3, the BSA does not contain habitat to support any of the special-status plant species known to occur in the larger vicinity. The Project would therefore not result in impacts to any special-status plant species. No avoidance, mitigation, or minimization measures are proposed for special status plant species.

As identified in Attachment 3, no special status animal species, other than the burrowing owl, has any likelihood of use of habitat within the BSA. While they would likely avoid the construction area, it is feasible that special status bird species may fly through the BSA; however, they are unlikely to interact with construction equipment during this brief pass-through. The burrowing owl has a low likelihood of presence in the BSA based on analysis of habitat presence but has been observed in the general area in the past, such as at Tom Bates RSC and Cesar Chavez Park (City of Berkeley, 2005; Golden Gate Bird Alliance, 2023). Impacts to burrowing owls would be significant. To avoid significant impacts to the burrowing owl, mitigation measure BIO-1 would be implemented:

- **BIO-1 -** Burrowing Owl Survey Protocol and Mitigation: Prior to ground disturbing activity, a pre-construction survey for burrowing owls shall be completed by a qualified biologist according to Burrowing Owl Survey Protocol and Mitigation Guidelines and the California Department of Fish and Wildlife (CDFW) protocol identified in the Staff Report on Burrowing Owl Mitigation prior to disturbance of non-native annual grassland areas occupied by ground squirrels (Attachment 4, CDFW, 2012). After the survey is complete, the qualified biologist shall prepare a report that includes but is not limited to: Description of the proposed project or proposed activity, including the proposed project start and end dates, as well as a description of disturbances or other activities occurring on-site or nearby. The survey report will be provided to the City's Planning Department for review and approval. If any occupied burrows are identified during the breeding season, buffer areas will be established around them and protected until the nesting activities are complete. Any occupied burrow identified outside the nesting season (June-July) will have a one-way gate installed to allow burrowing owls to leave the site. Any identification of burrowing owls will be coordinated with the CDFW. The phases listed below shall be completed by the qualified biologist:

- Phase I: Habitat assessment
- Phase II: Burrow survey
- Phase III: Burrowing owl surveys, census, and mapping
- Phase IV: Resource summary, written report

As of October 2024, CDFW has designated the burrowing owl as a candidate for potential listing as a protected species under the California Endangered Species Act (CESA). During the review period, candidate species receive the same protections as fully listed species under CESA. Any potential take will require an Incidental Take Permit (ITP), which will be coordinated with the California Department of Fish and Wildlife (CDFW) if potential for Take is identified during surveys. Any mitigation will be acquired at the direction of CDFW.

The City will consult with the CDFW Bay Delta Region and submit the required documentation, including this Initial Study Mitigated Negative Declaration, as directed by CDFW.

In addition to construction controls, the project shall comply with the City's COA - Avoid Disturbance of Nesting Birds to prevent disturbance of nesting birds and initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 31), if feasible.

If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided.

The proposed project could result in a potential impact to burrowing owls. However, with required adherence to California Department of Fish and Wildlife requirements, existing regulations, and implementation of Mitigation Measure BIO-1, the impact would be less than significant.

To avoid the destruction of active nests and to protect the reproductive success of birds protected by the Migratory Bird Treaty Act and the California Fish and Game Code, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest).

No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed, and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

Long-term Permanent Impacts

Permanent effects would be due to the removal of suitable habitat or direct take of species during the construction or operation of the Project. No suitable habitat for special status species, special plant communities, or wetlands is present on site, and no removal of suitable habitat is required, with the potential exception of the burrowing owl nesting habitat (ground squirrel burrows). No direct take of species is anticipated due to the lack of suitable habitat or with implementation of measures outlined above for the burrowing owl. No long-term permanent impacts to Biological Resources are associated with Project implementation based on the resources studied in this report.

Cumulative Impacts

Cumulative impacts are those effects of past, present, and future federal, state, or private activities that are reasonably certain to occur within or adjacent to the BSA that may lead to impacts to biological resources. No suitable habitat for special status species, except for burrowing owls, special plant communities, or wetlands is present in the Project implementation area and there would be either no or minor impacts. For burrowing owls, with implementation of Mitigation Measure BIO-1, the impacts would be less than significant. The *Environmental Initial Study for the Gilman Street Playing Fields* (City of Berkeley, 2005) determined that burrowing owls have no potential to occur in the BSA. Therefore, there would be no contribution to adverse cumulative impact to biological resources.

b) *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or by the California Department of Fish and Game or US Fish and Wildlife Service?*

No Impact: There is no riparian habitat on the site, and the site is not within a natural community conservation area. Therefore, there would be no impact.

c) *Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

No Impact: No wetlands are present on the Project site, and implementation of the Project would not require a Section 404 permit from the US Army Corps of Engineers. Therefore, there would be no impact.

d) *Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

Less Than Significant Impact with Mitigation Incorporated: The Project would not affect migratory fish, nor would it affect resident or migratory wildlife corridors. Potential effects to burrowing owls are addressed under a) above.

Lighting related to the operation of the Project could disturb wildlife outside of the Project area; However, the Project does not propose to add any additional lighting for the parking lot, pickle ball fields, or soccer fields. The Project does include wall-mounted lighting to illuminate the area around the community space facility and, in addition, one light pole and in-ground fixtures would illuminate the ADA-compliant switchback ramp. Exterior lights will use fixtures approved by the International Dark-Sky Association and consistent with the City's COAs - Exterior Lighting. This condition requires that all exterior lighting to be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

While the Project does include some additional lighting, is being added through the Project, the specific types have been chosen so that the project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. Therefore, the impact would be less than significant.

As identified in Attachment 3, no special status animal species, other than the burrowing owl, has any likelihood of use of habitat within the BSA. While they would likely avoid the construction area, it is feasible that special status bird species may fly through the BSA; however, they are

unlikely to interact with construction equipment during this brief pass-through. The burrowing owl has a low likelihood of presence in the BSA based on analysis of habitat presence but has been observed in the general area in the past, such as at Tom Bates RSC and Cesar Chavez Park (City of Berkeley, 2005; Golden Gate Bird Alliance, 2023). Impacts to burrowing owls would be significant. To avoid significant impacts to the burrowing owl, mitigation measure BIO-1 would be implemented. Therefore, the impact would be less than significant with mitigation incorporated.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

No Impact: The Project would not conflict with any City or EBRPD policies or ordinances intended to project biological resources. No trees would be removed in conjunction with construction of the Project. Therefore, there would be no impact.

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

No Impact: The site is neither within an area covered by a Natural Community Conservation Plan nor a Habitat Conservation Plan or other similar local, regional, or State plan. Therefore, there would be no impact.

V. CULTURAL RESOURCES

Environmental Setting

A cultural resources study was conducted by InContext under contract to TranSystems, Inc. for the Project in compliance with CEQA. The study consisted of a records search at the Northwest Information Center, literature review, outreach to the Native American Heritage Commission and California Native American tribes, outreach to historical societies and the City of Berkeley Landmarks Commission, and a pedestrian survey. The cultural resources study was completed under the direction of Trish Fernandez, M.A., who meets the Secretary of Interior's Standards for Professional Qualifications in Archaeology, History, and Architectural History. Ms. Fernandez is also a California Registered Historian and a Registered Professional Archaeologist.

No historical resources or archaeological resources defined under Public Resources Code Section 15064.5 were identified as a result of this study.

Impact Analysis

Would the project:

Question	CEQA Determination
a) Cause a substantial adverse change in the significance of a historical resource pursuant to in §15064.5?	Less Than Significant Impact
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	Less Than Significant Impact
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	Less Than Significant with Mitigation Incorporated

a) Cause a substantial adverse change in the significance of a historical resource pursuant to in §15064.5?

Less than Significant: No historical resources defined under Public Resources Code Section 15064.5 were identified as a result of this study. Therefore, the impact would be less than significant.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

Less Than Significant: No archaeological resources defined under Public Resources Code Section 15064.5 were identified as a result of this study. In addition, because the Project limits consist of fill material above reclaimed marshland, the specific Project limits do not appear sensitive for the presence of subsurface archaeological resources. The potential for discovering subsurface archaeological resources is low. Mitigation measures will be implemented as part of the project to ensure that inadvertently discovered archaeological resources remains are addressed. Therefore, the impact would be less than significant.

c) Disturb any human remains, including those interred outside of dedicated cemeteries?

Less Than Significant With Mitigation Incorporated: No human remains, including those interred outside dedicated cemeteries were identified as a result of this study. In addition, because the Project limits consist of fill material above reclaimed marshland, the specific Project limits do not appear sensitive for the presence of human remains. The potential for discovering human remains is low. Mitigation measures will be implemented as part of the project to ensure that inadvertently discovered human remains are addressed so that their impact would be less-than-significant.
Because the Project limits consist of fill material above reclaimed marshland, the specific Project limits do not appear sensitive for the presence of subsurface archaeological resources. The potential for discovering subsurface archaeological resources or human remains is low. Mitigation Measures CR-1 and CR-2 be implemented as part of the project to ensure that inadvertently discovered archaeological resources or human remains are addressed so that their impact would be less-than-significant.

- **CR-1 -** Inadvertent Discovery of Archaeological Resources: Workers involved in ground-disturbing activities should be trained in the recognition of buried cultural resources, procedures to report such discoveries, laws prohibiting destruction of historical resources, and other appropriate protocols. In the event that archaeological artifacts or cultural soil deposits are encountered during project implementation, all work shall stop in the immediate vicinity of the find until the discovery area can be evaluated by a qualified archaeologist. If the find is determined to be an historical or unique archaeological resource, contingency funding, and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Work could continue on other parts of the building site while historical or unique archaeological resource mitigation takes place.

- **CR-2 -** Inadvertent Discovery of Human Remains: If human remains are discovered anywhere on the site other than a dedicated cemetery, there shall be no further excavation or disturbance of the site, or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of the county in which the remains are discovered determines that no investigation of

the cause of death is required and the coroner determines the remains to be Native American. If the coroner makes those determinations, the coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall identify the person or persons it believes to be the most likely descended (MLD) from the deceased Native American. The MLD may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains, and any associated grave goods as provided in Public Resources Code section 5097.98. If the NAHC is unable to identify an MLD or the MLD fails to make a recommendation within 24 hours, or if the landowner or their authorized representative rejects the recommendation of the MLD and mediation by the NAHC fails to provide measures acceptable to the landowner, then the landowner or their authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

VI. ENERGY

Environmental Setting

California's Building Standards Code (24 CCR) comprises two key components: 1) the Building Energy Efficiency Standards (Energy Code), found in Part 6 of Title 24, and 2) the California Green Building Standards (CALGreen Code), located in Part 11 of Title 24. The Energy Code governs newly constructed buildings, additions, and alterations. PG&E supplies electricity to the site.

Impact Analysis

Would the project:

Question	CEQA Determination
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	Less Than Significant Impact
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	Less Than Significant Impact

a) *Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?*

Less than significant: Construction of the proposed project would result in short-term consumption of energy from the use of construction equipment and processes. Energy use during construction would be primarily from fuel consumption to operate heavy equipment, light-duty vehicles, machinery, and generators. Temporary grid power may also be needed for construction trailers or electric construction equipment. Energy use during construction would be temporary in nature, and construction equipment used would be typical of construction projects in the region. It is reasonable to assume contractors would avoid wasteful, inefficient, and unnecessary fuel consumption during construction to reduce construction costs.

The project would comply with the California Air Resources Board (CARB) In-Use Off-Road Diesel-Fueled Fleets Regulation, which imposes limits on idling and restricts the use of older vehicles. This would reduce fuel consumption and lead to the use of fuel-efficient vehicles on the construction

site. Construction equipment would be maintained to applicable standards, and construction activity and associated fuel consumption and energy use would be temporary and typical for construction sites. The CALGreen Building Standards Code includes specific requirements related to recycling, construction materials, and energy efficiency standards that would apply to construction of the proposed project to minimize wasteful, inefficient, and unnecessary energy consumption.

Operational energy use would include use of transportation fuel. California requires that all motorists use California Reformulated Gasoline, a cleaner formulation of gasoline that results in lower emissions of O_3, CO and other air pollutants when burned.

Operation of the Project would consume electricity to provide the Community Space Facility with heating and power, lighting, and water conveyance, among other operational requirements. The proposed Project would increase the amount of electricity consumed compared to the existing uses on the Project site. The Project would meet LEED qualifications or, at minimum, CALGreen Building Standards. In compliance with the City's ordinance prohibiting natural gas infrastructure in new buildings, the project would not utilize natural gas. Project energy consumed would represent an incremental increase in energy usage compared to existing energy use in Berkeley, and the proposed Project would implement energy-efficient components to reduce energy demand. Additionally, the Project would meet CALGreen specific requirements for energy efficiency and would incorporate water efficient landscape features.

As stated in the Project Description, a new electric service and transformer will be required from Pacific Gas & Electric Company (PG&E) to provide sufficient capacity for the EV charging stations. This connection will likely be made at the existing PG&E switch located on City property at the northeast corner of the RSC and will run underground along the north side of the existing soccer fields to the existing parking lot. The electrical service will be designed to accommodate a planned 1000-amp service. Of those, 200 amps of electrical capacity are designated for use by the proposed Community Space Facility, with the remaining 800 amps dedicated to electric car charging stations in the parking lot.

Therefore, construction and operation of the proposed project would not result in potentially significant environmental effects due to the wasteful, inefficient, or unnecessary consumption of energy and this impact would be less than significant.

b) *Conflict with or obstruct a state or local plan for renewable energy or energy efficiency.*

Less than significant: The City's Climate Action Plan (CAP) sets a year 2050 target to achieve an 80 percent absolute reduction below year 2000 community-wide emissions and identifies actions to achieve the target. The CAP contains GHG reduction policies for transportation and land use, building energy use, as well as waste reduction and recycling (see Section VIII Greenhouse Gas Emissions). The project would be designed to achieve CALGreen requirements and would include energy efficient appliances and lighting as well as water efficient fixtures and irrigation. The siting and design of the proposed Project encourages alternative transportation options, such as bicycling and pedestrian use, consistent with the CAP. The Project site is located next to the San Francisco Bay Trail, and the design of the proposed Project would incorporate the Bay Trail. The proposed Project also would include new bicycle parking with additional bicycle racks and bike lockers. Furthermore, it includes electric vehicle parking and charging stations. The project would be all electric. Overall, the project would be consistent with the CAP and the energy efficiency strategies contained therein. Therefore, the project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency and this impact would be less than significant.

VII. GEOLOGY AND SOILS

Environmental Setting

Several active earthquake faults are located near the Project site, including the Hayward Fault, approximately 2.4 mile to the east and the San Andreas Fault, approximately 16.8 miles to the west. Other faults in the region and up to 22 miles from the site are the Calaveras, Concord, Serra, San Gregorio, and Rogers Creek faults (CE&G 2023).

A Geotechnical investigation was conducted for the Project site in November 2022 by CE&G (2023). Five geotechnical borings were drilled in the vicinity of the planned improvements as part of the investigation. Subsurface soil conditions encountered in our borings were generally consistent with regional geologic mapping.

- Artificial Fill: In each boring artificial fill with thicknesses ranging was encountered from approximately 2 to 11 feet within the proximity of the borings. This fill material primarily comprised moist clays, exhibiting a spectrum from soft to hard consistency. A secondary layer of more diverse fill was identified between the surface fill and the underlying bay sediments. This layer exhibited significant variability, containing silt, clay, and organic matter. Generally, this material displayed a loose, granular nature and ranged from soft to medium stiffness in fine-grained areas. The thickness of this layer extended up to 11 to 12 feet.

- Young Bay Mud: Beneath the fill in borings B-1 through B-3, young estuarine deposits, commonly referred to as Bay mud, were encountered which varied in thickness from approximately 7 to 13 feet. The Young Bay Mud was composed of very soft clays and silts with medium to high plasticity characteristics.

- Older Alluvium: Beneath the identified fill and/or Bay mud, alluvium extending to the maximum depth explored was encountered, which was 50 feet below ground surface (bgs). This alluvial layer predominantly comprised medium stiff to very stiff lean and fat clays, interspersed with alternating layers of wet, loose to medium dense sandy silt, silty sand, and poorly graded sand.

Impact Analysis

Would the project:

Question	CEQA Determination
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	Less Than Significant Impact
ii) Strong seismic ground shaking?	Less Than Significant Impact
iii) Seismic-related ground failure, including liquefaction?	Less Than Significant Impact

Question	CEQA Determination
iv) Landslides?	No Impact
b) Result in substantial soil erosion or the loss of topsoil?	Less Than Significant Impact
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	Less Than Significant Impact
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	Less Than Significant Impact
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	No Impact
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	No Impact

Because of the proximity of earthquake faults, the design will adhere to current structural engineering codes. Structural engineering and geologic engineering disciplines will prepare the design based on current geologic site information.

a) *Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:*

i. *Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.*

Less Than Significant Impact: Several active earthquake faults are located nearby. The Project site, however, is not within an earthquake special studies zone, and the risk of fault rupture across the surface of the site during a major earthquake would be limited. Furthermore, because users of the RSC will primarily be outside and because the Community Space Facility is designed to current structural engineering code, the potential for adverse effects, including the risk of loss, injury, or death is less than significant. Therefore, the impact would be less than significant.

ii. *Strong seismic ground shaking?*

Less Than Significant Impact: A substantial earthquake event on any of these fault systems has the potential to induce significant ground shaking in the vicinity of the planned improvement. The site falls within an area prone to severe ground shaking and intense seismic activity, as indicated by the Modified Mercalli Scale, during major earthquakes occurring along the Hayward or San Andreas Faults.

A substantial earthquake has the potential to damage underground pipes, cause the emergence of noticeable ground cracks, and cause significant damage to masonry and frame structures. Because users of the RSC will primarily be outside and because the Community Space Facility is designed to

current structural engineering code, the potential for adverse effects, including the risk of loss, injury, or death is less than significant. Therefore, the impact would be less than significant.

iii. Seismic-related ground failure, including liquefaction?

Less Than Significant: Impact A geotechnical investigation conducted for the Project site in November 2022 by CE&G (2023) revealed that below the groundwater table, layers of clays and clayey sands are present underneath the site, these layers typically exhibit a low susceptibility to liquefaction. According to previous geotechnical surveys and the CE&G (2023) investigation's subsurface exploration, seismic densification was deemed low. This conclusion is supported by the elevated groundwater table and the absence of granular soils above it.

Because users of the RSC will primarily be outside and because the Community Space Facility is designed to current structural engineering code, the potential for adverse effects, including the risk of loss, injury, or death is less than significant.

As with seismic ground shaking, liquefaction poses a risk to structures and to their occupants during an earthquake. The liquefaction risk would be a function of the seismic ground shaking risk, and the design of all structures proposed as a part of the project shall be reviewed by a qualified structural engineer, in consultation with an engineering geologist, who shall provide recommendations for reducing life safety hazards for field users during a major earthquake. The design should address the high groundwater level at the site, for example, by requiring a heavier bottom for the lift station to counter buoyancy. Therefore, the impact would be less than significant.

iv. Landslides?

No Impact: The site has very little topographic variation, and no landslide hazards are present. Therefore, there would be no impact.

b) Result in substantial soil erosion or the loss of topsoil?

Less Than Significant Impact: The Project would involve grading and excavation activities during construction, which includes the removal, relocation, and transportation of soil. Without proper site management, there is a potential risk of substantial soil erosion due to wind or rainfall. For construction, a Storm Water Pollution Prevention Plan (SWPPP) will be prepared according to the City's COA - Stormwater Requirements and implemented, as required by the State Water Resources Control Board for projects involving more than one acre of land disturbance.

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

- The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
- Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval, and conditions of the City and EBMUD.

- Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration, and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
- Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
- All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
- All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. City's Public Works Engineering Dept. may require additional cleaning.
- All private or public projects that create and/or replace 10,000 sf or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological).
- All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
- Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval, and conditions of the sanitary district with jurisdiction for receiving the discharge.
- All loading areas must be designated to minimize "run-on" or runoff from the area. Accumulated wastewater that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.
- Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the

sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval, and conditions of the sanitary district with jurisdiction for receiving the discharge.

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

Construction will be conducted during the dry season. Stockpiled soil will be covered and protected with temporary erosion control measures. Therefore, the impact would be less than significant.

c) *Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?*

Less Than Significant Impact: As stated under a) iii, based on the investigations conducted in November 22 by CE&G (2023), layers of clays and clayey sands underlain the project site, which typically exhibit a low susceptibility to liquefaction, below the groundwater table. Because users of the RSC will primarily be outside and because the Community Space Facility is designed to current structural engineering code, the potential for adverse effects, including the risk of loss, injury, or death is less than significant. Therefore, the impact would be less than significant.

d) *Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?*

Less Than Significant Impact: The Project site is located on expansive soil. However, the engineering design will address this soil condition and because the RSC is used predominantly for outdoor activities, the risk to life or property is less than significant. Therefore, the impact would be less than significant.

e) *Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?*

No Impact: No septic systems are proposed for this Project. Therefore, there would be no impact.

f) *Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

No Impact: The Project site does not have any unique geologic features, according to Geotechnical investigations performed in the site (C&G, 2023). Given the Project site's history of previous ground disturbances and multiple soil samplings and geotechnical investigations, at various depths, the likelihood of encountering paleontological resources is considered low. However, site preparation, grading, and other construction activities could potentially impact any previously unidentified fossils.

To address this risk, the project will follow City's COA - Paleontological Resources. This condition requires that 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. Therefore, there would be no impact.

VIII. GREENHOUSE GAS EMISSIONS

Environmental Setting

A greenhouse gas (GHG) is any gas that absorbs infrared radiation in the atmosphere; in other words, GHGs trap heat in the atmosphere. The major GHGs include water vapor, carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), halogenated fluorocarbons (HCFCs), O_3, perfluorocarbons (PFCs), sulfur hexafluoride (SF_6), and hydrofluorocarbons (HFCs). To make the effects of different GHGs comparable, GHG emissions are typically reported as CO_2 equivalents (CO_2e).

These GHGs are widely seen as the principal contributors to human-induced global climate change. Global climate change is caused primarily by an increase in levels of GHG emissions in the atmosphere. The potential effects of global climate change include, among other things, rising surface temperatures, loss in snowpack, sea level rise, ocean acidification, an increase in the number of extreme heat days per year, increased occurrence and severity of wildfires, and an increase in the number of drought years.

The rise of combustion of fossil fuels (e.g., gasoline, diesel, coal) since the beginning of the industrial revolution has resulted in a substantial increase in atmospheric levels of GHGs. CO_2 levels have increased from long-term historical levels of around 280 parts per million (ppm) before the mid-18th century to more than 400 ppm today. This increase in GHGs has already caused noticeable changes in the climate.

Impact Analysis

Would the project:

Question	CEQA Determination
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	Less Than Significant Impact
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	No Impact

a) *Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?*

Less Than Significant: In summary, short-term construction and long-term operations impacts would be less than significant. GHG construction emissions, stemming mostly from use of off-road construction equipment, would be minimal under the proposed Project. During operation of the proposed Project, the primary sources of long-term GHG emissions would be building energy use and motor vehicles to and from the Project site. The proposed Project would not include any new stationary sources such as backup diesel generators, boilers, or other types of combustion equipment. The Community Space Facility would be powered by electricity. Indirect GHG emissions from electricity consumption would decrease as California's grid becomes cleaner, and once the grid consists of 100 percent renewable generation sources, the building would have zero operational emissions associated with electricity usage. Therefore, the impact would be less than significant.

Short-Term Construction-Related GHG Emissions

During construction of the proposed Project, the primary sources of short-term GHG emissions would be construction equipment and worker vehicles, each of which typically uses fossil-based fuels.

Construction of the proposed Project is anticipated to start in August 2025 and would occur over approximately six months. Construction-related GHG emissions under the proposed Project have been estimated with CalEEMod. Table 4 presents the estimated construction emissions of GHGs under the proposed Project.

Table 4 - Estimated Construction GHG Emissions

Construction Year	CO_2 (metric tons/year)	CH_4 (metric tons/year)	N_2O (metric tons/year)	CO_2e (metric tons/year)
2025 Unmitigated	200	< 0.1	< 0.1	200

As shown in Table 4, the GHG construction emissions would be minimal under the proposed Project. Off-road construction equipment would be the source of the majority of the GHG emissions. Therefore, the short-term construction related GHG emissions impact would be less than significant.

Long-term Operation Impacts

During operation of the proposed Project, the primary sources of long-term GHG emissions would be building energy use and motor vehicles to and from the Project. The proposed Project would not include any new stationary sources such as backup diesel generators, boilers, or other types of combustion equipment.

Operational GHG emissions under the proposed Project have been estimated with CalEEMod. Table 5 presents the net operational emissions estimated for the proposed Project.

Table 5 - Estimated Operational GHG Emissions

Operational Year	CO_2 (metric tons/year)	CH_4 (metric tons/year)	N_2O (metric tons/year)	CO_2e (metric tons/year)
2026 Unmitigated	7	< 0.1	< 0.1	7

As shown in Table 5, changes in GHG emissions would be minimal during operation of the proposed Project. The major sources of GHG emissions during operation would be electricity and mobile exhaust. Mobile emissions would be low because the proposed Project would generate few additional vehicle trips (see Transportation Section of the Environmental Checklist). Emissions from building electrical use would be low because the 1,408-square foot Community Space Facility would consist of restrooms, a multi-use room, and storage room.

Under the proposed Project, the Community Space Facility would be powered by electricity. Indirect GHG emissions from electricity consumption would decrease over time as California's grid

becomes cleaner, and once the grid consists of 100 percent renewable generation sources, the building would have zero operational emissions associated with electricity usage. Therefore, the long-term construction related GHG emissions impact would be less than significant.

Cumulative Impacts

The BAAQMD Air Quality Guidance recommends a "fair share" approach for determining whether an individual project's GHG emissions would be cumulatively considerable. If a project would contribute its "fair share" of what is needed to achieve the State's long-term GHG reduction goals, then the lead agency can find that the project is adequately contributing to solving the problem of global climate change and that the project's impact is not significant (BAAQMD, 2022).

Under its "fair share" approach, the BAAQMD has identified the necessary design elements required of new land use projects to achieve California's long-term climate goal of carbon neutrality by 2045. If a land use project incorporates the design elements necessary for the project to be carbon neutral by 2045, then it will contribute its "fair share" to achieving the State's climate goals. A lead agency can therefore conclude that a project would make a less-than-cumulatively-considerable climate impact.

The design elements are identified in the thresholds of significance for climate impacts, as presented in Table 6.

The BAAQMD also has developed thresholds of significance for climate impacts from greenhouse gas emissions. Table 6 summarizes the BAAQMD thresholds for evaluating climate impacts.

Table 6 - Climate Impact Thresholds of Significance

Thresholds of Significance for Land Use Projects (Must Include A or B)
A. Projects must include, at a minimum, the following project design elements: 1. Buildings a. The project will not include natural gas appliances or natural gas plumbing (in both residential and nonresidential development). b. The project will not result in any wasteful, inefficient, or unnecessary energy use as determined by the analysis required under CEQA Section 21100(b)(3) and Section 15126.2(b) of the State CEQA Guidelines. 2. Transportation a. The project will achieve a reduction in project-generated vehicle miles traveled (VMT) below the regional average consistent with the current version of the California Climate Change Scoping Plan (currently 15 percent) or meet a locally adopted Senate Bill 743 VMT target that reflects the recommendations provided in the Governor's Office of Planning and Research's Technical Advisory: Evaluating Transportation Impacts in CEQA: i. Residential projects: 15 percent below the existing VMT per capita ii. Office projects: 15 percent below the existing VMT per employee iii. Retail projects: no net increase in existing VMT b. The project will achieve compliance with off-street electric vehicle requirements in the most recently adopted version of CALGreen Tier 2.

Thresholds of Significance for Land Use Projects (Must Include A or B)
B. Projects must be consistent with a local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section **15183.5(b).**

Source: BAAQMD, 2022

While rebuilding part of Tom Bates RSC is not a "new" land use project, the proposed Community Space Facility, soccer field, and pickleball courts were reviewed with respect to the design elements in Table 6. If the proposed Project were to include, at a minimum, the design elements in Table 6, then the proposed Project would have a less-than-significant impact related to operational GHG emissions. The design elements are evaluated below.

Natural Gas Usage. For the building sector to achieve carbon neutrality, natural gas usage will need to be phased out and replaced with electricity usage. The proposed Project would be designed to be all electric and would not include natural gas appliances or natural gas plumbing. Because the proposed Project would exclude natural gas use, the proposed Project would be consistent with this design element in Table 6.

Building Energy Usage. Minimizing energy use in new buildings will facilitate the transition from fossil fuels to carbon-free energy. The proposed Project would not result in the wasteful, inefficient, or unnecessary consumption of energy (see the Energy Section of the Environmental Checklist). To ensure energy efficiency under the proposed Project, the Community Space Facility would be designed to be certified as LEED. As such, the proposed Project would be consistent with this design element in Table 6.

Transportation. The Office of Planning and Research (OPR) Technical Advisory on evaluating transportation impacts using vehicle miles traveled (VMT) provides guidance on how lead agencies may screen out VMT impacts using project size, maps, transit availability, and provision of affordable housing (OPR 2018). As discussed in the Transportation Section of this Environmental Checklist, the VMT under the proposed Project would be below the screening thresholds and therefore cause a less-than significant transportation impact. Because the proposed Project would result in minimal VMT and a less-than significant transportation impact, the proposed Project would be consistent with the VMT threshold in Table 6.

The siting and design of the proposed Project would encourage alternative transportation options, such as bicycling and pedestrian use, which would reduce VMT. The Project site is located next to the San Francisco Bay Trail, and the design of the proposed Project would incorporate the Bay Trail. The proposed Project also would include new bicycle parking with additional bicycle racks and bike lockers.

Electric Vehicle Charging Spaces. The requirements for EV charging infrastructure in new land use development projects are governed by the CALGreen regulatory standards and by the City. To support widespread adoption of electric vehicles, the proposed Project would provide 13 active and 25 ready electric vehicle (EV) charging stations. The proposed Project would provide electric vehicle charging capabilities consistent with CALGreen and City requirements.

The proposed Project would be consistent with the BAAQMD's project design elements related to natural gas, building energy, VMT, and EV requirements shown in Table 6. The proposed Project would contribute its "fair share" to achieving the State's climate goals, and it would contribute a less-than-cumulatively-considerable climate impact.

b) *Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?*

No Impact: The proposed Project would be consistent with the Berkeley Climate Action Plan (CAP, 2009) and City of Berkeley Municipal Code, Chapter 19.37 Berkeley Green Code. In addition, the proposed Project would not generate GHG emissions that would exceed the project-level GHG significance criteria established by the BAAQMD (Table 5).

The applicable climate plan for the proposed Project is the Berkeley CAP. Key strategies in the Berkeley CAP address sustainable transportation and land use, energy efficiency for buildings, waste reduction and recycling, community outreach and empowerment, and preparing for climate change impacts. Its GHG reduction target is 80% below 2000 emission levels by the year 2050 (City of Berkeley, 2009). The proposed Project would be consistent with the following goals and policies in the Berkeley CAP:

- **Sustainable Transportation & Land Use Actions, Goal 8: Encourage the use of low-carbon vehicles and fuels**. A purpose of this goal is to create the infrastructure necessary to support low-carbon forms of transportation, such as electricity and biodiesel. The proposed Project would provide electric vehicle charging capabilities consistent with the City and CALGreen requirements.
- **Sustainable Transportation & Land Use Actions, Goal 5: Accelerate Implementation of the City's Bicycle and Pedestrian Plans**. The underlying policy is to continue to expand and improve Berkeley's bicycle and pedestrian infrastructure. The proposed Project would create additional bicycle parking in Berkeley by installing additional bike lockers.
- **Building Energy Use Actions, Goal 1: Make green building business as usual in the new construction and remodel market**. Green buildings conserve resources such as energy and water. To put green building for new construction into practice, the standard commonly used throughout the U.S. for new nonresidential projects is LEED. The City's current green building policy requires LEED silver certification for new City buildings. Under the proposed Project, the Community Space Facility would be designed to be LEED certified, consistent with the latest City requirements. A building that is LEED certificated typically includes design features for efficient use of energy and water during construction and operation, which would reduce associated GHG emissions.
- **Waste Reduction & Recycling Actions, Goal 3: Increase recycling of construction and demolition (C&D) debris**. GHG emissions can be reduced by minimizing construction debris and recycling construction materials. The proposed Project would be consistent with the Berkeley Green Code that requires 100 percent of concrete, asphalt, excavated soil, and land clearing debris to be reused and recycled during construction. A Construction Waste Management Plan would be completed that meets the requirements of BMC Chapter 19.37.

The proposed Project also would be subject to applicable City codes and planning requirements related to GHG emissions. The Berkeley Green Code requires the use of low-carbon concrete, by specifying that construction projects should reduce the amount of cement used in concrete by at least 25% (BMC Chapter 19.37). Under the proposed Project, the Community Space Facility would be a concrete masonry unit, to be prefabricated offsite. Because concrete used for construction is a source of GHG emissions, complying with the City's low-carbon concrete requirements for the Community Space Facility would reduce GHG emissions during construction of the proposed Project. Therefore, there would be no impact.

IX. HAZARDS AND HAZARDOUS MATERIALS

Environmental Setting

The project site borders San Francisco Bay on the west side of the City. The San Francisco Bay Area, including Berkeley, is a developed, urban area with residential, commercial, industrial land uses.

Desktop Analysis

In April 2023, a comprehensive Environmental Desktop Study was conducted for the project site (CE&G 2023). This study, informed by various documents, revealed that the site was used as a construction debris and municipal waste landfill from the 1930s to the early 1950s. Additionally, an active remediation case covering McLaughlin Eastshore State Park, including Berkeley North Basin Strip-II, was identified through the GeoTracker database. Contaminants of concern included Petroleum Hydrocarbon (TPH-d), metals (lead, arsenic, mercury), and methane.

EKI developed an Addendum to the Eastshore State Park Remediation and Risk Management Plan (RRMP) (EKI 2003) to address remaining TPH-d and soil vapor contamination on the site. Protocols in the RRMP are designed to guide future developments and the utilization of the site as a park, aligning with the RRMP in effect for neighboring sections of the McLaughlin Eastshore State Park.

The SFBRWQCB ascertained in December 2003 that the site investigations have reached a state of completion. Consequently, no further remediation was deemed necessary, provided that the requirements described within the RRMP, and addendum(s) are adhered to during all future site-related activities. In November 2022, Farallon conducted an annual inspection in the project area, and no environmental issues of concern were identified at the Berkeley North Basin site.

2024 Soil Sampling and Analysis

In March 2024, an Environmental Screening was conducted by Haley & Aldrich for the project site to preliminarily evaluate the presence of constituents of concern. The purpose of the screening was to plan for soil disposal. A total of seven borings were drilled (SB-01 through SB-07). Based on the soil screening results, disposal of most of the on-site soil is expected to be acceptable for disposal at a Class II or III landfill as non-hazardous waste. Soils collected from areas close to SB-01 and SB-03 could be classified as non-RCRA California hazardous waste, due to lead Soluble Threshold Limit Concentration (STLCs) results. Depending on analytical results for soil excavated during construction, disposal at a Class I landfill may be required.

Based on the screening results of this investigation, Haley & Aldrich recommended the following:

- Contractors working with shallow soils or groundwater should consider these results when selecting appropriate personal protective equipment (PPE) (Capture by HAZ-1 below).
- On-site soils that are removed during construction should be sampled and analyzed for proper waste characterization and disposal (Capture by HAZ-3 below).

Impact Analysis

Would the project:

Question	CEQA Determination
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	Less Than Significant with Mitigation Incorporated

Question	CEQA Determination
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	Less Than Significant Impact
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	No Impact
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	No Impact
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	No Impact
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	No Impact
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	No Impact

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Less Than Significant Impact with Mitigation Incorporated:

Excavation: Given the site's history of soil contamination, excavation during construction has the potential to expose hazardous waste, including TPH-d, metals (predominantly lead, arsenic, and mercury), and methane. Excavated material that is contaminated will be disposed at a permitted facility. The following Mitigation Measures will be implemented as part of the project to minimize environmental effects:

- **HAZ-1**- Risk Management Plan: The latest version of the Addendum to the Eastshore State Park Remediation and Risk Management Plan (RRMP) Berkeley North Basin Strip-II, along with any associated addendums, must be provided to all contractors intending to engage in work on the Project. Contractors who anticipate interacting with shallow on-site soils should consult the Risk Management Plan for guidance on construction monitoring prerequisites and for identifying the appropriate personal protective equipment (PPE), including protective measures for encountering methane.
- **HAZ-2-** Water Quality Control Board Coordination: The City will coordinate site excavation activities with the San Francisco Bay Regional Water Quality Control Board to align site construction with the provisions of the Addendum to the Eastshore State Park Remediation and Risk Management Plan (RRMP) Berkeley North Basin Strip-II.
- **HAZ-3-** Soil Sampling: During Project construction, sample and analyze on-site soils that are being removed to characterize them prior to disposal at approved facilities.

Transport, use, storage, and disposal of hazardous materials: In the short term, construction would involve the management, application, storage of hazardous materials, leading to the generation of both hazardous and non-hazardous solid waste. Among the anticipated hazardous materials for use in constructing the proposed facilities are paints, thinners, solvents, and petroleum-based products. These materials, frequently employed at construction sites for transport and equipment, pose potential health and safety risks to both the public and construction workers if mishandled or spilled.

- **HAZ–4-** Regulations: Contractors will comply with the California Health and Safety Code (HSC) and Resource Conservation and Recovery Act (RCRA) for the management, treatment, storage, and disposal of hazardous waste.

Therefore, the impact would be considered less than significant with the incorporation of the above mitigation measures.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Less Than Significant Impact: Project construction would pose a risk neither to the public nor the environment through reasonably foreseeable upset or accident conditions involving the release of hazardous materials because the Project does not store or use large amounts of hazardous chemicals, such as gasoline, propane, or acids. The Project would use small quantities of hazardous materials including fuels, lubricating fluids, cleaners, or solvents and the risk to the public and environment from accidental spills would be low.

The design would address the high groundwater level at the site, for example, by minimizing the length and depth of utility trenches to reduce the potential to encounter contaminated groundwater and soil. Groundwater collected during construction from displacement will be tested and disposed in accordance with applicable regulations. Therefore, the impact would be less than significant.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

No Impact: The Project would not release hazardous emissions or involve the handling of hazardous materials within one-quarter mile of an existing or proposed school. The closest school, Black Pine Circle School, is located at 2027 Seventh St, Berkeley, CA, approximately 0.8 mile to the east of the project site. Therefore, there would be no impact.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

No Impact: The Project site is not included on the Department of Toxic Substance Control's site cleanup list (as per Government Code Section 65962.5), as it falls under the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) jurisdiction.

The SFBRWQCB ascertained in December 2003 that the site investigations have reached a state of completion, and no further remediation was deemed necessary, provided that the requirements described within the RRMP, and addendum(s) are adhered to during all future site-related activities. Therefore, there would be no impact.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

No Impact: The Project site is not within the referral areas for the Alameda Airport Land Use Commissions (ALUC) or the Contra Costa ALUC. Nor is it within 2 miles of a public airport. Therefore, there would be no impact.

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

No Impact: The Project would not interfere with City's emergency response or evacuation plans. The construction and operations associated with the Project would not alter surrounding streets, access routes, or evacuation opportunities. Additionally, the Project will not necessitate full street closures. Therefore, there would be no impact.

g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

No Impact: The proposed project is not located in or near a mapped Fire Hazard Severity Zone in a State Responsible Area, or in the wildland/urban interface area, or in or near lands classified as a Very High Fire Hazard Severity Zone within a Local Responsibility Area (CAL FIRE, 2023). Also see Section XX Wildfire. Therefore, there would be no impact.

X. HYDROLOGY

Environmental Setting

The Project site is situated in an urbanized area adjacent to the San Francisco Bay. Notably, the Project site has already undergone significant development: as documented in the *Environmental Initial Study for the Gilman Street Playing Fields* (City of Berkeley, 2005), the southern half of the site was elevated by approximately seven feet with soil fill, raising it above the surrounding ground level.

The Project site is designated in the City of Berkeley Stormwater Project Mapping Viewer as a C.3.b project, which is defined by the SFBRWQCB as maintaining stormwater drainage controls on-site (SFBRQQCB 2022). Stormwater currently percolates through a vegetated swale on the west side of the study area.

Based on a review of U.S. Fish and Wildlife Service National Wetlands Inventory (USFWS 2023b) information, the I-80/Gilman Interchange Project reports, jurisdictional determinations related to the I-80/Gilman Interchange Project, and field verification, there are no waterways or wetlands present in the RSA.

The 100-foot band of BCDC jurisdiction encompasses 0.8 acre of the RSA. BCDC jurisdiction relative to the Project site is shown in Figure 6

The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) indicates there is 1.6 acre of area that present a 1% chance of flooding (AE floodplain) located on the Project site. The AE floodplain designation represents a one-percent annual chance of flood risk. The floodplain is primarily located in the north half of the project site in an area that is currently predominantly paved. The floodplain is associated with San Francisco Bay to the west. FEMA floodplain data is shown in Figure 7

Beneficial uses of the nearest receiving water, San Francisco Bay, identified by the RWQCB (1975, Amended 2023) include: industrial service supply, industrial process supply, commercial and sports

fishing, shellfish harvesting, estuarine habitat, fish migration, preservation of rare and endangered species, fish spawning, wildlife habitat, water contact recreation, non-contact water recreation, and navigation.

The 303(d) list for the bay identifies the following pollutants with Total Maximum Daily Loads (TMDL) identified: mercury, polychlorinated biphenyls (PCB), and selenium. The following pollutants are identified without TMDLs identified: dichlorodiphenyltrichloroethane (DDT), dioxin compounds, furan compounds, invasive species, trash, chlordane, and dieldrin.

Water from the parking area generally runs off into the on-site bio-swale and parked cars are not generally a point source of identified TMDLs.

The Project site is located in the Santa Clara Valley – East Bay Plain hydrologic region groundwater basin (CDWR 2003). The region contains 483 wells of which approximately five are water supply wells. Groundwater makes up nearly zero percent of the basin's water supply. No wells are located in the Project site.

Impact Analysis

Would the project:

Question	CEQA Determination
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	Less Than Significant Impact
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	No Impact
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	Less Than Significant Impact
i. result in a substantial erosion or siltation on- or off-site.	Less Than Significant Impact
ii. substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite.	Less Than Significant Impact
iii. create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	Less Than Significant Impact
iv. impede or redirect flood flows?	Less Than Significant Impact
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	Less Than Significant Impact
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	No Impact

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Less Than Significant Impact: The Project would have the potential to introduce pollutants related to operation of construction equipment, such as antifreeze/coolant, cleaning solvents, gasoline, or hydraulic oil, to the surrounding environment through stormwater runoff. Project construction would use small quantities and the risk environment from accidental spills would be low.

To reduce the pollutant loads in runoff from the parking lots, the final design will direct parking lot runoff to vegetated swales for bio-filtration. The bio-filtration design will conform to applicable non-point source BMPs.
Prior to project construction (any ground disturbance), a Stormwater Pollution Prevention Plan (SWPPP) will be prepared as part of the Project, as required by Section 402 of the Clean Water Act for projects involving more than one acre of land disturbance. The Storm Water Pollution Prevention Plan (SWPPP) will be prepared and implemented according to the City's COA - Stormwater Requirements. This condition requires that the applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20.

The SWPPP will incorporate appropriate BMPs to control soil and surface water runoff during excavation, filling, trenching, and grading. Ground disturbing activities are planned to be conducted during the dry season. Stockpiled soil will be covered and protected with temporary erosion control measures. The SWPPP will include temporary erosion control measures in the event that rainy weather occurs during construction. With implementation of standard stormwater construction BMPs, to be documented in the SWPPP, impacts to water quality during construction would be minor.

The project would include construction within the 100-foot band of shoreline regulated by BCDC. Impacts within BCDC jurisdictional area are based on development within BCDC area of jurisdiction. Prior to project construction, the City, or their representative, will prepare and submit a permit application BCDC for development. With adherence to permit conditions, which are anticipated to include a comprehensive plan review and approval process prior to the commencement of construction, as well as requirements for maintaining public access and view corridors to the Bay. The permitting approval process involves submitting detailed construction plans for review to ensure they meet regulatory requirements, followed by a thorough review by the BCDC and other relevant agencies. This process includes opportunities for public input and consultation to address community concerns. Once all conditions are met and approvals are granted, permits are issued, allowing construction to proceed under specified conditions. Additionally, ongoing compliance monitoring is required to ensure that public access and view corridors to the Bay are maintained throughout the project. By following these steps and adhering to the conditions outlined in the permits, the project's impacts within the BCDC-regulated area are anticipated to be minimal. Therefore, the impact would be less than significant.

b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

No Impact: The Project does not involve any activity that would draw from groundwater either during construction or during operation of the Project. It would rely on an existing water service, provided by East Bay Municipal Utility District. Therefore, there would be no impact.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

i. result in a substantial erosion or siltation on- or off-site.

Less Than Significant Impact: There is a minor potential for wind- or water-driven erosion associated with ground disturbance during construction which is planned to occur during the dry season. BMPs for erosion control will be implemented to manage soil and sediment during construction. By focusing on pre-construction planning, effective erosion and sediment control measures during construction, and final stabilization practices, the impact of erosion would be minimized. Therefore, the impact would be less than significant.

ii. substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite.

Less Than Significant Impact: The amount of impervious surface would remain similar to the existing conditions on site and, therefore, there would not be increased opportunity for flooding either on-site or off. Because the Project site is in an area designated as floodplain, the local floodplain administrator, i.e., the City's Director of Public Works, will approve the design. Additionally, the area containing the pickleball courts and soccer field would drain into a new bioretention basin located on the eastern side of this zone. Drainage from the new building area will be directed to a separate bioretention basin. Parking lot improvements would continue to utilize the existing bioretention basin located on the western side of the parking lot. Therefore, the impact would be less than significant.

iii. create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or

Less Than Significant Impact: The site is designated for on-site processing of stormwater. Stormwater flow would be directed to on-site bio-swales, which are incorporated into the Project design. Therefore, the impact would be less than significant.

iv. impede or redirect flood flows?

Less Than Significant Impact: The Project would place a relatively small structure, a Community Space Facility with approximately 1,408 square feet, at the RSC. This structure and the modified open areas with new sports fields would not substantially impede or redirect flood flows. Because the Project site is in an area designated as floodplain, the local floodplain administrator will approve the design, according to Chapter 17.12 - Floodplain Management (Berkeley Municipal Code). Therefore, the impact would be less than significant.

d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

Less Than Significant Impact: The Project would not introduce significant new sources of pollutants to the area, only, for example, cleaning materials stored in the Community Space Facility, and, therefore, the increased risk of pollutant spread due to inundation is minor. Therefore, the impact would be less than significant.

e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

No Impact: The Project would incorporate water efficient landscape features. The Project, as described, does not conflict with any identified water quality control plan or groundwater management plan for the region. Therefore, there would be no impact.

XI. LAND USE AND PLANNING

Environmental Setting

The Project Footprint is within the Tom Bates Regional Sports Complex (Complex). The Complex is a park with recreational improvements. Two lit and fenced turf soccer fields and one unlit baseball field are the current recreational facilities on-site. There is also a paved parking lot (entirely within the study area), with a capacity for approximately 100 vehicles. The Complex is bounded on the north by Gilman Street, further north by the stables of the Golden Gate Fields, which is a horse racing track, and to the south by the McLaughlin Eastshore State Park. The site abuts the San Francisco Bay to the west and is separated from the rest of Berkeley (to the east) by the Eastshore Freeway (I-80/I-580) and its ancillary frontage roads. The Bay Trail runs in the West Frontage Road right-of-way on the east edge of the Complex. A pedestrian and bike bridge crossing over the Eastshore Freeway connects the Bay Trail running along the east edge of the Complex with the rest of Berkeley. Current bike, pedestrian, and vehicle access is via Gilman Street. The California Department of Transportation (Caltrans) is constructing round-abouts on Gilman Street near the Complex (State of California, 2019). The current use of the Complex acts as a transition between the passive recreation, such as hiking and bird watching, and natural lands to the south and the private, organized, spectator driven recreation to the north.

Impact Analysis

Would the project:

Question	CEQA Determination
a) Physically divide an established community?	No Impact
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	Less Than Significant Impact

a) *Physically divide an established community?*

No Impact: The physical division of an established community typically refers to the construction of a physical feature (such as an interstate highway or railroad tracks) or removal of a means of access (such as a local road or bridge) that would impair mobility within an existing community, or between a community and outlying areas. The Project will be constructed within the boundaries of the existing RSC and would not physically divide an established community. Therefore, there would be no impact.

b) *Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?*

Less Than Significant Impact: The Project would not conflict with any applicable land use plan, policy or regulation adopted for the purpose of avoiding or mitigation an environmental effect,

such as a habitat conservation plan or natural community conservation plan. Therefore, the impact would be less than significant.

Short-Term Construction-Related

The gravel lot to the south of the existing parking lot is scheduled to be used for parking during construction, so users of the existing soccer fields would not experience a loss in parking availability during the construction process. Therefore, the impact would be less than significant.

Long-Term Permanent Impacts

The complex was established in 2008, and construction of the recreational facilities would remain within the RSC. The following plans apply to the Community Space Facility, Pickleball Courts and Soccer Field at the Complex:

The original **Master Development Plan** for the Complex encourages recreational developments at the park, which the Community Space Facility, Pickleball Courts, and Soccer Field fall under. This is consistent with Open Space Policy 13 (OS-13) of the **Berkeley General Plan** (2002), which encourages projects involving recreational, open space and environmental uses in the Waterfront area and Policy LU-43 (implementation of the Waterfront Specific Plan, discussed below). The Community Space Facility, Pickleball Courts and Soccer Field fulfill the following goals of LU-43:

- Establishes the waterfront as an area primarily for recreational, open space, and environmental uses.

The Waterfront Specific Plan, first adopted in 1986, was amended October 18, 2005. The following amended sections are applicable to the proposed recreational facilities:

- Chapter 3, Land Use/Open Space add Section 3.5.12. This section would allow public or commercial recreational sports facilities and ancillary facilities, such as field houses, restrooms, play equipment, fences, screening, outdoor light, and parking. These uses shall be permitted as a matter of right and shall not require Master Development Plans and Use Permits.
- Chapter 7, Plan Implementation amend Section 7.3.1.1. Recreational Developments exempted. Consistent with Open Space Policy 13 (OS-13) of the 2002 Berkeley General Plan, projects involving recreational, open space and environmental uses are encouraged in the Waterfront area. Projects proposed by public agencies and for public purposes involving recreation, open space and environmental uses shall not require a Master Development Plan (MDP) and Use Permit.

Therefore, the amended Waterfront Specific Plan permits the proposed recreational facilities at the Complex under the added Section 3.5.12 and the facilities are exempt from the requirement of a Master Development Plan or Use Permit under the amended Section 7.3.1.1.

Additionally, the Project site is bounded by the Eastshore State Park on the west and south sides and a walkway connects into the Bay Trail. The fields are adjacent to the Eastshore General Plan project area. The Project would not impact **Eastshore State Park General Plan** (California Department of Parks and Recreation, et al., 2002). According to the General Plan, only a specific portion of the waterfront, between the Albany Waterfront Area and the Emeryville Crescent, is designated for development with recreational facilities.

As part of the California State Lands Commission's **Granted Lands Program**, the City was granted sovereign salt marsh, tide, and submerged lands in trust in 1913 for the establishment, improvement, and conduct of a harbor and other utilities, structures, and appliances necessary or

convenient for the promotion and accommodation of commerce and navigation (Section 1 of Chapter 347 of the Statutes of 1913). In 1961, the grant was amended (Chapter 55, Section 5) to approve additional uses that were in the general statewide interest, including public recreation, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any such uses. The 1961 amendment applies to the proposed recreational facilities.

There would be a less than significant impact on the **San Francisco Bay Plan.** This plan is issued by the BCDC and states that in waterfront parks, recreational facilities that do not need a waterfront location, e.g., golf courses and playing fields, should generally be placed more than 100 feet from the shore, which is where the proposed recreational facilities would be constructed. In addition, construction would not affect land use of the Bay Trail because the trail is not in the Project footprint. However, while the proposed recreation facilities are beyond the 100-foot-wide shoreline band under BCDC jurisdiction, the Project footprint does encroach on that 100-foot buffer (the parking lot in particular). Therefore, it is anticipated that the project will require a permit from the BCDC, depending on project phasing and build-out.

XII. MINERAL RESOURCES

Environmental Setting

According to the California Geological Survey (2024), there are no mineral resources within the project site or its vicinity.

Impact Analysis
Would the project:

Question	CEQA Determination
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	No Impact
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	No Impact

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

No Impact: There are no mineral resources within the Project site. Therefore, there would be no impact.

b) *Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?*

No Impact: The Project site does not contain a mineral resource recovery site. Therefore, there would be no impact.

XIII. NOISE

Environmental Setting

The Project is located at the RSC, in the western portion of the City. Land uses adjacent to the RSC include the Golden Gate Fields Racetrack to the north, West Frontage Road, and Interstate 80/Interstate 580 (I-80/I-580) to the east, McLaughlin Eastshore State Park to the south, and the San Francisco Bay to the west. In addition, the San Francisco Bay Trail (Class 1 multi-use path) runs along the east and north perimeters of the RSC. The land uses surrounding the Project site are described in the Section XI Land Use and Planning.

Certain land uses are considered more sensitive to noise than others. Examples of these land uses include residential areas, educational facilities, hospitals, childcare facilities, and senior housing. The primary noise source in the vicinity of the project site is traffic on I-80/I-580, particularly along the eastern side of the RSC closest to I-80/I-580. Traffic noise sources along the north side of the RSC include local traffic on Gilman Street and vehicles entering and exiting the parking lot for the RSC. Other sources of noise include human voices from users participating in active outdoor sports at the existing soccer fields, ballpark, and other park facilities and along the Bay Trail.

Previous noise measurements at the site of the RSC indicate that freeway traffic on I-80/I-580 was the dominant noise source, with higher noise levels on the eastern portion of the site (City of Berkeley, 2005). Noise measurements along the east side ranged from 61 to 68 decibels (dBA), which was predominately freeway traffic. Noise levels at the westerly side of the site were lower, in the 54 to 62 dBA range. While conditions might have changed, these noise measurements are useful to describe the existing noise conditions at the project site.

Impact Analysis

Would the project result in:

Question	CEQA Determination
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	Less Than Significant Impact
b) Generation of excessive groundborne vibration or groundborne noise levels?	No Impact
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	No Impact

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Less Than Significant Impact: The Project site is situated in an area where existing ambient noise levels are relatively high due to proximity to a highway. The constant traffic noise from the

highway contributes a background level of sound that can help mask the noise produced by pickleball activities. Additionally, the pickleball courts are not situated near any residential development. This distance reduces the likelihood of noise-related disturbances affecting residents. With no immediate residential neighbors, the potential for noise complaints is significantly minimized. The Berkeley Community Noise Code specifies the maximum noise levels, based on the receiving land use type and the time of day. Table 7 presents the exterior noise limits for the various categories of land use. Therefore, the impact would be less than significant.

Table 7: Exterior Noise Limits

Zoning District	Time Period	Noise Level (dBA)
Exterior Noise Limits (not to be	**exceeded more than 30**	**minutes in any hour)**
R-1, R-2, R-1A, R-2A, and ESR	7:00 a.m. – 10:00 p.m. 10:00 p.m. – 7:00 a.m.	55 45
R-3 and above	7:00 a.m. – 10:00 p.m. 10:00 p.m. – 7:00 a.m.	60 55
Commercial	7:00 a.m. – 10:00 p.m. 10:00 p.m. – 7:00 a.m.	65 60
Industry	Anytime	70

The Berkeley Community Noise Code includes provisions for construction noise. Construction activities are prohibited between weekday hours of 7 p.m. and 7 a.m., or between 8 p.m. and 9 a.m. on weekends or holidays, such that the sound therefrom creates a noise disturbance across a residential or commercial real property line. Emergency work is allowed.

For daytime construction, the Berkeley Community Noise Code includes limits on construction noise for mobile and stationary equipment. Mobile equipment includes jackhammers, backhoes, drills, saws, sander grinders, and similar tools. Stationary equipment is fixed or motionless, such as pumps, compressors, and generators. The maximum sound levels for mobile and stationary construction equipment are presented in Table 8.

Table 8: Mobile and Stationary Equipment Construction Noise Limits

	R-1, R-2 Residential	R-3 and above Multi-Family Residential	Commercial/Industrial
Mobile Equipment: Maximum sound levels	**for nonscheduled, intermittent,**	**short-term operation**	**(less than 10 days)**
Weekdays 7:00 a.m. to 7:00 p.m.	75 dBA	80 dBA	85 dBA
Weekends 9:00 a.m. to 8:00 p.m. and legal holidays	60 dBA	65 dBA	70 dBA

	R-1, R-2 Residential	R-3 and above Multi-Family Residential	Commercial/Industrial
Stationary Equipment:		**scheduled**	**and relatively long-term operation (period of10 days or more)**
Weekdays 7:00 a.m. to 7:00 p.m.	60 dBA	65 dBA	70 dBA
Weekends 9:00 a.m. to 8:00 p.m. and legal holidays	50 dBA	55 dBA	60 dBA

Construction noise could result from activities like site preparation, and construction activities under the Project. Construction noise would be a short-term impact, vary daily depending on the construction phase, and be mostly localized to the vicinity of the construction activity.

Construction of the Project is anticipated to start in August 2025 and would occur over approximately six months. Work would be completed during regular daytime hours of 7:00 am to 5:00 pm, Monday through Friday, with no weekend construction work anticipated. Construction activities during daytime hours would be consistent with the requirements of Chapter 13.40, Community Noise, of the Berkeley Municipal Code (City of Berkeley, 2023).

Construction noise would depend on the types of construction equipment under the Project. Demolition of any existing asphalt concrete pavement would require saw cutting, possible jackhammering, and removal by heavy equipment (e.g., backhoe). The playing field, courts, and building locations would require earthmoving activities for grading and utility installation that would be performed by typical heavy equipment such as backhoes, excavators, and dozers. Construction would require carpentry for creating concrete forms and delivery of concrete using concrete trucks. Asphalt pavement replacement would be performed using typical milling and paving equipment. Parking lot striping and markings would be accomplished using typical striping equipment.

The new building for the Community Space Facility would be prefabricated and therefore constructed off-site. However, a mobile crane would be required to lower the building modules into place on the project site. Piles to support the Community Space Facility would be cast in auger-drilled holes. Pile driving would not occur.

Table 9 summarizes noise levels produced by construction equipment anticipated for the Project. The maximum sound levels (L_{max}) have been predicted with FHWA's RCNM model for construction noise (FHWA, 2006). Noise levels in Table 7 are for outside uses, while interior noise levels would be 10 to 35 dBA lower depending on the building type and window conditions (FHWA, 2011).

Noise from construction equipment would be intermittently higher than existing ambient noise levels within 50 to 200 feet of the project site but would decrease with distance and shielding. The construction noise levels in Table 9 were predicted at 1,300 feet, which is the distance from the project site to the closest residential area. At 1,300 feet, construction noise from mobile equipment would range from 42 to 52 dBA, which would not exceed the Berkeley Community Noise Code limit of 60 dBA for mobile equipment shown in Table 8. Construction noise levels of 42

to 52 dBA would not likely be noticeable at residential areas 1,300 feet to the east of the project site, when compared to background noise levels.

Table 9: Construction Equipment Noise

Equipment	Maximum Noise Level at 50 feet L_{max} dBA	Maximum Noise Level at 200 feet L_{max} dBA	Maximum Noise Level at 1,300 feet L_{max} dBA (1)
Concrete Saw	90	78	52
Auger Drill Rig	85	73	47
Excavator	85	73	47
Dozer	85	73	47
Crane	85	73	47
Concrete Mixer Truck	85	73	47
Jackhammer	85	73	47
Paver	85	73	47
Roller	85	73	47
Dump Truck	84	72	46
Generator	82	70	44
Compactor	80	68	42
Backhoe	80	68	42
Vacuum Street Sweeper	80	68	42

Note: predictions at 1,300 feet include a conservative shielding factor of 10 dBA, for shielding by both the elevated I-80/I-580 and rows of buildings.

Potential sources of long-term noise under the Project include traffic, human voices from outdoor recreational facilities, and mechanic equipment for buildings. While these activities are potential noise sources, the noise sources under the Project would increase ambient noise levels in residential uses that are 1,300 feet or more from the project site.

b) Generation of excessive groundborne vibration or groundborne noise levels?

No Impact: Construction activities would not result in the generation of groundborne vibration because pile driving, blasting, and building demolition would not occur under the Project.

Traffic, including heavy trucks traveling on a highway, rarely generates vibration amplitudes high enough to cause structural or cosmetic damage (Caltrans 2020). Studies of operational traffic-induced vibrations have shown that both measured and predicted vibration levels are less than any known criteria for structural damage to buildings (FHWA 2011). Operation of the Project would generate minimal traffic volumes, which would not generate vibration that could cause structural damage. Therefore, there would be no impact.

c) *For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?*

No Impact: The Project site is not located within two miles of a public airport or public use airport. Public airports in the Berkeley area include the Oakland International Airport (approximately 12 miles south of the site) and San Francisco International Airport (approximately 18 miles southwest of the site). Buchanan Field Airport, approximately 15 miles northeast of the site, is a general and business public airport in Contra Costa County. Therefore, there would be no impact.

XIV. POPULATION AND HOUSING

Environmental Setting

According to the 2022 estimates from the California Department of Finance (DOF), the population of Berkeley is approximately 123,563. The city has approximately 52,921 housing units and the average persons per household is approximately 2.17 (DOF 2023).

Impact Analysis

Would the project:

Question	CEQA Determination
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	No Impact
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	No Impact

a) *Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?*

No Impact: The project would not include substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extensions of roads or other infrastructure). Therefore, there would be no impact.

b) *Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?*

No Impact: There is no housing on the project site, and the project would not displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere; or displace substantial numbers of people, necessitating the construction of replacement housing elsewhere. Therefore, there would be no impact.

XV. PUBLIC SERVICES

Environmental Setting

Currently, according to the City (City of Berkeley, n.d.), approximately 19,000 visitors per year (52 visitors per day). The site is owned by the EBRPD which has its own fire and law enforcement departments. Under a mutual aid agreement between EBRPD and the City, the City provides fire and police protection. The Tom Bates RSC is located in the City's Fire District E6 and the nearest fire station, Fire Station 6 (999 Cedar Street), is located approximately 1.0 miles southeast of the RSC. The RSC is located in Beat 15 of the City's Police Department. The closest school, Black Pine Circle School, located at 2027 Seventh St, Berkeley, CA, serving kindergarten through grade 8, is situated approximately 0.8 mile southeast of the Project site.

Impact Analysis

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:

Question	CEQA Determination
a) Fire protection?	No Impact
b) Police protection	No Impact
c) Schools?	No Impact
d) Parks?	No Impact
e) Other public facilities?	No Impact

The proposed Project would improve the existing facility at the site. As determined under Section XVII Transportation, 45 additional persons per day are estimated to use the RSC upon Project completion which is an increase compared to existing conditions of 52 users per day, totaling 97 users per day, this represents less than 0.1% of the community population.

a) Fire protection?

No Impact: The Berkeley Fire Department is well-equipped to serve the City of Berkeley, including the University of California, Berkeley, which has a combined population of over 120,000 residents. The department responds to more than 16,000 service calls each year (City of Berkeley, n.d.). The project would not increase the City's population, nor will it necessitate new fire facility. Therefore, there would be no impact.

b) Police protection?

No Impact: The Berkeley Police Department is well-equipped to serve the City of Berkeley, including the University of California, Berkeley, which has a combined population of over 120,000 residents (City of Berkeley, n.d.). The project would not increase the City's population, nor will it necessitate new police facility. Therefore, there would be no impact.

c) Schools?

No Impact: The Project would not affect schools because of the distance to the nearest school (located approximately 0.8 miles southeast of the Project site) and its location east of I-80/I-580. The Project would not increase the City's population or construct new housing that could increase the number of school children. Therefore, there would be no impact.

d) Parks?

No Impact: The proposed Project would not affect the existing RSC facilities and uses. Access to the RSC and its uses would be maintained during construction of the Project. As noted under the Recreation, the project could reduce demand for pickle ball courts and U8 soccer fields at other parks in Berkeley, resulting in a beneficial impact, unless latent demand offsets this reduction. Changes in user numbers would not require the construction of new park facilities, as the project would be developed within an existing park. Therefore, there would be no impact.

e) Other public facilities?

No Impact: The Project would not increase the City's population or construct new housing would impact or require the construction of new public facilities. Therefore, there would be no impact.

XVI. RECREATION

Environmental Setting

The Project site provides sports fields consisting of two (2) synthetic turf soccer fields with lights, two (2) turf soccer fields, and one (1) baseball diamond. Approximately 19,000 visitors per year (52 visitors per day) use the RSC. As determined under Section XVII Transportation, 45 additional persons per day are estimated to use the RSC upon Project completion.

Impact Analysis
Would the project:

Question	CEQA Determination
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	No Impact
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	No Impact

The Project would improve the existing facility, adding a community space facility, pickleball courts, U8 soccer fields, and additional parking. The number of persons using the facilities upon Project completion is expected to increase the number of users compared to existing conditions as additional users would be expected to use the new amenities and facilities (City of Berkeley, 2020).

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

No Impact: The proposed Project would improve and add recreational facilities at the RSC and would not affect other existing neighborhood and regional parks or other recreational facilities

such that they would deteriorate. By providing additional recreational opportunities, the project could reduce demand for pickle ball courts and U8 soccer fields at other parks in Berkeley overall. Therefore, there would be no impact.

b) *Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?*

No Impact: The Project would improve parking and provide additional facilities at the RSC. The potential environmental impacts are discussed throughout this Initial Study and BMPs further reduce impacts deemed less than significant. Therefore, there would be no impact.

XVII. TRANSPORTATION

Environmental Setting

The Project site is generally bounded by Gilman Street on the north, West Frontage Road and Interstate 580/80 on the east, McLaughlin Eastshore State Park on the south and the San Francisco Bay on the west. The Tom Bates RSC encompasses approximately 16 acres of which the proposed Project is planned for approximately 3.5 acres.

Built in 2008, the Tom Bates RSC (also commonly referred to as the Gilman Fields) is one of the most highly used public sports complexes in the region. It is located within the McLaughlin Eastshore State Park and is operated by the EBRPD. The City's Parks, Recreation & Waterfront Department manages and operates the Tom Bates RSC under a sub-lease to the EBRPD.

The RSC is located in an area of the city with several other recreational and entertainment venues including the Golden Gate Fields Racetrack north of Gilman Street; McLaughlin Eastshore State Park just south of the complex; and the Berkeley Marina to the southwest/west of the Project. In addition, the Bay Trail (Class 1 multi-use path) runs along the west and north perimeter of the park.

The Project site currently consists of two synthetic turf full-size soccer fields and a parking lot on the northern side, and a natural turf multi-use sports fields and baseball field on the southern side.

Impact Analysis

Would the project:

Question	CEQA Determination
a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?	No Impact
b) Conflict or be inconsistent with CEQA Guidelines § 15064.3, subdivision (b)?	Less Than Significant Impact
c) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	No Impact
d) Result in inadequate emergency access?	No Impact

a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?

No Impact: The Project does not conflict with any objectives set forth in the Transportation section of the City of Berkeley General Plan (City of Berkeley, 2002). The Project promotes and expands on public recreational opportunities as identified in the Open Space & Recreation Element section of the City of Berkeley General Plan. The Project provides additional bicycle parking as compared to the existing condition of the site and is adjacent to the existing Bay Trail recreational corridor. The Project incorporates ADA, pedestrian, and bicycle facilities and no elements of the Project would conflict with or detract from existing transit, pedestrian, or bicycle facilities in the surrounding area. Furthermore, the Project includes the addition of 13 active and 25 ready EV charging stations, which is consistent with goals to incentivize EV use as set forth in the City of Berkeley Climate Action Plan. Therefore, there would be no impact.

b) Conflict or be inconsistent with CEQA Guidelines § 15064.3, subdivision (b)?

Less Than Significant Impact: The proposed additional land use for the site is categorized as "Public Park" per the Institute of Transportation Engineers (ITE) Trip Generation Manual, 7th Edition. Based on the acreage of the pickleball courts and the additional soccer field (0.85 acres) and using ITE standard trip generation procedures (also from the ITE Trip Generation Manual), an additional 45 trips per day are estimated for the proposed site improvements.

On average, 52 users per day visit the RSC (19,000 users per year, per City of Berkeley's website). Assuming that they all arrive in single-occupancy vehicles, this means that 52 vehicle trips occur per day. The proposed Project would add 45 trips (users), totaling a median of 97 trips per day. The MND (City of Berkeley, 2005) stated that "the proposed project is expected to generate an average of 788 new weekday daily vehicle trips". It recommended that the final design address the integration of the Golden Gate Fields with the design of the twin roundabout interchange proposed for the northeast corner of the project site. The need for the planning ensured that traffic flow is efficient and that potential conflicts between vehicle movements and parking activities are minimized.

Per the CEQA Guidelines § 15064.3, subdivision (b), vehicle miles traveled is the primary measure of this compliance criteria for land use projects. Per the Technical Advisory on Evaluating Transportation Impacts in CEQA published by the State of California, new projects which are estimated to generate fewer than 110 trips per day generally may be assumed to cause a less-than-significant impact to vehicle miles traveled. The Project would generate fewer than 110 additional trips per day. Therefore, the impact would be less than significant.

c) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

No Impact: Access to the proposed parking lot will continue to be at the north end of the lot adjacent to Gilman Street. No changes to the configuration of the parking lot driveway at Gilman Street are proposed or anticipated for the Project. Therefore, there would be no impact.

d) Result in inadequate emergency access?

No Impact: The proposed parking and site layout would not differ significantly from the existing condition. Emergency access will continue to be provided from Gilman Street to the north of the parking lot. Therefore, there would be no impact.

XVIII. TRIBAL CULTURAL RESOURCES

Environmental Setting

A cultural resources study was conducted by InContext in October 2023 for the Project site in compliance with CEQA. The study consisted of a records search at the Northwest Information Center, literature review, outreach to the Native American Heritage Commission and California Native American tribes, outreach to historical societies and the City of Berkeley Landmarks Commission, and a pedestrian survey.

No tribal cultural resources were identified within the Project Limits as a result of the study.

Impact Analysis

Would the project:

Question	CEQA Determination
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code § 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:	No Impact
i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	No Impact
ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	No Impact

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code § 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

ii. *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.*

No Impact: The City's effort to determine if the Project could cause a substantial adverse change in the significance of a Tribal Cultural Resources as defined by Public Resources Code section 21074 began on

October 23, 2023, with a request to the Native American Heritage Commission (NAHC) for a search of their sacred lands file and a list of Native American contacts. On November 15, 2023, the NAHC responded that a search of their files indicated the presence of Native American Sacred Lands resource in the project vicinity associated with the North Valley Yokuts Tribe. Attached to the letter, the NAHC provided a list of Native American individuals who might have knowledge of cultural resources in the project region. On December 7, 2023, the City sent AB52 Notification letters to the tribes provided by the NAHC. The City received two responses requesting consultation. The results of those two separate consultations are described below.

Andrew Galvan of The Ohlone Indian Tribe responded to the City on December 12, 2023 with an email requesting additional information regarding the project. At the request of the City, Trish Fernandez responded via email on January 16, 2024, with a description of the project and ground disturbing components of the project. The same day, Mr. Galvan requested a copy of the cultural resources report, to which Ms. Fernandez responded that it would be sent to Mr. Galvan when it was available. On February 16, Ms. Fernandez followed up with Mr. Galvan by providing him with a summary of the findings from a previously conducted Extended Phase I (XPI) study and map showing the closest locations of the testing pits excavated as part of the XPI. Ms. Fernandez also informed Mr. Galvan that the cultural report was expected to be completed and available mid-March 2024. The City sent the completed report to Mr. Galvan on March 13, 2024, requesting information regarding the Project's potential to impact a Tribal Cultural Resource. After receiving no response, the City sent Mr. Galvan follow-up emails on March 22 and April 22, 2024, as Mr. Galvan had demonstrated that email was an appropriate mode of conversation. After receiving no response, the City determined that they had made a reasonably good faith effort to consult with the Ohlone Indian Tribe as the Tribe requested, but that such consultation had not resulted in the identification of a Tribal Cultural Resource that the Project could impact because the Tribe has failed to provide comments or otherwise engage (PRC §21082.3(d)(2).

Corrina Gould of the Confederated Villages of Lisjan Nation responded to the City on December 21, 2023, via email requesting information regarding the project. At the request of the City, Trish Fernandez responded via email on January 16, 2024, informing her that the Records Search and Sacred Lands File information had been received and provided a summary of the previous XPI results. Ms. Gould responded the same day with a formal request for consultation. On January 31, 2024, a zoom meeting was held with Ms. Gould, Ms. Fernandez, Jesus Espinoza from the City, and Karin Lilienbecker of TranSystems in attendance. The City provided a project impacts map and Ms. Gould requested more detailed information regarding the findings of the XPI study. On February 6, 2024, Ms. Fernandez sent a summary of the results and a map showing the locations of the testing pits. On February 13, 2024, Ms. Fernandez sent Ms. Gould a copy of the entire XPI report, which Ms. Fernandez acquired from Caltrans after the zoom meeting. On February 28, 2024, a follow-up zoom meeting was held during which the XPI results were discussed. The same day, Ms. Gould emailed Ms. Fernandez, the City, and TranSystems that Tribe was satisfied that the project would not impact traditional cultural resources important to the Tribe and that the Tribe considered AB52 consultation complete.

Because no Tribal Cultural Resources were identified, there would be no impact to Tribal Cultural Resources.

The City's COA - Halt Work/Unanticipated Discovery of Tribal Cultural Resources will be implemented for 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.

XIX. UTILITIES AND SERVICE SYSTEMS

Environmental Setting

A 3" on-site water lateral and a separate irrigation system as well as electrical and communication lines are already on or near the RSC. A sewer line runs along Gilman Street. The City disposes waste at the Altamont landfill and requires diversion of construction debris.

Impact Analysis

Would the project:

Question	CEQA Determination
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	Less Than Significant Impact
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	Less Than Significant Impact
c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	Less Than Significant Impact
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	Less Than Significant Impact
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	Less Than Significant Impact

The proposed Project would require a modest increase in water consumption and wastewater generation to serve the public restrooms.

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Less Than Significant Impact: None of the required utility constructions will cause significant environmental effects.

No new water service is required. The existing 3" on-site water lateral will connect to the proposed fieldhouse building. Existing irrigation systems, which use a separate lateral from the one proposed for drinking water, will be maintained.

A new sanitary sewer lateral and force main along with a lift station will be constructed from the proposed Community Space Facility near the southeast corner of the parking lot to the north edge of the property where it will connect to an existing sanitary sewer line installed along Gilman Street. These will be limited to the size and capacity required to support the proposed Community Space Facility.

A new electrical service from PG&E will be installed, reaching from the existing switch at the RSC's northeast corner to the proposed Community Space Facility. This electrical service will be designed to accommodate a planned 1000-amp service. 200 amps of electrical capacity are designated for use by the proposed Community Space Facility, with the remaining 800 amps dedicated to electric car charging stations in the parking lot. Ten percent of all parking stalls in the parking lot will receive electrical charging stations, while an additional twenty percent will have wiring and other underground infrastructure pre-installed to accommodate future installation of charging stations. All electrical infrastructure will be connected through the proposed Community Space Facility.

No natural gas infrastructure is planned.

Communication lines will be connecting the proposed Community Space Facility to existing American Telephone and Telegraph Company (AT&T) equipment along Gilman Street. Therefore, the impact would be less than significant.

b) *Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?*

Less Than Significant Impact: The East Bay Municipal Utility District (EBMUD) is the provider of potable water for the City. Its Water Supply Management Program 2040 (EBMUD, 2012) defined the anticipated demand for water from many different users and contrasted this against the anticipated supply of water from primary, secondary, and alternative sources available in extended drought conditions. It describes conditions and provides evidence that the EBMUD will be able to meet projected demand during normal, dry, and multiple dry years.

The WSP2040 specifically notes that during periods of extended dry years, rationing of water will be one way to ensure that demand is available for critical users. The project's existing irrigation system uses a separate lateral than the proposed drinking water connection, so the project is well placed to respond to rationing by avoiding irrigation while still providing connection to the proposed fieldhouse and restrooms.

EBMUD is implementing the East Baysore Recycled Water Project. Limited existing piping exists near the RSC and EBMUD plans to connect it to a new pipeline along Seventh Street in a future project phase (EBMUD, n.d. a). As required in the MND (City of Berkeley, 2005), the design would facilitate a conversion to recycled water as expeditiously and economically as feasibly once the supply becomes available. Therefore, the impact would be less than significant.

c) *Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?*

Less Than Significant Impact: Operation of the proposed Project would result in the addition of wastewater from the five bathrooms to the volume of water EBMUD treats. The additional

wastewater added to is minor compared to EBMUD's wastewater treatment plant's capacity. EBMUD treats wastewater at their Main Wastewater Treatment Plan, which treats a daily average of 63 million gallons per day (MGD), while having a primary treatment capacity of 320 MGD (EBMUD, n.d. b). Therefore, the impact would be less than significant.

d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Less Than Significant Impact: The City is committed to Zero Waste Programs to reduce, eliminate, and divert the waste that is disposed at landfills conventionally. The City will require its contractors to comply with the Berkeley Green Code for Waste Diversion (City of Berkeley, n.d.) which requires recycling or salvage for use of

- 100 percent of each of the following: excavated soil and land-clearing debris, concrete, asphalt
- 65 percent of nonhazardous construction and demolition waste.

Construction debris that cannot be reused or recycled would be disposed at the nearest landfill. Excavated materials, particularly those generated during demolition and trenching, could be contaminated, and managed as described in Section IX Hazards and Hazardous Materials. The overall volume of solid construction waste requiring disposal would be minimal in comparison to the available capacities of local landfills.

The proposed Project is not anticipated to generate a substantial increase in solid waste over the current amounts generated at the RSC. The City collects trash and recyclables at the RSC. Solid waste from the City is primarily transported to the Altamont Landfill. As of 2018, the Altamont Landfill had over 65 million cubic yards of refuse capacity and, given anticipated fill rates, had an estimated closure date of 2049 (Alameda County Waste Management Authority, 2023). Therefore, the impact would be less than significant.

e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

Less Than Significant Impact: The proposed Project will comply with federal, state, and local statutes related to solid waste, including waste diversion requirements discussed under d) above. Therefore, the impact would be less than significant.

XX. WILDFIRE

Environmental Setting

The California Department of Forestry and Fire Protection (CAL FIRE) has classified the severity of fire hazards in California. Fire Hazard Severity Zones are areas with significant fire hazards, based on fire history, fuel loading (natural vegetation), terrain, and typical fire weather. These Fire Hazard Severity Zones can be located in both State Responsibility Areas and Local Responsibility Areas.

State Responsibility Areas include those areas where the state has financial responsibility for wildfire protection and prevention. Incorporated cities and federal ownership are not included in State Responsibility Areas. Local Responsibility Areas are incorporated cities, urban regions, agriculture lands, and portions of the desert where the local government is responsible for wildfire protection. CAL FIRE has worked with local governments to make recommendations on the Very High Fire Hazard Severity Zones within Local Responsibility Areas.

According to the CAL FIRE's Fire Hazard Severity Zone Viewer, the proposed project is not located in or near a mapped Fire Hazard Severity Zone in a State Responsible Area, or in or near lands classified as a Very High Fire Hazard Severity Zone within a Local Responsibility Area (CAL FIRE, 2023). The nearest mapped fire hazard is the Very High Fire Hazard Severity Zone located approximately 2 miles northeast of the project site in the Berkeley Hills.

The City has developed its city-wide Community Wildfire Protection Plan (City of Berkeley, 2023a). The Community Wildfire Protection Plan focuses on the Wildland-Urban Interface areas as identified by the Berkeley Fire Code. Fire Zone 2 (Hillside Overlay) and Fire Zone 3 (Panoramic Hill) are designated as Wildland-Urban Interface Fire Areas and correspond to the Local Responsibility Area mapped by CAL FIRE. The proposed project is not located within the Wildland-Urban Interface Fire Areas as defined by the City.

Impact Analysis

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

Question	CEQA Determination
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	No Impact
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	No Impact
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	No Impact
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	No Impact

No Impact: The Project site is located in a developed urban area and is not located in or near a state responsibility area or lands classified as very high fire hazard severity zones. The Project would have no impact with respect to Wildfire.

The implementation of the proposed project would not interfere with any adopted emergency response or evacuation plans, nor would it increase wildfire risks. It would not require the installation or maintenance of infrastructure that could heighten fire hazards, nor would it expose people or structures to significant risks, including flooding, landslides, or downslopes caused by runoff, post-fire slope instability, or drainage changes, particularly in areas designated as state responsibility zones or classified as very high fire hazard severity zones. While the project includes the installation of a new electric service line and transformer, it will be constructed in full compliance with local and state regulations concerning power lines, related infrastructure, and fire suppression requirements. Therefore, there would be no impact.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE

Environmental Setting

The proposed Project site is located on the waterfront of Berkeley and upgrades an existing complex of sports courts and fields.

Impact Analysis

Question	CEQA Determination
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	Less Than Significant with Mitigation Incorporated
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	No Impact
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	Less Than Significant with Mitigation Incorporated

b) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Since the publication of the Draft Initial Study and Mitigated Negative Declaration (IS/MND), the following change has been incorporated into this section:

As of October 2024, California Department of Fish and Wildlife (CDFW) has designated the burrowing owl as a candidate for potential listing as a protected species under the California Endangered Species Act (CESA). During the review period, candidate species receive the same protections as fully listed species under CESA. In addition to Mitigation Measure BIO-1, and to mitigate potential impacts while ensuring compliance with the new regulation, any potential take will require an Incidental Take Permit (ITP), which will be coordinated with the CDFW if potential for Take is identified during surveys. Any mitigation will be acquired at the direction of CDFW.

Less Than Significant Impact with Mitigation Incorporated: The proposed Project could affect burrowing owls or their habitat. Impacts to burrowing owls would be significant. As of October 2024, the California Department of Fish and Wildlife (CDFW) has designated the burrowing owl as a candidate for potential listing as a protected species under the California Endangered Species Act (CESA). During the review period, candidate species receive the same protections as fully listed

species under CESA. In addition to Mitigation Measure BIO-1, and to ensure compliance with the new regulation, any potential take of the burrowing owl will require an Incidental Take Permit (ITP). If take potential is identified during surveys, coordination with CDFW will be required, and mitigation will be implemented as directed by CDFW. The City will coordinate with CDFW – 3 Bay Delta Region

To avoid significant impacts to the burrowing owl, mitigation measure BIO-1 would be implemented:

- **BIO-1 -** Burrowing Owl Survey Protocol and Mitigation: Prior to ground disturbing activity, a pre-construction survey for burrowing owls shall be completed by a qualified biologist according to Burrowing Owl Survey Protocol and Mitigation Guidelines and the California Department of Fish and Wildlife (CDFW) protocol identified in the Staff Report on Burrowing Owl Mitigation prior to disturbance of non-native annual grassland areas occupied by ground squirrels (Attachment 4, CDFW, 2012). After the survey is complete, the qualified biologist shall prepare a report that includes but is not limited to: Description of the proposed project or proposed activity, including the proposed project start and end dates, as well as a description of disturbances or other activities occurring on-site or nearby. The survey report will be provided to the City's Planning Department for review and approval. If any occupied burrows are identified during the breeding season, buffer areas will be established around the burrow and protected until the nesting activities are completed. Any occupied burrow identified outside the nesting season (June-July) will have a one-way gate installed to allow burrowing owls to leave the site. Any identification of burrowing owls will be coordinated with the CDFW. The phases listed below shall be completed by the qualified biologist:
    - Phase I: Habitat assessment
    - Phase II: Burrow survey
    - Phase III: Burrowing owl surveys, census, and mapping
    - Phase IV: Resource summary, written report

In addition to construction controls, the project shall comply with the City's COA - Avoid Disturbance of Nesting Birds to prevent disturbance to nesting birds. Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 31), if feasible.

If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided.

The proposed project could result in a potential impact to burrowing owls. However, with required adherence to California Department of Fish and Wildlife requirements, existing regulations, and implementation of Mitigation Measure BIO-1, the impact would be less than significant. Therefore, the impact would be less than significant with mitigation incorporated.

In 1989, the Legislature amended CEQA to require that public agencies adopting feasible mitigation measures outlined in Environmental Impact Reports (EIRs) and negative declarations also implement a mitigation monitoring and reporting program. This program is designed to ensure compliance with any project modifications mandated by the public agency to reduce or avoid significant environmental

impacts. A Mitigation Monitoring and Reporting Plan (MMRP) has been developed for the project (Attachment 5).

c) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

No Impact: As stated in the MND (City of Berkeley, 2005), the proposed Project serves existing, insufficiently met needs for field sports playing areas generated by residents of Berkeley, Emeryville, Albany, El Cerrito, and Richmond. The proposed Project further advances the original project goal and, as an upgrade of an existing facility, does not have impacts that are cumulatively considerable, as they are anticipated to be less than significant individually. To further mitigate potential effects, best management practices and mitigation measures will be implemented to minimize and avoid environmental impacts. As a result, the project is expected to have a negligible impact when evaluated within the broader context of cumulative environmental effects. Therefore, there would be no impact.

d) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Less Than Significant Impact with Mitigation Incorporated: The proposed Project results in less than significant impacts with mitigations incorporated to humans' beings as identified in this Initial Study.

Given the site's history of soil contamination, excavation during construction has the potential to expose hazardous waste, including TPH-d, metals (predominantly lead, arsenic, and mercury), and methane. Excavated material that is contaminated will be disposed at a permitted facility. The following Mitigation Measures will be implemented as part of the project to minimize environmental effects:

- **HAZ-1-** Risk Management Plan: The latest version of the Addendum to the Eastshore State Park Remediation and Risk Management Plan (RRMP) Berkeley North Basin Strip-II, along with any associated addendums, must be provided to all contractors intending to engage in work on the Project. Contractors who anticipate interacting with shallow on-site soils should consult the Risk Management Plan for guidance on construction monitoring prerequisites and for identifying the appropriate personal protective equipment (PPE), including protective measures for encountering methane.
- **HAZ-2-** Water Quality Control Board Coordination: The City will coordinate site excavation activities with the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) to align site construction with the provisions of the Addendum to the Eastshore State Park Remediation and Risk Management Plan (RRMP) Berkeley North Basin Strip-II.
- **HAZ-3-** Soil Sampling: During Project construction, sample and analyze on-site soils that are being removed to characterize them prior to disposal at approved facilities.

Transport, use, storage, and disposal of hazardous materials: In the short term, construction would involve the management, application, storage of hazardous materials, leading to the generation of both hazardous and non-hazardous solid waste. Among the anticipated hazardous materials for use in constructing the proposed facilities are paints, thinners, solvents, and

petroleum-based products. These materials, frequently employed at construction sites for transport and equipment, pose potential health and safety risks to both the public and construction workers if mishandled or spilled.

- **HAZ-4-** Regulations: Contractors will comply with the California Health and Safety Code (HSC) and Resource Conservation and Recovery Act (RCRA) for the management, treatment, storage, and disposal of hazardous waste.

In 1989, the Legislature amended CEQA to require that public agencies adopting feasible mitigation measures outlined in Environmental Impact Reports (EIRs) and negative declarations also implement a mitigation monitoring and reporting program. This program is designed to ensure compliance with any project modifications mandated by the public agency to reduce or avoid significant environmental impacts. A Mitigation Monitoring and Reporting Plan (MMRP) has been developed for the project (Attachment 5). Therefore, the impact would be less than significant with mitigation incorporated.

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Attachment 1 – Figures

Figure 1: Tom Bates Regional Sports Complex Project Location



PROJECT LOCATION



PROJECT VINICITY



EXISTING CONFIGURATION AND PROJECT FOOTPRINT

TOM BATES REGIONAL SPORTS COMPLEX - BERKELEY, CA

PROJECT LOCATION

TRANSYSTEMS

Legend

Project Footprint

Bay Trail

N 0 225 450 Feet

SOURCE: METROPOLITAN TRANSPORTATION COMISSION. ACCESSED ON NOVEMBER 1, 2023.

FIGURE 1

Figure 2: Tom Bates Regional Sports Complex Project Concept



TOM BATES REGIONAL SPORTS COMPLEX - BERKELEY, CA

PROJECT CONCEPT

Legend

Project Footprint Bay Trail

TRANSYSTEMS

N 0 35 70 140 Feet

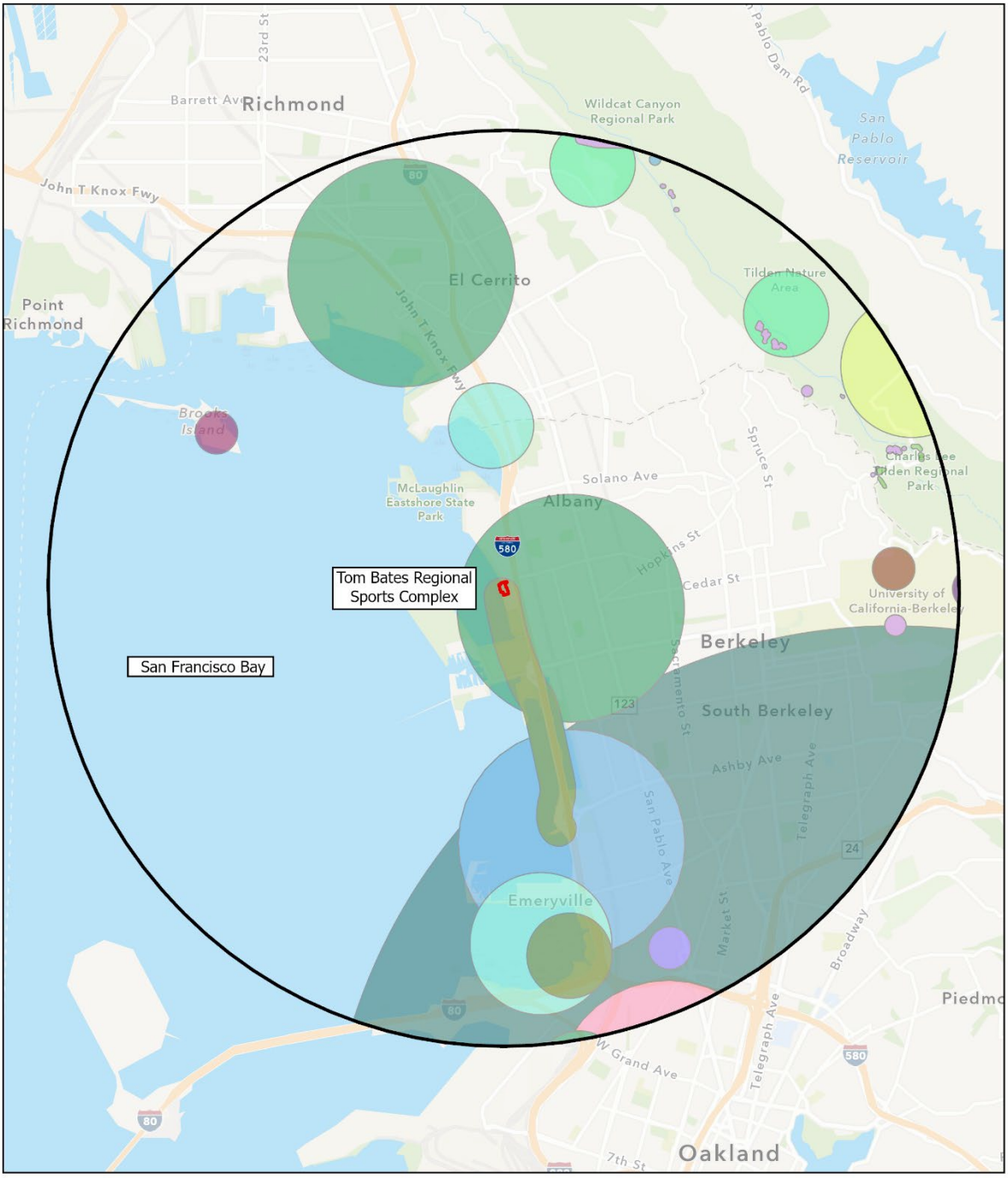
SOURCE: METROPOLITAN TRANSPORTATION COMISSION. ACCESSED ON NOVEMBER 1, 2023.

FIGURE 2

Figure 3: Landcover



Figure 4: CNDDB Vegetation



TOM BATES REGIONAL SPORTS COMPLEX - BERKELEY, CA

CNDDB VEGETATION

TRANSYSTEMS

Legend

- Project Footprint
- 5-mile Site Buffer
- California seablite
- Choris' popcornflower
- Diablo helianthella
- Kellogg's horkelia
- Marin knotweed
- Point Reyes salty bird's-beak
- San Francisco Bay spineflower
- San Joaquin spearscale
- Santa Cruz tarplant
- alkali milk-vetch
- bent-flowered fiddleneck
- coastal bluff morning-glory
- dark-eyed gilia
- fragrant fritillary
- minute pocket moss
- oval-leaved viburnum
- pallid manzanita
- saline clover
- western leatherwood

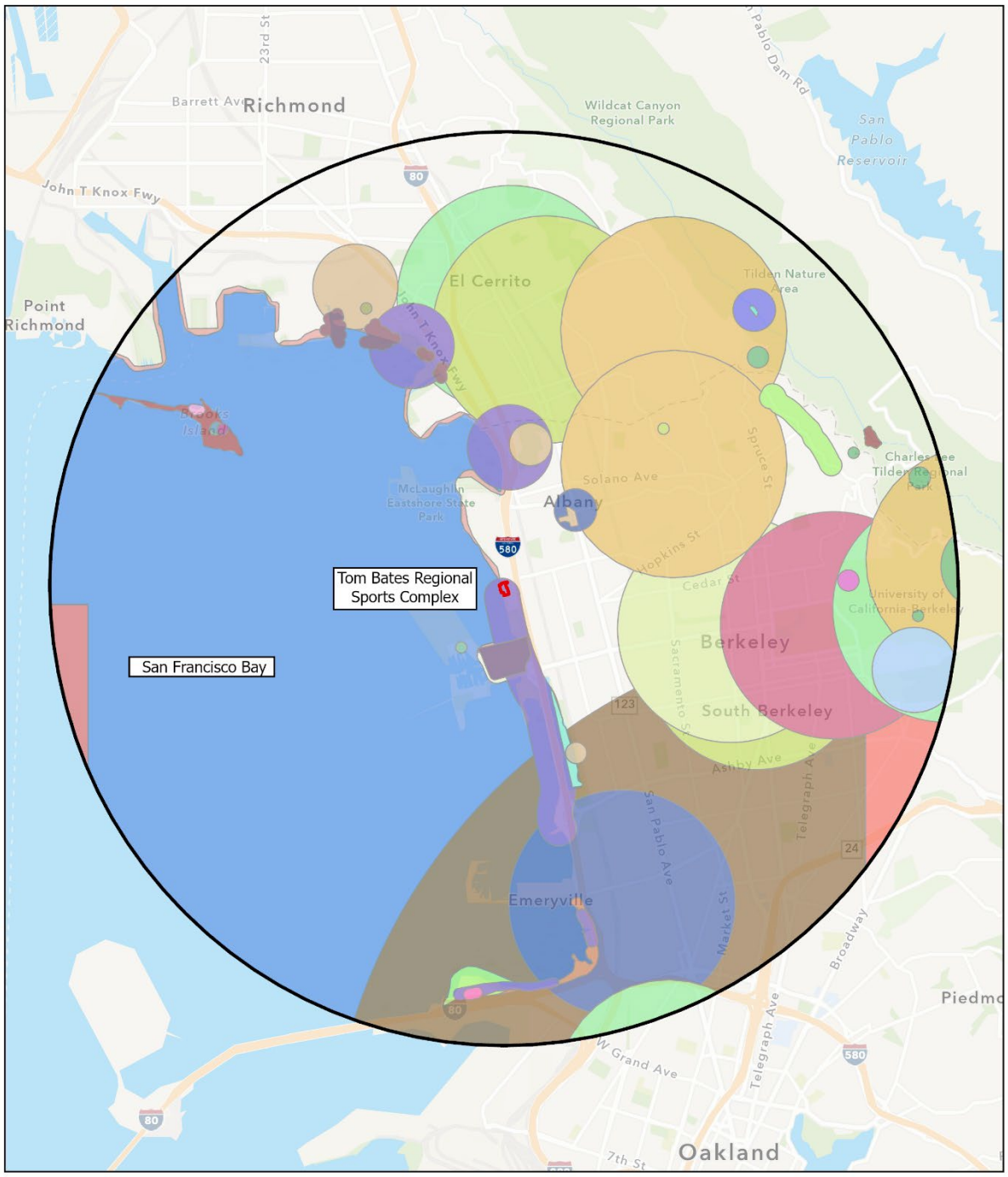
N

0 3,000 6,000 Feet

SOURCE: CDFW CNDDB

FIGURE 4

Figure 5: CNDDB Wildlife



TOM BATES REGIONAL SPORTS COMPLEX - BERKELEY, CA

CNDDB WILDLIFE

TRANSYSTEMS

Legend

Project Footprint
5-mile Site Buffer
Alameda song sparrow
Alameda whipsnake
American peregrine falcon
Berkeley kangaroo rat
Bridges' coast range shoulderband
California Ridgway's rail
California black rail
California red-legged frog
Caspian tern
Crotch bumble bee
Lee's micro-blind harvestman
Pacific walker
Sacramento perch
Townsend's big-eared bat
big free-tailed bat
black-crowned night heron
burrowing owl
green sturgeon - southern DPS
hoary bat
longfin smelt
monarch - California overwintering population
northern harrier
obscure bumble bee
pallid bat
salt marsh harvest mouse
saltmarsh common yellowthroat
silver-haired bat
snowy egret
tidewater goby
western bumble bee
western pond turtle
white-tailed kite

N

0 3,000 6,000 Feet

SOURCE: CDFW CNDDB

FIGURE 5

Figure 6: BCDC Jurisdiction



FIGURE 6

Figure 7: Flood Zone Map



FIGURE 7

Attachment 2 – Commitment List

Tom Bates Regional Sports Complex – Commitment List

Resource Area	Commitment	Responsible Party	Before	During	After	Verification of Compliance Date
Aesthetics, Biological Resources	Lighting: Wall-mounted lighting to illuminate the area around the community space facility and, in addition, one light pole and in-ground fixtures would illuminate the ADA-compliant switchback ramp. Exterior lights will use fixtures approved by the International Dark-Sky Association and consistent with the City's Condition of Approval (COA) - Exterior Lighting. This condition requires that all exterior lighting to be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.	City of Berkeley	X			Verified by:
Air Quality, Hydrology	Best Management Practice (BMP): The proposed Project would implement BMPs B-1 through B-11: B-1: All exposed surfaces shall be watered two times per day. B-2: All haul trucks transporting soil, sand, or other loose material off-site shall be covered. B-3: All visible mud or dirt track out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. B-4: All vehicle speeds on unpaved roads shall be limited to 10 mph. B-5: All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. B-6: All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 15 mph. B-7: All trucks and equipment, including their tires, shall be washed off prior to leaving the site. B-8: Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel. B-9: Publicly visible signs shall be posted with the telephone number and name of the person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District's (BAAQMD) General Air Pollution Complaints number shall also be visible to ensure compliance with applicable regulations.	City of Berkeley, Contractor		X		Verified by:

Resource Area	Commitment	Responsible Party	Before	During	After	Verification of Compliance Date
	B-10: Ensure that idling time for all heavy equipment is minimized to reduce on-site emissions. B-11: Maintain equipment in good mechanical condition.					
Air Quality, Hydrology	Comply with the California Air Resources Board (CARB): The City will require the Contractor to comply with the California Air Resources Board (CARB) In-Use Off-Road Diesel-Fueled Fleets Regulation, which imposes limits on idling and restricts the use of older vehicles during construction.	City of Berkeley		X	X	Verified by:
Air Quality, Hydrology	Comply with CALGreen Building Standards Code: The City will require the Contractor to adhere to CALGreen Building Standards Code which includes specific requirements related to recycling, construction materials, and energy efficiency standards.	City of Berkeley	X	X	X	Verified by:
Biological Resources	BIO-1: Burrowing Owl Survey Protocol and Mitigation: Prior to ground disturbing activity, a pre-construction survey for burrowing owls shall be completed by a qualified biologist according to Burrowing Owl Survey Protocol and Mitigation Guidelines and the California Department of Fish and Wildlife (CDFW) protocol identified in the Staff Report on Burrowing Owl Mitigation prior to disturbance of non-native annual grassland areas occupied by ground squirrels (Attachment 4, CDFW, 2012). After the survey is complete, the qualified biologist shall prepare a report that includes but is not limited to: Description of the proposed project or proposed activity, including the proposed project start and end dates, as well as a description of disturbances or other activities occurring on-site or nearby. The survey report will be provided to the City's Planning Department for review and approval. If any occupied burrows are identified during the breeding season, buffer areas will be established around the burrow and protected until the nesting activities are completed. Any occupied burrow identified outside the nesting season (June-July) will have a one-way gate installed to allow burrowing owls to leave the site. Any identification of burrowing owls will be coordinated with the CDFW. The phases listed below shall be completed by the qualified biologist: Phase I: Habitat assessment Phase II: Burrow survey Phase III: Burrowing owl surveys, census, and mapping Phase IV: Resource summary, written report	Contractor	X			Verified by:

Resource Area	Commitment	Responsible Party	Before	During	After	Verification of Compliance Date
	Incidental Take Permit (ITP): Any potential take will require an Incidental Take Permit (ITP), which will be coordinated with the CDFW if potential for Take is identified during surveys. Any other mitigation will be acquired at the direction of CDFW.					
Biological Resources	Tree Removal: Tree removal is not authorized.	City of Berkeley	X	X	X	Verified by:
Biological Resources	City's COA - Disturbance of nesting birds: In addition to construction controls, the project would comply with the City's COA to prevent disturbance of nesting birds and initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 31), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the Migratory Bird Treaty Act and the California Fish and Game Code, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed, and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.	Contractor	X			Verified by:
Cultural Resources	CR-1 - Inadvertent Discovery of Archaeological Resources: In the event that archaeological artifacts or cultural soil deposits are encountered during project	City of Berkeley, Contractor		X		Verified by:

Resource Area	Commitment	Responsible Party	Before	During	After	Verification of Compliance Date
	implementation, all work shall stop in the immediate vicinity of the find until the discovery area can be evaluated by a qualified archaeologist.					
Cultural Resources	CR-2 – Inadvertent Discovery of Human Remains: If human remains are discovered anywhere on the site other than a dedicated cemetery, there shall be no further excavation or disturbance of the site, or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of the county in which the remains are discovered determines that no investigation of the cause of death is required and the coroner determines the remains to be Native American. If the coroner makes those determinations, the coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall identify the person or persons it believes to be the most likely descended (MLD) from the deceased Native American. The MLD may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains, and any associated grave goods as provided in Public Resources Code section 5097.98.	City of Berkeley, Contractor		X		Verified by:
Geology and Soils, Hydrology	Adhere to Current Structural Engineering Codes: The design will adhere to current structural engineering codes. Structural engineering and geologic engineering disciplines will prepare the design based on current geologic site information.	Contractor	X			Verified by:
Geology and Soils, Hydrology	Design to Withstand Earthquakes: The design of all structures proposed as a part of the project will be reviewed by a qualified structural engineer, in consultation with an engineering geologist, who shall provide recommendations for reducing life safety hazards for field users during a major earthquake.	City of Berkeley	X			Verified by:
Geology and Soils, Hydrology	Design to Address High Groundwater Level: The design will address the high groundwater level at the site, for example, by requiring a heavier base for the lift station wet well to counter buoyancy.	City of Berkeley	X			Verified by:
Geology and Soils, Hydrology	Develop a Storm Water Pollution Prevention Plan (SWPPP): For construction, a Storm Water Pollution Prevention Plan (SWPPP) will be prepared according to the City's COA – Stormwater Requirements and implemented, as required by the State Water Resources Control Board for projects involving more than one acre of land disturbance.	City of Berkeley	X			Verified by:

Resource Area	Commitment	Responsible Party	Before	During	After	Verification of Compliance Date
	The City's COA - Stormwater Requirements requires that the applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply: The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval, and conditions of the City and EBMUD. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration, and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with					

Resource Area	Commitment	Responsible Party	Before	During	After	Verification of Compliance Date
	the project, unless the City accepts such facilities by Council action. City's Public Works Engineering Dept. may require additional cleaning. All private or public projects that create and/or replace 10,000 sf or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological). All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval, and conditions of the sanitary district with jurisdiction for receiving the discharge. All loading areas must be designated to minimize "run-on" or runoff from the area. Accumulated wastewater that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash					

Resource Area	Commitment	Responsible Party	Before	During	After	Verification of Compliance Date
	waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval, and conditions of the sanitary district with jurisdiction for receiving the discharge. The applicant is responsible for ensuring that all contractors and subcontractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order. Construction will be conducted during the dry season. Stockpiled soil will be covered and protected with temporary erosion control measures. Therefore, the impact would be less than significant.					
Geology and Soils, Hydrology	Design to Address Expansive Soil: The Project site is located on expansive soil and the engineering design will address this soil condition.	City of Berkeley	X			Verified by:
Greenhouse Gas Emissions	Low-carbon Concrete: The Berkeley Green Code (BMC Chapter 19.37) requires the use of low-carbon concrete, by specifying that construction projects should reduce the amount of cement used in concrete by at least 25%.	City of Berkeley	X	X		Verified by:
Hazards and Hazardous Materials	HAZ-1- Risk Management Plan: The latest version of the Addendum to the Eastshore State Park Remediation and Risk Management Plan (RRMP) Berkeley North Basin Strip-II, along with any associated addendums, must be provided to all contractors intending to engage in work on the Project. Contractors who anticipate interacting with shallow on-site soils should consult the Risk Management Plan for guidance on construction monitoring prerequisites and for identifying the appropriate personal protective equipment (PPE), including protective measures for encountering methane.	City of Berkeley, Contractor		X		Verified by:
Hazards and Hazardous Materials	HAZ-2- Water Quality Control Board Coordination: The City will coordinate site excavation activities with the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) to align site construction with the provisions of the Addendum to the Eastshore State Park Remediation and Risk Management Plan (RRMP) Berkeley North Basin Strip-II.	City of Berkeley	X			Verified by:
Hazards and Hazardous Materials	HAZ-3- Soil Sampling: During Project construction, sample and analyze on-site soils that are being removed to characterize them prior to disposal at approved facilities.	City of Berkeley	X	X		Verified by:

Resource Area	Commitment	Responsible Party	Before	During	After	Verification of Compliance Date
Hazards and Hazardous Materials	HAZ-4- Regulations: Contractors will comply with the California Health and Safety Code (HSC) and Resource Conservation and Recovery Act (RCRA) for the management, treatment, storage, and disposal of hazardous waste.	Contractor		X	X	Verified by:
Hazards and Hazardous Materials	Contaminated Groundwater: The design will address the high groundwater level at the site, for example, by minimizing the length and depth of utility trenches to reduce the potential to encounter contaminated groundwater and soil. Groundwater collected during construction from displacement will be tested and disposed in accordance with applicable regulations.	City of Berkeley, Contractor	X	X		Verified by:
Hydrogeology	San Francisco Bay Conservation and Development Commission (BCDC) – Permit: The project would include construction within the 100-foot band of shoreline regulated by BCDC. Impacts within BCDC jurisdictional area are based on development within BCDC area of jurisdiction. Prior to project construction, the City, or their representative, will prepare and submit a permit application BCDC for development. With adherence to permit conditions, which are anticipated to include a comprehensive plan review and approval process prior to the commencement of construction, as well as requirements for maintaining public access and view corridors to the Bay.	City of Berkeley	X			Verified by:
Hydrology, Land use and Planning	Final Design to Address Pollutant Load Runoff: To reduce the pollutant loads in runoff from the parking lots, the final design will direct parking lot runoff to vegetated swales for bio-filtration.	City of Berkeley	X			Verified by:
Hydrology, Land use and Planning	Construction of Shoreline: The project will obtain a permit from the San Francisco Bay Conservation and Development Commission (BCDC) for work in the 100-ft band of shoreline in its jurisdiction.	City of Berkeley	X			Verified by:
Hydrology, Land use and Planning	Floodplain: Construction will commence after the local floodplain administrator approves the design.	City of Berkeley	X			Verified by:
Hydrology, Land use and Planning	Efficient Landscape Features: The Project would incorporate water efficient landscape features.	City of Berkeley	X			Verified by:
Noise	Construction Activities: Construction activities are prohibited between weekday hours of 7 p.m. and 7 a.m., or between 8 p.m. and 9 a.m. on weekends or holidays. Emergency work is allowed.	Contractor and City of Berkeley		X		Verified by:
Noise	Maximum Sound Levels: The contractor will comply with the Berkeley Community Noise Code.	Contractor and City of Berkeley		X	X	Verified by:

Resource Area	Commitment	Responsible Party	Before	During	After	Verification of Compliance Date
Tribal Cultural Resources	The City's COA Halt Work/Unanticipated Discovery of Tribal Cultural Resources will be implemented 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.	Contractor		X		Verified by:
Utilities and Service Systems	Design to Address Water Recycling: As required in the MND (City of Berkeley, 2005), the design would facilitate a conversion to recycled water as expeditiously and economically as feasibly once the supply becomes available.	City of Berkeley	X			Verified by:
Utilities and Service Systems	Zero Waste Program: The City will require its contractors to comply with the Berkeley Green Code for Waste Diversion (City of Berkeley, 2024).	City of Berkeley		X		Verified by:

Attachment 3 – Listed, Proposed Species, Natural communities, and Critical Habitat Potentially Occurring or Known to Occur in the Biological Study Area.

Species	Status*	General Habitat Description	Habitat Present/ Absent*	Rationale
Plants				
Bent-flowered fiddleneck *Amsinckia lunaris*	1B.2	Cismontane woodland, coastal bluff scrub, and valley and foothill grassland	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Pallid manzanita *Arctostaphylos pallida*	FT, SE, 1B.1	Broadleaved upland forest, chaparral, cismontane woodland, closed-cone coniferous forest, and coastal scrub	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Alkali milk-vetch *Astragalus tener var. tener*	1B.2	Alkali playa, valley and foothill grassland, vernal pools, and wetlands	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Coastal bluff morning-glory *Calystegia purpurata ssp. Saxicola*	1B.2	Coastal bluff scrub, coastal scrub, coastal dunes, and north coast coniferous forest	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Bristly sedge *Carex comosa*	2B.1	Coastal prairies, valley and foothill grassland, and wetland	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Point Reyes salty bird's-beak *Chloropyron maritimum ssp. Palustre*	1B.2	Salt marsh, marsh, swamp, and another wetland	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
San Francisco Bay spineflower *Chorizanthe cuspidata var. cuspidata*	1B.2	Coastal bluff scrub, coastal dunes, coastal prairie, coastal scrub	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Robust spineflower *Chorizanthe robusta var. robusta*	FE, 1B.1	Chaparral, cismontane woodland, coastal bluff scrub, coastal dunes	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Western leatherwood *Dirca occidentalis*	1B.2	Broadleaved upland forest, chaparral, cismontane woodland, closed-cone coniferous forest, north coast coniferous forest, and riparian forests and woodland	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.

Species	Status*	General Habitat Description	Habitat Present/ Absent*	Rationale
San Joaquin spearscale *Extriplex joaquinana*	1B.2	Alkali playa, chenopod scrub, meadows and seeps, valley, and foothill grassland	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Fragrant fritillary *Fritillaria liliacea*	1B.2	Cismontane woodland, coastal prairie, coastal scrub, and valley and foothill grassland.	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Blue coast gilia Gilia capitata ssp. chamissonis	1B.1	Coastal dunes and scrub	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Dark-eyed gilia *Gilia millefoliata*	1B.2	Coastal dunes	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Diablo helianthella *Helianthella castanea*	1B.2	Broadleaved upland forest, chaparral, cismontane woodland, coastal scrub, and valley and foothill grassland	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Congested-headed hayfield tarplant *Hemizonia congesta ssp. congesta*	1B.2	Valley and foothill grassland	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Water star-grass *Heteranthera dubia*	2B.2	Marsh and swamps	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Loma Prieta hoita *Hoita strobilina*	1B.1	Chaparral, closed-cone coniferous forest, coastal dunes, coastal scrub	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Santa Cruz tarplant *Holocarpha macradenia*	FT, SE, 1B.1	Coastal prairie, costal scrub, valley, and foothill grassland	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.

Species	Status*	General Habitat Description	Habitat Present/ Absent*	Rationale
Kellogg's horkelia *Horkelia cuneata var. sericea*	1B.1	Chaparral, closed-cone coniferous woodland, coastal dunes, and coastal scrub	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Beach layia *Layia carnosa*	FT, SE, 1B.1	Coastal dunes and coastal scrub	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Rose leptosiphon *Leptosiphon rosaceus*	1B.1	Coastal bluff scrub	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Choris' popcornflower *Plagiobothrys chorisianus var. chorisianus*	1B.2	Chaparral, coastal prairie, and coastal scrub	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Marin knotweed *Polygonum marinense*	3.1	Brackish marsh, marsh and swamp, salt marsh, wetland	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Adobe sanicle *Sanicula maritima*	1B.1	Chaparral, coastal prairie, meadow and seep, valley, and foothill grassland	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Long-styled sand-spurrey *Spergularia macrotheca var. longistyla*	1B.2	Marsh, swamps, meadows, and seeps	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
California seablite *Suaeda californica*	1B.1	Freshwater marsh, swamp, and other wetlands.	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Saline clover *Trifolium hydrophilum*	1B.2	Marshes and swamps, Valley and foothill grassland, Vernal pools, and other wetlands	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.

Species	Status*	General Habitat Description	Habitat Present/ Absent*	Rationale
Oval-leaved viburnum *Viburnum ellipticum*	2B.3	Chaparral, cismontane woodland, lower montane coniferous forest	A	The BSA is limited to non-native annual grassland, developed area, and landscaped area. No suitable habitat is present in the BSA.
Fish				
Green Sturgeon – Southern DPS *Acipenser medirostris*	FT	Anadromous. Spawns in the Sacramento, Feather, and Yuba Rivers. Present in the Stanislaus and San Joaquin Rivers. Non-spawning adults occupy marine/estuarine waters. The delta estuary is important for rearing juveniles.	A	The BSA does not intersect or impact water resources. Suitable habitat does not exist in the BSA.
Sacramento perch *Archoplites interruptus*	SSC	Historically found in the sloughs, slow-moving rivers, and lakes of the Central Valley.	A	The BSA does not intersect or impact water resources. Suitable habitat does not exist in the BSA.
Tidewater goby *Eucyclogobius newberryi*	FE	Found in brackish water along the coast between Agua Hedionda Lagoon, San Diego County, to the mouth of the Smith River		The BSA does not intersect or impact water resources. Suitable habitat does not exist in the BSA.
Longfin smelt *Spirinchus thaleichthys*	FC, ST	Found in the open waters of estuaries, mostly in the middle or bottom of the water column.	A	The BSA does not intersect or impact water resources. Suitable habitat does not exist in the BSA.
Amphibians/Reptiles				
California Tiger Salamander *Ambystoma californiense* – central California DPS	FT, ST	Breeds in ponded water or vernal pools. Adults spend the summer in small mammal burrows.	A	No suitable areas of ponded water or vernal pools are not present in the project vicinity. Suitable habitat does not exist in the BSA.
Western pond turtle *Emys marmorata*	SSC	Agricultural wetlands and other wetlands, such as irrigation and drainage canals, low gradient streams, marshes, ponds, sloughs, small lakes, and associated uplands.	A	No wetlands or waters are present in the BSA. Suitable habitat does not exist in the BSA.
Alameda whipsnake *Masticophis lateralis euryxanthus*	FT, ST	Found in chaparral and scrub land, mostly on south-facing slopes and ravines, with rock outcrops, deep crevices, or abundant rodent burrows, where shrubs are mixed with oak trees and grasses.	A	The vegetation in the BSA is limited to non-native annual grassland with some scattered shrubs. Suitable habitat does not exist in the BSA.

Species	Status*	General Habitat Description	Habitat Present/ Absent*	Rationale
California red-legged frog *Rana draytonii*	FT, SSC	Lowlands and foothills in or near permanent sources of deep water with dense, shrubby, or emergent riparian vegetation.	A	No sources of deeps water or emergent vegetation are present. Suitable habitat does not exist in the BSA.
Mammals				
Pallid bat *Antrozous pallidus*	SSC	Deserts, grasslands, woodlands, and forests. Most common in open, dry habitats with rocky areas for roosting.	A	No suitable rocky roosting areas are present. Suitable habitat does not exist in the BSA.
Townsend's big-eared bat *Corynorhinus townsendii*	SSC	Found throughout California in a variety of habitats. Its most common in mesic sites, roosting in the open, hanging from walls and ceiling. It is extremely sensitive to human disturbance.	A	No suitable roosting area is present in the BSA and there is a high level of human activity in the area. Suitable habitat does not exist in the BSA.
San Pablo vole *Microtus californicus sanpabloensis*	SSC	Saltmarshes of San Pablo Creek, on the south shore of San Pablo Bay.	A	The project location is outside of the species range, and no saltmarsh habitat is present.
Big free-tailed bat *Nyctinomops macrotis*	SSC	Low-lying arid areas with high cliffs or rocky outcrops for roosting sites.	A	The BSA is not contain any cliffs or rocky outcroppings that would be suitable for roosting. Suitable habitat does not exist in the BSA.
Salt-marsh harvest mouse *Reithrodontomys raviventris*	FE, SE, SSC	Saline emergent wetlands of San Francisco Bay and its tributaries.	A	No wetlands are present in the BSA. Suitable habitat does not exist in the BSA.
Alameda Island mole *Scapanus latimanus parvus*	SSC	Only known from Alameda Island.	A	The project is outside this species known range.
Salt-marsh wandering shrew *Sorex vagrans halicoetes*	SSC	Salt marshes of the south arm of San Francisco Bay	A	No salt marshes are present in the BSA. Suitable habitat does not exist in the BSA.
Birds				
Burrowing owl *Athene cunicularia*	SSC	Frequents open grasslands and shrublands with perches and burrows. Primarily nests in old ground squirrel or other small mammal burrows	HP	This species has a history of presence on this site, being known to occur pre-development. No current occurrence is known, and no small mammal burrows are present. Due to the past usage of this site, habitat is considered to be present.

Species	Status*	General Habitat Description	Habitat Present/ Absent*	Rationale
Northern harrier *Circus hudsonius*	SSC	Coastal salt and freshwater marsh, nesting and foraging in grasslands, from salt grass in desert sinks to mountain ciénagas.	A	No Marsh or grassland suitable for foraging or nesting is present in the BSA. Suitable habitat does not exist in the BSA.
Yellow rail *Coturnicops noveboracensis*	SSC	Freshwater marshlands.	A	No marshlands are present in the BSA. Suitable habitat does not exist in the BSA.
White-tailed kite *Elanus leucurus*	SFP	Nests in isolated trees or woodland areas with suitable open foraging habitat.	A	No isolated trees or woodland habitat is present in the BSA. Suitable habitat does not exist in the BSA.
Saltmarsh common yellowthroat *Geothlypis trichas sinuosa*	SSC	Fresh and saltwater marshes in the San Francisco Bay region. Requires thick continuous cover to the water surface for foraging and tall grasses, tule patches, or willows for nesting.	A	No marshes are present in the BSA. Suitable habitat does not exist in the BSA.
California black rail *Laterallus jamaicensis coturniculus*	ST, SFP	Freshwater marshes, wet meadows and shallow margins of saltwater marshes bordering larger bays.	A	No marshes or wet meadows are present in the BSA. Suitable habitat does not exist in the BSA.
Alameda song sparrow *Melospiza melodia pusillula*	SSC	Salt marshes bordering the south arm of San Francisco Bay, nesting in *Grindelia* bushes and in *Salicornia*.	A	No marshes are present in the BSA. Suitable habitat does not exist in the BSA.
San Pablo song sparrow *Melospiza melodia samuelis*	SSC	Salt marshes along the north side of San Francisco and San Pablo bays, nesting in *Grindelia* bordering slough channels.	A	No marshes are present in the BSA. Suitable habitat does not exist in in the BSA.
California Ridgway's rail *Rallus obsoletus obsoletus*	FE, SE, SFP	Salt water and brackish marshes traversed by tidal sloughs in the vicinity of San Francisco Bay.	A	No marshes are present in the BSA. Suitable habitat does not exist in the BSA.
California least tern *Sternula antillarum browni*	FE, SE, SFP	Nests along the coast from San Francisco Bay south to northern Baja California, nesting on bare or sparsely vegetated, flat substrates including sand beaches, alkali flats, landfills, or paved areas.	A	Flat nesting substrates in the area are limited to the paved parking lot and a nearby fire lane. These areas are used frequently and are unlikely to be used by the least tern.
Yellow-headed blackbird *Xanthocephalus xanthocephalus*	SSC	Nests in deciduous riparian woodland, particularly with dense stands of cottonwood and willow. Nests are placed in a dense cover of trees, shrubs, or vines.	A	No riparian woodland is present. Suitable habitat does not exist in the BSA.

Species	Status*	General Habitat Description	Habitat Present/ Absent*	Rationale
Invertebrates				
Crotch bumble bee *Bombus crotchii*	SC	Coastal California east to the Sierra-Cascade crest and south into Mexico. Food plant genera include *Antirrhinum*, *Phacelia*, *Clarkia*, *Dendromecon*, *Eschscholzia*, and *Eriogonum.*	A	The BSA is dominated by non-native annual grassland, which does not provide particularly suitable feeding opportunities. Suitable habitat does not exist in the BSA.
Western bumble bee *Bombus occidentalis*	SC	A wide variety of natural, agricultural, urban, and rural habitat types.	A	As a habitat generalist, the western bumble bee may be found in the BSA. Due to the BSA being dominated by non-native annual grassland, the area is not likely to provide particularly valuable habitat.
Monarch butterfly California Overwintering Population *Danaus plexippus plexippus*	FC	Winter roost sites extend along the coast from northern Mendocino to Baja California, Mexico. Roosts located in wind-protected tree groves (eucalyptus, Monterey pine, cypress), with nectar and water sources nearby.	A	No tree groves are present in the BSA. Suitable habitat does not exist in the BSA.

Legend
Presence/Absence A = Absent – no habitat present and no further analysis needed. HP = Habitat Present – habitat is or may be present. P = Present – The species is present
Federally Listed Species: FE = Federal Endangered FT = Federal Threatened FC = Candidate CH = Critical habitat
State Listed Species SE = State Endangered ST = State Threatened SC = State Candidate SFP = State Fully Protected SSC = Species of Special Concern
CNPS Rank Categories 1A = Plants presumed extirpated in CA and either rare or extinct elsewhere 2A = Plants rare, threatened, or endangered in CA and elsewhere 2B = Plants rare, threatened, or endangered in CA but more common elsewhere 3 = Plants about which more information is needed

Legend
4 = Plants of limited distribution
Threat Ranks 0.1 = Seriously threatened in CA 0.2 = Moderately threatened in CA 0.3 = Not very threatened in CA

Attachment 4 – Burrowing Owl Survey Protocol and Mitigation Guidelines

BURROWING OWL SURVEY PROTOCOL AND MITIGATION GUIDELINES

Prepared by:

The California Burrowing Owl Consortium

April 1993

INTRODUCTION

The California Burrowing Owl Consortium developed the following Survey Protocol and Mitigation Guidelines to meet the need for uniform standards when surveying burrowing owl *(Speotyto cunicularia)* populations and evaluating impacts from development projects. The California Burrowing Owl Consortium is a group of biologists in the San Francisco Bay area who are interested in burrowing owl conservation. The following survey protocol and mitigation guidelines were prepared by the Consortium's Mitigation Committee. These procedures offer a decision-making process aimed at preserving burrowing owls in place with adequate habitat.

California's burrowing owl population is clearly in peril and if declines continue unchecked the species may qualify for listing. Because of the intense pressure for development of open, flat grasslands in California, resource managers frequently face conflicts between owls and development projects. Owls can be affected by disturbance and habitat loss, even though there may be no direct impacts to the birds themselves or their burrows. There is often inadequate information about the presence of owls on a project site until ground disturbance is imminent. When this occurs there is usually insufficient time to evaluate impacts to owls and their habitat. The absence of standardized field survey methods impairs adequate and consistent impact assessment during regulatory review processes, which in turn reduces the possibility of effective mitigation.

These guidelines are intended to provide a decision-making process that should be implemented wherever there is potential for an action or project to adversely affect burrowing owls or the resources that support them. The process begins with a four-step survey protocol to document the presence of burrowing owl habitat, and evaluate burrowing owl use of the project site and a surrounding buffer zone. When surveys confirm occupied habitat, the mitigation measures are followed to minimize impacts to burrowing owls, their burrows and foraging habitat on the site. These guidelines emphasize maintaining burrowing owls and their resources in place rather than minimizing impacts through displacement of owls to an alternate site.

Each project and situation is different and these procedures may not be applicable in some circumstances. Finally, these are not strict rules or requirements that must be applied in all situations. They are guidelines to consider when evaluating burrowing owls and their habitat, and they suggest options for burrowing owl conservation when land use decisions are made.

Section 1 describes the four phase Burrowing Owl Survey Protocol. Section 2 contains the Mitigation Guidelines. Section 3 contains a discussion of various laws and regulations that protect burrowing owls and a list of references cited in the text.

We have submitted these documents to the California Department of Fish and Game (CDFG) for review and comment. These are untested procedures and we ask for your comments on improving their usefulness.

SECTION 1 BURROWING OWL SURVEY PROTOCOL

PHASE I: HABITAT ASSESSMENT

The first step in the survey process is to assess the presence of burrowing owl habitat on the project site including a 150-meter (approx. 500 ft.) buffer zone around the project boundary (Thomsen 1971, Martin 1973).

Burrowing Owl Habitat Description
Burrowing owl habitat can be found in annual and perennial grasslands, deserts, and scrublands characterized by low-growing vegetation (Zarn 1974). Suitable owl habitat may also include trees and shrubs if the canopy covers less than 30 percent of the ground surface. Burrows are the essential component of burrowing owl habitat: both natural and artificial burrows provide protection, shelter, and nests for burrowing owls (Henny and Blus 1981). Burrowing owls typically use burrows made by fossorial mammals, such as ground squirrels or badgers, but also may use man-made structures, such as cement culverts; cement, asphalt, or wood debris piles; or openings beneath cement or asphalt pavement.

Occupied Burrowing Owl Habitat
Burrowing owls may use a site for breeding, wintering, foraging, and/or migration stopovers. Occupancy of suitable burrowing owl habitat can be verified at a site by an observation of at least one burrowing owl, or, alternatively, its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance. Burrowing owls exhibit high site fidelity, reusing burrows year after year (Rich 1984, Feeney 1992). A site should be assumed occupied if at least one burrowing owl has been observed occupying a burrow there within the last three years (Rich 1984).

The Phase II burrow survey is required if burrowing owl habitat occurs on the site. If burrowing owl habitat is not present on the project site and buffer zone, the Phase II burrow survey is not necessary. A written report of the habitat assessment should be prepared (Phase IV), stating the reason(s) why the area is not burrowing owl habitat.

PHASE II: BURROW SURVEY

1. A survey for-burrows and owls should be conducted by walking through suitable habitat over the entire project site and in areas within 150 meters (approx 500 ft.) of the project impact zone. This 150-meter buffer zone is included to account for adjacent burrows and foraging habitat outside the project area and impacts from factors such as noise and vibration due to heavy equipment which could impact resources outside the project area.

2. Pedestrian survey transects should be spaced to allow 100 percent visual coverage of the ground surface. The distance between transect center lines should be no more than 30 meters (approx. 100 ft.), and should be reduced to account for differences in terrain, vegetation density, and ground surface visibility. To efficiently survey projects larger than 100 acres, it is recommended that two or more surveyors conduct concurrent surveys. Surveyors should maintain a minimum distance of 50 meters (approx. 160 ft.) from any owls or occupied burrows. It is important to minimize disturbance near occupied burrows during all seasons.

3. If burrows or burrowing owls are recorded on the site, a map should be prepared of the burrow concentration areas. A breeding season survey and census (Phase III) of burrowing owls is the next step required.

4. Prepare a report (Phase IV) of the burrow survey stating whether or not burrows are present.

5. A preconstruction survey may be required by project-specific mitigations no more than 30 days prior to ground disturbing activity.

PHASE III: BURROWING OWL SURVEYS, CENSUS AND MAPPING

If the project site contains burrows that could be used by burrowing owls, then survey efforts should be directed towards determining owl presence on the site. Surveys in the breeding season are required to describe if, when, and how the site is used by burrowing owls. If no owls are observed using the site during the breeding season, a winter survey is required.

Survey Methodology

A complete burrowing owl survey consists of four site visits. During the initial site visit examine burrows for owl sign and map the locations of occupied burrows. Subsequent observations should be conducted from as many fixed points as necessary to provide visual coverage of the site using spotting scopes or binoculars. It is important to minimize disturbance near occupied burrows during all seasons. Site visits must be repeated on four separate days. Conduct these visits from two hours before sunset to one hour after or from one hour before to two hours after sunrise. Surveys should be conducted during weather that is conducive to observing owls outside their burrows. Avoid surveys during heavy rain, high winds (> 20 mph), or dense fog.

Nesting Season Survey. The burrowing owl nesting season begins as early as February 1 and continues through August 31 (Thomsen 1971, Zam 1974). The timing of nesting activities may vary with latitude and climatic conditions. If possible, the nesting season survey should be conducted during the peak of the breeding season, between April 15 and July 15. Count and map all burrowing owl sightings, occupied burrows, and burrows with owl sign. Record numbers of pairs and juveniles, and behavior such as courtship and copulation. Map the approximate territory boundaries and foraging areas if known.

Survey for Winter Residents (non-breeding owls). Winter surveys should be conducted between December 1 and January 31, during the period when wintering owls are most likely to be present. Count and map all owl sightings, occupied burrows, and burrows with owl sign.

Surveys Outside the Winter and Nesting Seasons. Positive results, (i.e., owl sightings)- outside of the above survey periods would be adequate to determine presence of owls on site. However, results of these surveys may be inadequate for mitigation planning because the numbers of owls and their pattern of distribution may change during winter and nesting seasons. Negative results during surveys outside the above periods are not conclusive proof that owls do not use the site.

Preconstruction Survey. A preconstruction survey may be required by project-specific mitigations and should be conducted no more than 30 days prior to ground disturbing activity.

PHASE IV: RESOURCE SUMMARY, WRITTEN REPORT

A report should be prepared for CDFG that gives the results of each Phase of the survey protocol, as outlined below.

Phase I: Habitat Assessment

1. Date and time of visit(s) including weather and visibility conditions; methods of survey.

2. Site description including the following information: location, size, topography, vegetation communities, and animals observed during visit(s).

3. An assessment of habitat suitability for burrowing owls and explanation.

4. A map of the site.

Phase II: Burrow Survey

1. Date and time of visits including weather and visibility conditions; survey methods including transect spacing.

2. A more detailed site description should be made during this phase of the survey protocol including a partial plant list of primary vegetation, location of nearest freshwater (on or within one mile of site), animals observed during transects.

3. Results of survey transects including a map showing the location of concentrations of burrow(s) (natural or artificial) and owl(s), if present.

Phase III: Burrowing Owl Surveys, Census and Mapping

1. Date and time of visits including weather and visibility conditions; survey methods including transect spacing.

2. Report and map the location of all burrowing owls and owl sign. Burrows occupied by owl(s) should be mapped indicating the number of owls at each burrow. Tracks, feathers, pellets, or other items (prey remains, animal scat) at burrows should also be reported.

3. Behavior of owls during the surveys should be carefully recorded (from a distance) and reported. Describe and map areas used by owls during the surveys. Although not required, all behavior is valuable to document including feeding, resting, courtship, alarm, territorial, parental, or juvenile behavior.

4. Both winter and nesting season surveys should be summarized. If possible include information regarding productivity of pairs, seasonal pattern of use, and include a map of the colony showing territorial boundaries and home ranges.

5. The historical presence of burrowing owls on site should be documented, as well as the source of such information (local bird club, Audubon society, other biologists, etc.).

Burrowing: Owl Survey Protocol

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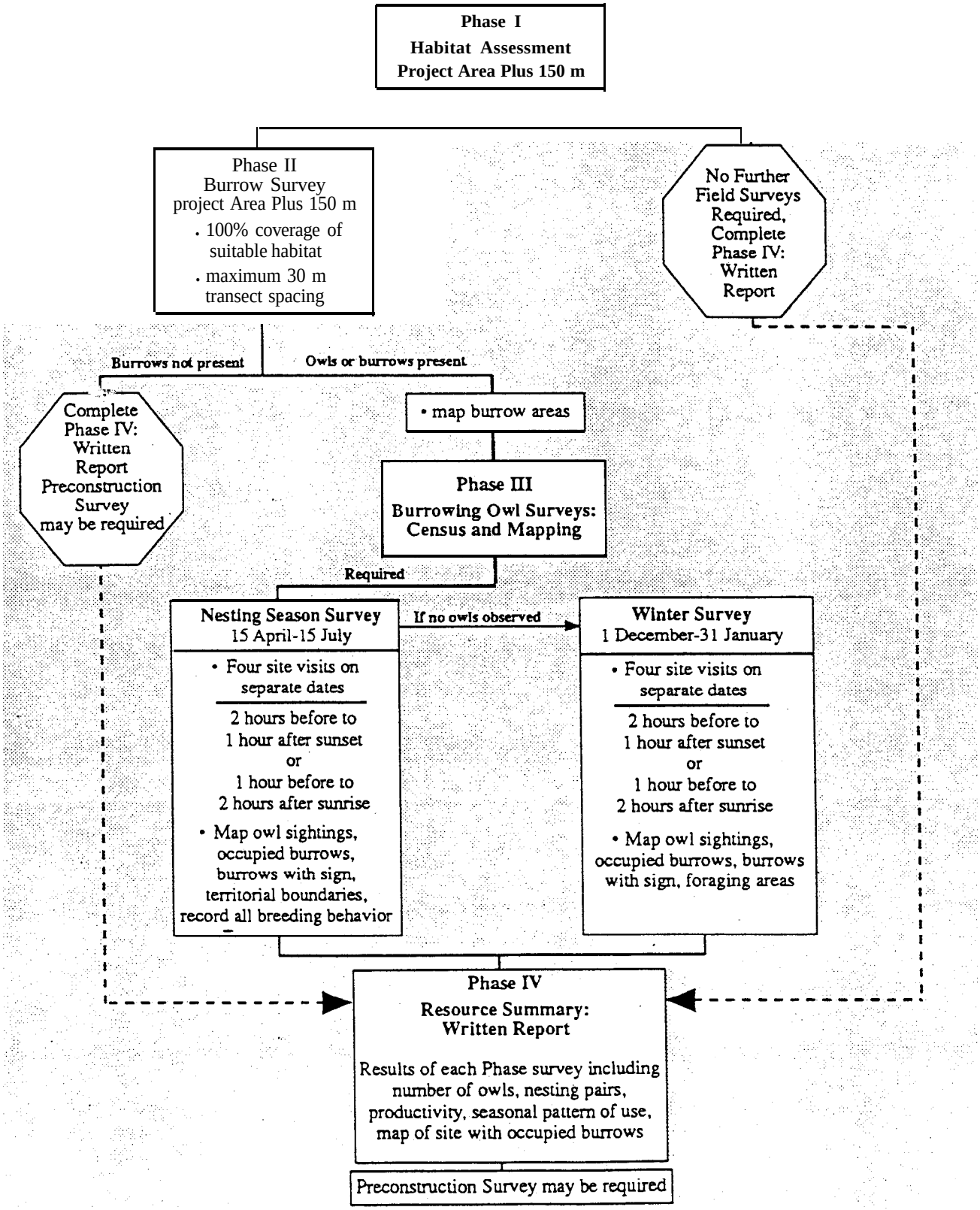


Figure 1.

SECTION 2 BURROWING OWL MITIGATION GUIDELINES

The objective of these mitigation guidelines is to minimize impacts to burrowing owls and the resources that support viable owl populations. These guidelines are intended to provide a decision-making process that should be implemented wherever there is potential for an action or project to adversely affect burrowing owls or their resources. The process begins with a four-step survey protocol (see *Burrowing Owl Survey Protocol)* to document the presence of burrowing owl habitat, and evaluate burrowing owl use of the project site and a surrounding buffer zone. When surveys confirm occupied habitat, the mitigation measures described below are followed to minimize impacts to burrowing owls, their burrows and foraging habitat on the site. These guidelines emphasize maintaining burrowing owls and their resources in place rather than minimizing impacts through displacement of owls to an alternate site.

Mitigation actions should be carried out prior to the burrowing owl breeding season, generally from February 1 through August 31 (Thomsen 1971, Zarn 1974). The timing of nesting activity may vary with latitude and climatic conditions. Project sites and buffer zones with suitable habitat should be resurveyed to ensure no burrowing owls have occupied them in the interim period between the initial surveys and ground disturbing activity. Repeat surveys should be conducted not more than 30 days prior to initial ground disturbing activity.

DEFINITION OF IMPACTS

1. Disturbance or harassment within 50 meters (approx. 160 ft.) of occupied burrows.

2. Destruction of burrows and burrow entrances. Burrows include structures such as culverts, concrete slabs and debris piles that provide shelter to burrowing owls.

3. Degradation of foraging habitat adjacent to occupied burrows.

GENERAL CONSIDERATIONS

1. Occupied burrows should not be disturbed during the nesting season, from February 1 through August 31, unless the Department of Fish and Game verifies that the birds have not begun egg-laying and incubation or that the juveniles from those burrows are foraging independently and capable of independent survival at an earlier date.

2. A minimum of 6.5 acres of foraging habitat, calculated on a 100-m (approx. 300 ft.) foraging radius around the natal burrow, should be maintained per pair (or unpaired resident single bird) contiguous with burrows occupied within the last three years (Rich 1984, Feeney 1992). Ideally, foraging habitat should be retained in a long-term conservation easement.

3. When destruction of occupied burrows is unavoidable, burrows should be enhanced (enlarged or cleared of debris) or created (by installing artificial burrows) in a ratio of 1:1 in adjacent suitable habitat that is contiguous with the foraging habitat of the affected owls.

4. If owls must be moved away from the disturbance area, passive relocation (see below) is preferable to trapping. A time period of at least one week is recommended to allow the owls to move and acclimate to alternate burrows.

5. The mitigation committee recommends monitoring the success of mitigation programs as required in Assembly Bill 3180. A monitoring plan should include mitigation success criteria and an annual report should be submitted to the California Department of Fish and Game.

AVOIDANCE

Avoid Occupied Burrows

No disturbance should occur within 50 m (approx. 160 ft.) of occupied burrows during the non-breeding Season of September 1 through January 31 or within 75 m (approx. 250 ft.) during the breeding Season of February 1 through August 31. Avoidance also requires that a minimum of 6.5 acres of foraging habitat be preserved contiguous with occupied burrow sites for each pair of breeding burrowing owls (with or without dependent young) or single unpaired resident bird (Figure 2).

MITIGATION FOR UNAVOIDABLE IMPACTS

On-site Mitigation

On-site passive relocation should be implemented if the above avoidance requirements cannot be met. Passive relocation is defined as encouraging owls to move from occupied burrows to alternate natural or artificial burrows that are beyond 50 m from the impact zone and that are within or contiguous to a minimum of 6.5 acres of foraging habitat for each pair of relocated owls (Figure 3). Relocation of owls should only be implemented during the non-breeding season. On-site habitat should be preserved in a conservation easement and managed to promote burrowing owl use of the site.

Owls should be excluded from burrows in the immediate impact zone and within a 50 m (approx. 160 ft.) buffer zone by installing one-way doors in burrow entrances: One-way doors should be left in place 48 hours to insure owls have left the burrow before excavation. One alternate natural or artificial burrow should be provided for each burrow that will be excavated in the project impact zone. The project area should be monitored daily for one week to confirm owl use of alternate burrows before excavating burrows in the immediate impact zone. Whenever possible, burrows should be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible plastic pipe or burlap bags should be inserted into the tunnels

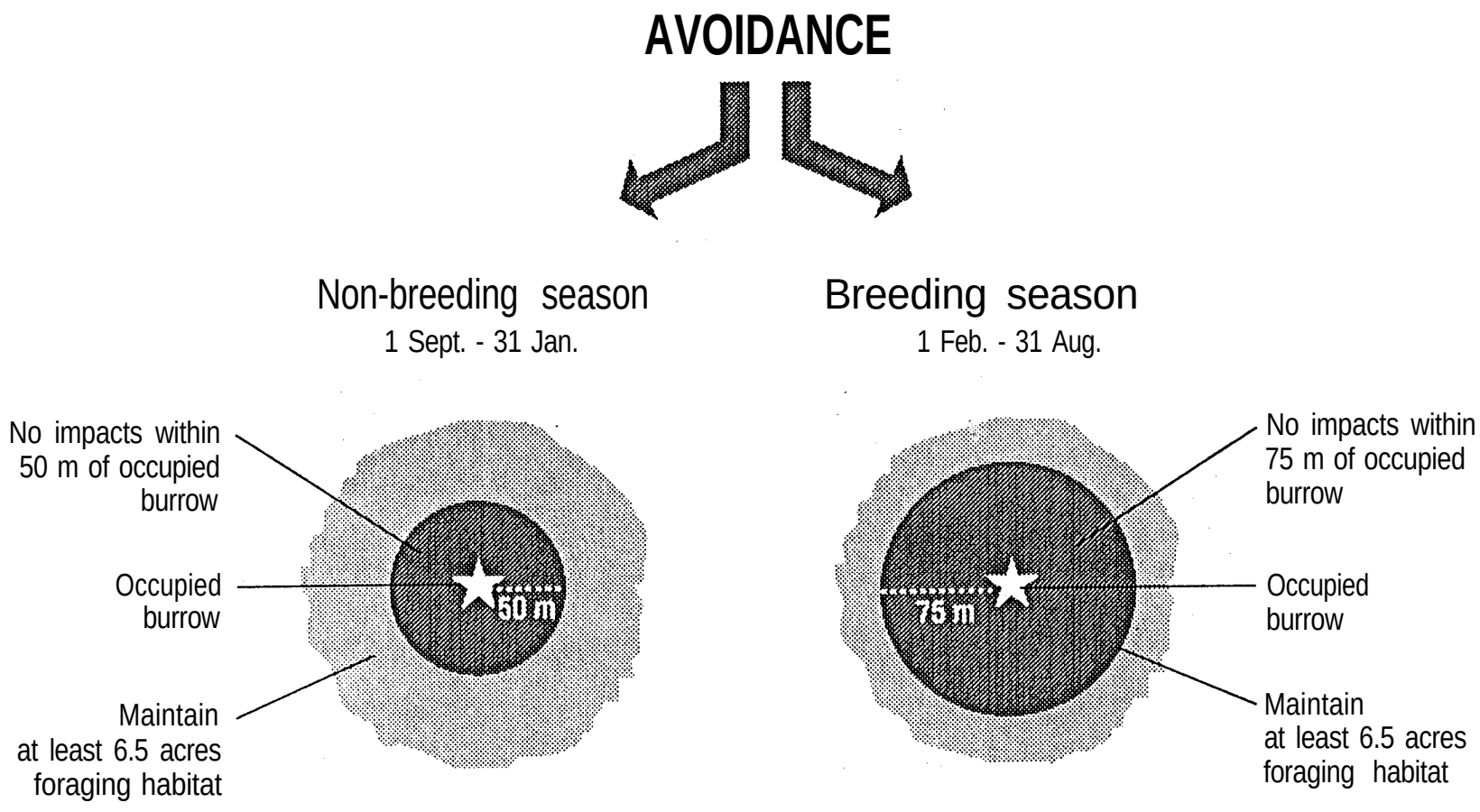


Figure 2. Burrowing owl mitigation guidelines.

ON-SITE MITIGATION
IF AVOIDANCE NOT MET

(More than 6.5 acres suitable habitat available)

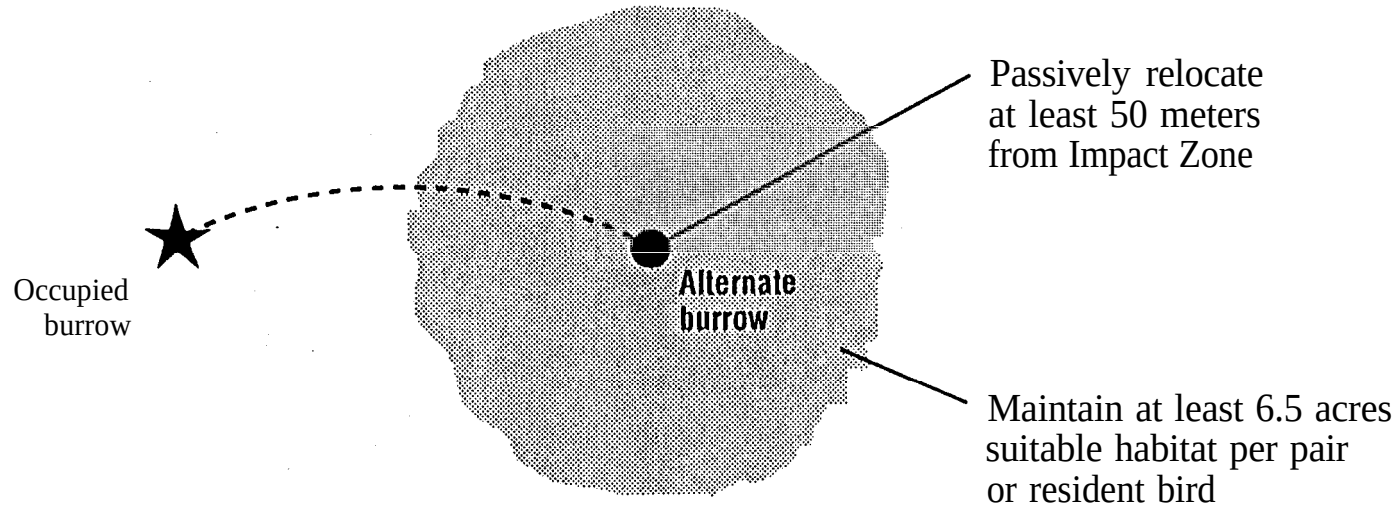


Figure 3. Burrowing owl mitigation guidelines.

during excavation to maintain an escape route for any animals inside the burrow.

Off-site Mitigation

If the project will reduce suitable habitat on-site below the threshold level of 6.5 acres per relocated pair or single bird, the habitat should be replaced off-site. Off-site habitat must be suitable burrowing owl habitat, as defined in the *Burrowing Owl Survey Protocol*, and the site approved by CDFG. Land should be purchased and/or placed in a conservation easement in perpetuity and managed to maintain suitable habitat. Off-site mitigation should use one of the following ratios:

1. Replacement of occupied habitat with occupied habitat: 1.5 times 6.5 (9.75) acres per pair or single bird.

2. Replacement of occupied habitat with habitat contiguous to currently occupied habitat: 2 times 6.5 (13.0) acres per pair or single bird.

3. Replacement of occupied habitat with suitable unoccupied habitat: 3 times 6.5 (19.5) acres per pair or single bird.

SECTION 3 LEGAL STATUS

The burrowing owl is a migratory bird species protected by international treaty under the Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-711). The MBTA makes it unlawful to take, possess, buy, sell, purchase, or barter, any migratory bird listed in 50 C.F.R. Part 10, including feathers or other parts, nests, eggs, or products, except as allowed by implementing regulations (50 C.F.R. 21). Sections 3503, 3503.5, and 3800 of the California Department of Fish and Game Code prohibit the take, possession, or destruction of birds, their nests or eggs. Implementation of the take provisions requires that project-related disturbance at active nesting territories be reduced or eliminated during critical phases of the nesting cycle (March 1 - August 15, annually). Disturbance that causes nest abandonment and/or loss of reproductive effort (e.g., killing or abandonment of eggs or young) or the loss of habitat upon which the birds depend is considered "taking" and is potentially punishable by fines and/or imprisonment. Such taking would also violate federal law protecting migratory birds (e.g., MBTA).

The burrowing owl is a Species of Special Concern to California because of declines of suitable habitat and both localized and statewide population declines. Guidelines for the Implementation of the California Environmental Quality Act (CEQA) provide that a species be considered as endangered or "rare" regardless of appearance on a formal list for the purposes of the CEQA (Guidelines, Section 15380, subsections b and d). The CEQA requires a mandatory findings of significance if impacts to threatened or endangered species are likely to occur (Sections 21001(c), 21083. Guidelines 15380, 15064, 15065). Avoidance or mitigation must be presented to reduce impacts to less than significant levels.

CEQA AND SUBDIVISION MAP ACT

CEQA Guidelines Section 15065 directs that a mandatory finding of significance is required for projects that have the potential to substantially degrade or reduce the habitat of, or restrict the range of a threatened or endangered species. CEQA requires agencies to implement feasible mitigation measures or feasible alternatives identified in EIR's for projects which will otherwise cause significant adverse impacts (Sections 21002, 21081, 21083; Guidelines, sections 15002, subd. (a)(3), 15021, subd. (a)(2), 15091, subd. (a).).

To be legally adequate, mitigation measures must be capable of "avoiding the impact altogether by not taking a certain action or parts of an action"; "minimizing impacts by limiting the degree or magnitude of the action and its implementation"; "rectifying the impact by repairing, rehabilitating or restoring the impacted environment"; "or reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action." (Guidelines, Section 15.370).

Section 66474 (e) of the Subdivision Map Act states "a legislative body of a city or county shall deny approval of a tentative map or parcel map for which a tentative map was not required, if

it makes any of the following findings:... (e) that the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish and wildlife or their habitat". In recent court cases, the court upheld that Section 66474(e) provides for environmental impact review separate from and independent of the requirements of CEQA (Topanga Assn. for a Scenic Community v. County of Los Angeles, 263 Cal. Rptr. 214 (1989).). The finding in Section 66174 is in addition to the requirements for the preparation of an EIR or Negative Declaration.

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Thomsen, L. 1971. Behavior and ecology of burrowing owls on the Oakland Municipal Airport. Condor 73: 177-192.

Zam, M. 1974. Burrowing owl. U. S. Department of Interior, Bureau of Land Management. Technical Note T-N 250. Denver, Colorado. 25pp.

Attachment 5 – Mitigation Monitoring and Reporting Plan (MMRP)

Tom Bates Regional Sports Complex – Mitigation Monitoring and Reporting Plan (MMRP)

Mitigation Measure	Mitigation Activities	Implemented by	Monitored by	Before	During	After	Verification of Compliance date:
BIO-1	BIO-1 - Burrowing Owl Survey Protocol and Mitigation: In order to avoid any impacts to Burrowing Owl, a pre-construction survey for burrowing owls will be completed by a qualified biologist according to Burrowing Owl Survey Protocol and Mitigation Guidelines and the CDFW protocol identified in the Staff Report on Burrowing Owl Mitigation prior to disturbance of non-native annual grassland areas occupied by ground squirrels (Attachment 4, CDFW, 2012). After the survey is complete, the qualified biologist will develop a report that includes but is not limited to: Description of the proposed project or proposed activity, including the proposed project start and end dates, as well as a description of disturbances or other activities occurring on-site or nearby. The survey report will be provided to the City's Planning Department for review and approval. If any occupied burrows are identified during the breeding season, buffer areas will be established around the burrow and protected until the nesting activities are completed. Any occupied burrow identified outside the nesting season (June-July) will have a one-way gate installed to allow burrowing owls to leave the site. Any identification of burrowing owls will be coordinated with the California Department of Fish and Wildlife. The Steps below would be followed: Phase I: Habitat assessment Phase II: Burrow survey Phase III: Burrowing owl surveys, census, and mapping Phase IV: Resource summary, written report. <u>Incidental Take Permit (ITP): Any potential take will require an Incidental Take Permit, which will be coordinated with the CDFW if potential for Take is identified during surveys. Any other mitigation will be acquired at the direction of CDFW.</u>	Contractor	City of Berkeley	X			Verified by: Date:
CR-1	Inadvertent Discovery of Archaeological Resources: Workers involved in ground-disturbing activities should be trained in the recognition of buried cultural resources, procedures to report such discoveries, laws prohibiting destruction of historical resources, and other appropriate	Contractor	City of Berkeley		X		Verified by: Date:

Mitigation Measure	Mitigation Activities	Implemented by	Monitored by	Before	During	After	Verification of Compliance date:
	protocols. In the event that archaeological artifacts or cultural soil deposits are encountered during project implementation, all work shall stop in the immediate vicinity of the find until the discovery area can be evaluated by a qualified archaeologist. If the find is determined to be an historical or unique archaeological resource, contingency funding, and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Work could continue on other parts of the building site while historical or unique archaeological resource mitigation takes place.						
CR-2	Inadvertent Discovery of Human Remains: If human remains are discovered anywhere on the site other than a dedicated cemetery, there shall be no further excavation or disturbance of the site, or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of the county in which the remains are discovered determines that no investigation of the cause of death is required and the coroner determines the remains to be Native American. If the coroner makes those determinations, the coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall identify the person or persons it believes to be the most likely descended (MLD) from the deceased Native American. The MLD may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains, and any associated grave goods as provided in Public Resources Code section 5097.98. If the NAHC is unable to identify an MLD or the MLD fails to make a recommendation within 24 hours, or if the landowner or their authorized representative rejects the recommendation of the MLD and mediation by the NAHC fails to provide measures acceptable to the landowner, then the landowner or their authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.	Contractor	City of Berkeley		X		Verified by: Date:
HAZ-1	The latest version of the Addendum to the Eastshore State Park Remediation and Risk Management Plan (RRMP) Berkeley North Basin	Contractor	City of Berkeley	X	X		Verified by: Date:

Mitigation Measure	Mitigation Activities	Implemented by	Monitored by	Before	During	After	Verification of Compliance date:
	Strip-II, along with any associated addendums, must be provided to all contractors intending to engage in work on the Project. Contractors who anticipate interacting with shallow on-site soils should consult the Risk Management Plan for guidance on construction monitoring prerequisites and for identifying the appropriate personal protective equipment (PPE), including protective measures for encountering methane.						
HAZ-2	The City will coordinate site excavation activities with the San Francisco Bay Regional Water Quality Control Board to align site construction with the provisions of the Addendum to the Eastshore State Park Remediation and Risk Management Plan (RRMP) Berkeley North Basin Strip-II.	City of Berkeley	City of Berkeley	X			Verified by: Date:
HAZ-3	During Project construction, sample and analyze on-site soils that are being removed to characterize them prior to disposal at approved facilities.	Contractor	City of Berkeley		X		Verified by: Date:
HAZ-4	Contractors will comply with the California Health and Safety Code (HSC) and Resource Conservation and Recovery Act (RCRA) for the management, treatment, storage, and disposal of hazardous waste.	Contractor	City of Berkeley		X		Verified by: Date:

08

Office of the City Manager

PUBLIC HEARING
March 25, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

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

Subject: Establishment of M-RD Zoning District, Associated General Plan and West Berkeley Plan Amendments, and Environmental Impact Report

RECOMMENDATION

Conduct a public hearing and upon conclusion:

1. Adopt the first reading of an Ordinance (***Attachment 1***) amending Title 23 of the Berkeley Municipal Code (BMC) and the Zoning Map to establish the Manufacturing, Research & Development (M-RD) zoning district to encourage redevelopment of the former Pacific Steel Casting (PSC) site.

2. Adopt a Resolution (***Attachment 2***):

    a. Approving and adopting West Berkeley Plan and General Plan amendments to be consistent with the associated Ordinance amendments; and
    b. Certifying the Environmental Impact Report (EIR) (SCH#2022120549) and adopt related California Environmental Quality Act (CEQA) findings, a statement of overriding considerations, mitigation measures, and a mitigation monitoring and reporting program.

SUMMARY

In response to an April 2021 City Council Referral (***Attachment 3***), the Planning Commission has recommended that the City Council adopt the following amendments to the Zoning Ordinance, West Berkeley Plan and General Plan:

- Establish a Manufacturing, Research and Development (M-RD) zoning district;
- Include the M-RD zoning district text and map amendments in the West Berkeley Plan; and
- Incorporate the M-RD zoning district into the existing Manufacturing (M) land use designation of the Berkeley General Plan.

The City has prepared an EIR that evaluates the potential environmental effects of adoption and implementation of the proposed M-RD zoning and the associated Plan amendments. The EIR also evaluates a conceptual project, titled the Potential Berkeley Forge Development, that was shared with the City as part of a Zoning Map Amendment application. This conceptual project could be facilitated by adoption and implementation of the proposed M-RD zoning. The project was evaluated as a foreseeable project in the EIR to the extent that site planning details were provided (***Attachment 4***).

FISCAL IMPACTS OF RECOMMENDATION

The proposed Zoning Ordinance, Zoning Map, West Berkeley Plan and General Plan amendments are intended to support redevelopment of the PSC site, which would contribute to the City's tax base. The proposed amendments may result in an increase in employment opportunities, property taxes, business license taxes and sales tax revenues due to increased business activity.

CURRENT SITUATION AND ITS EFFECTS

The PSC site, located southeast of the intersection of Eastshore Highway and Gilman Street, is a former manufacturing site that has been the subject of public concern for various reasons, including: (1) environmental conditions including contaminated soil and groundwater; (2) delayed pension benefits for hundreds of former casting plant workers that were contingent upon sale of the property (which sold in 2023); and (3) blighted and unsafe conditions created by vacant buildings and graffitied fencing. Council adopted its referral to facilitate redevelopment of the PSC site in order to address these long-standing problems. The referral requested the PSC zoning overlay include allowances to enable all Mixed-Use Light Industrial district (MU-LI) uses, and override any existing constraints on MU-LI uses for the rezoned property. This was specifically focused on removal of manufacturing floor area replacement requirements, in order to expedite environmental remediation of contaminated parcels and fund pension payment of PSC's workers. The proposed Zoning Ordinance, West Berkeley Plan and General Plan amendments (amendments) were developed in response to this referral. The proposed ordinance revisions also reflect recent updates to the zoning ordinance for consistency with State law and other technical edits, adopted by City Council on first reading on February 25, 2025.

In summer 2022, the City Council budgeted for work to fulfill this referral. In October 2022, the Planning and Development Department received a Zoning Map Amendment application, which included the Potential Berkeley Forge Development (conceptual plan). Staff made presentations on the project to the Planning Commission in February and March 2023 and received input on the zoning concepts and environmental review scoping (***Attachment 5***). Based on the policy direction received from the Commission, staff then prepared an Environmental Impact Report (EIR) to evaluate the potential environmental effects of the rezoning and the conceptual development project. The proposed amendments and Draft EIR were presented to the Planning Commission in November 2024 (***Attachment 6***). The Commission held a public hearing to receive

comments on the Draft EIR and the proposed amendments, and recommended that they be forwarded for City Council adoption. The Commission also provided direction to staff to:

- Research and potentially propose more robust Transportation Demand Management (TDM) measures and reductions to onsite parking;
- Research and propose open space and landscaping requirements to discourage development to the property line; and
- Explain in the staff report how existing legal non-conforming uses and future incidental uses are addressed in the proposed zoning.

(Ayes: Merker, Vincent, Moore, Ching, Mikiten, Marthinsen, Twu, Hauser, and Ghosh. Noes: None. Abstain: None. Absent: None. (9-0-0-0)).

The proposed Zoning Ordinance amendments include:

M-RD Zoning District Boundary and Purposes

Currently, the project site is zoned Manufacturing (M). The Zoning Map would be amended to re-designate the site from M to M-RD. The proposed new M-RD district would serve the following purposes to facilitate redevelopment and environmental remediation of large sites, and to be consistent with the overall goals of the General Plan and West Berkeley Plan for manufacturing areas:

1. Support a mix of industrial and heavy commercial uses, such as light manufacturing and R&D, particularly those which can provide high-quality employment for people at all educational levels and add significantly to the tax base;
2. Allow office and laboratory uses that support light industrial and research and development uses;
3. Provide flexibility to facilitate the development and reuse of large sites with an urban campus-like environment, demonstrating high-quality design and site planning that includes amenities for employees and customers; and
4. Support the development of industrial uses that would which satisfy performance standards that protect the environment.

These purpose statements were designed to provide for “a continued economic and land use mix” called for in the West Berkeley Plan, by incorporating manufacturing, industrial, retail and office/laboratory uses to benefit Berkeley residents and businesses economically, benefit the City government fiscally, and promote the varied and interesting character of the area. They were also designed with input from the Office of Economic Development to support the needs of modern manufacturing uses (Attachment 4 to the February 1, 2023 Planning Commission staff report).

M-RD Allowed Uses and Permit Requirements

The allowed uses and associated zoning permit requirements proposed for the M-RD district would be similar to what is allowed in the M and MU-LI districts, with a few exceptions that are noted in Table 1 below. In summary, these exceptions are intended to support environmental clean-up efforts, encourage employment in industrial and heavy commercial industries that provide a high density of employment opportunities and add significantly to the tax base, and provide amenities for employees and customers.

Table 1: Permitted Uses

Use/Zoning District	M (Manufacturing)	MU-LI (Mixed-Use Light Industrial)	M-RD (Manufacturing, Research & Development)
Permitted in M, Not Permitted In M-RD			
Commercial Excavation	UP(PH)	UP(PH)	NP
Dry Cleaning and Laundry Plant	ZC/AUP/UP(PH)	ZC	NP
Industrial and Mining Products Retail Sale	AUP	AUP	NP
Vehicle Wrecking	AUP/UP(PH)	AUP	NP
Not Permitted in M, Permitted in M-RD			
General Retail	NP	AUP	AUP
Large Vehicle Sales and Rental	NP	AUP	AUP
Live Entertainment	NP	ZC/AUP	ZC/AUP
Public Markets	NP	AUP/UP(PH)	AUP/UP(PH)
Permitted in MU-LI, Not Permitted in M-RD			
Alcoholic Beverage Retail Sale	NP	UP(PH)	NP
Amusement Device Arcade	NP	ZC	NP
Theatre	NP	UP(PH)	NP
Permitted at Lower Threshold than M or MU-LI			
Laboratory	NP	UP(PH)	AUP

R&D	NP	ZC/AUP	ZC/AUP/UP(PH)
Semiconductor Manufacturing	UP(PH)	NP	UP(PH)
UP(PH) = Use Permit with a Public Hearing AUP = Administrative Use Permit ZC = Zoning Certificate NP = Not Permitted			

M-RD Permit Requirements – Construction of New Floor Area

A zoning permit is required to build new floor area, either as part of a new building or an addition to an existing building. The proposed permit requirements in the M-RD district, shown in Table 2 below, are intended to establish a streamlined and cost-effective permit process to encourage flexible business growth over time. The M-RD district is intended to encourage development of large sites with an urban campus-like environment. To achieve this goal, construction of 100,000 square feet or more of new floor area would require a Use Permit with a Public Hearing (UP(PH)), whereas in the MU-LI district a UP(PH) is required starting at 20,000 square feet. The proposed requirements for reconfiguring a tenant space are the same as the other districts in the West Berkeley Plan area (see ***Attachment 6***, report to Planning Commission on Nov. 6, 2024, starting on page 8).

Table 2: New Floor Area Permit Requirements

Permit Type	M-RD	MU-LI
ZC	Less than 60,000 sq. ft.	Less than 10,000 sq. ft.
AUP	60,000 to less than 100,000 sq. ft.	10,000 to less than 20,000 sq. ft.
UP(PH)	100,000 sq. ft. or more	20,000 sq. ft. or more

M-RD Development Standards

Development standards for the M-RD zoning district were created to facilitate redevelopment of large sites with a range of industrial and related uses in a campus-like environment. Based on a report from the Office of Economic Development (Attachment 4 to the February 1, 2023 Planning Commission staff report), modern industrial uses require flexible spaces to accommodate the changing space needs of businesses as they grow. Also, R&D-intensive uses require high ceilings, reinforced floors, and easy-to-access loading facilities, which differ from the building space needs of traditional manufacturers. With these needs in mind, the development standards of the proposed M-RD district, summarized in Table 3 below, include many of the existing M and MU-LI district standards, with a few exceptions:

1. ***Maximum Main Building Height*** would be 55 feet to support the unique building needs of R&D and laboratory uses, which require taller ceiling heights and reinforced floors (see ***Attachment 6).*** Currently, the maximum height in all Manufacturing districts (M, MM, MU-LI) is 45 feet. However, a single development project in the M-RD district that is at least nine acres in size could

be constructed with a maximum building height of 105 feet (see *Modifications to Development Standards section below*) if the Zoning Adjustments Board makes certain findings.

2. ***Maximum Lot Coverage*** would be 80 percent to discourage buildings from being built to the property line. This regulation is intended to support the inclusion of open space and landscaped areas on the ground level, which adds to the pedestrian environment. Currently, lot coverage is not regulated in any of the Manufacturing zoning districts.

3. ***Minimum Usable Open Space*** would be required at a ratio of 20 square feet per each 1,000 square feet of gross floor area for any new building. As an example, a 100,000 square-foot building would be required to provide 2,000 square feet of usable open space on-site, and at least 800 square feet would need to be landscaped. Currently, usable open space is not required in any of the Manufacturing zoning districts. This minimum was suggested by the Planning Commission to complement the maximum lot coverage requirement to encourage amenities for employees and visitors (see *Background section below*).

4. ***Minimum Off-Street Parking*** would not be required for any new building. Currently, off-street parking is required in the Manufacturing zoning districts at varying ratios depending on the use of the building. Initially, the proposed ordinance introduced a lower parking ratio for certain uses, including laboratories, R&D and office. At its November 6, 2024 meeting the Planning Commission recommended staff conduct research to reduce parking requirements (see *Background section below*) in order to encourage sustainable transportation and reduced Vehicle Miles Traveled (VMT) in this zoning district.

5. ***Minimum On-Site Loading Spaces*** would be reduced for R&D uses to better support the unique loading needs of this use. Research showed that other jurisdictions have lower loading space requirements for R&D uses than other manufacturing uses, and recently approved R&D projects in Berkeley have requested approval to provide less loading spaces than what the BMC requires. The proposed M-RD on-site loading requirement reflects these more modern standards and brings them in line with nearby jurisdictions. As an example, currently, a 125,000 square foot building containing an R&D use must provide five loading spaces in all Manufacturing districts, while two spaces would be required in the M-RD district with the proposed changes (see ***Attachment 6***).

Table 3: Development Standards

Regulation	M & MU-LI Districts (Existing)	M-RD Proposal
Maximum Height	45 feet	55 feet* *See Modification of Development Standards section (*105 feet is allowed if conditions are met)*
Maximum Floor Area Ratio (FAR)	2.0	2.0
Minimum Setbacks, and Building Separation	Not regulated	Not regulated
Maximum Lot Coverage	Not regulated	80 percent
Minimum Usable Open Space, per 1,000 square feet of gross floor area	Not regulated	20 square feet
Minimum Off-Street Parking and Minimum Bicycle Parking	Vehicle: See BMC Table 23.322-4	Vehicle: No minimum required
	Bicycle: 1 per 2,000 sq. ft.	Bicycle: Same requirements as existing
Minimum Off-Street Loading Spaces	For commercial and manufacturing uses 10,000 sq. ft. or more: 1 space for the first 10,000 sq. ft. plus 1 additional space for each additional 25,000 sq. ft.	• R&D uses 25,000 sq. ft. or more: 1 space (25,000 – 100,000 sq. ft.); 2 spaces (more than 100,000 to 200,000 sq. ft.; 1 space (each additional 100,000 sq. ft. • All other commercial and manufacturing uses 10,000 sq. ft. or more: 1 space for the first 10,000 sq. ft. plus 1 additional space for each additional 25,000 sq. ft.

M-RD Modifications to Development Standards

The Zoning Ordinance currently provides an option for applicants to request modifications to development standards in the West Berkeley Plan Area.[1] This section was used as a guide to provide flexibility to large development projects in the M-RD that

[1] Modification of Development Standards in the West Berkeley Plan Area, https://berkeley.municipal.codes/BMC/23.406.080

would address the issues of public concern associated with the PSC site (i.e., environmental contamination and blight). This section of code proposes to allow flexibility in the FAR, height and coverage standards for a development project that is at least nine acres in size, which may comprise multiple parcels and blocks. The flexibility offered by this section would allow a developer to create a campus-like environment that would attract businesses and employees alike. Development standards in this section reflect the outer envelope of the conceptual development project to help illustrate what is being proposed and what has been evaluated in the EIR.

More specifically, an eligible project would be subject to a maximum building height of 105 feet. Since a 9-acre site could be bisected by the public right of way, a development project would be allowed to comply with the maximum FAR and coverage standards on a project-wide basis rather than on a parcel by parcel basis, as long as the FAR and/or coverage on an individual parcel does not exceed the maximum allowed by more than 20 percent. The eligible project as a whole must comply with the maximum FAR (2.0) and lot coverage (80 percent) allowed in M-RD. Overall, this flexibility is intended to create visual interest from both the Gilman Street entry corridor and from pedestrian level within the site, allow for open space, and maintain views.

The request would be approved by the Zoning Adjustments Board (ZAB), which would need to determine that the modifications requested would result in a better overall design that maximizes amenities for employees and visitors. As part of its approval, the ZAB could require the developer to provide assurances that a complete project would be developed, such as a reimbursement agreement between the City and the developer, surety/bond/letter of credit, or private maintenance agreement (see ***Attachment 6***, report to Planning Commission on Nov. 6, 2024, starting on page 13).

General Plan and West Berkeley Plan Amendments

The proposed Zoning Ordinance and Zoning Map amendments also require associated amendments to the West Berkeley Plan and General Plan to ensure consistency. The proposed West Berkeley Plan amendments would incorporate the new zoning district into the Land Use Element by creating a new policy, updating the Land Use Map, and adding a description of the district to the districting concept (see ***Attachment 2, Exhibit A***). The General Plan would be amended to add the new zoning district to the existing Manufacturing land use classification (see ***Attachment 2, Exhibit B***).

Tribal Consultation (AB 52 and SB18)

Pursuant to the requirements of Assembly Bill 52 (2014, Gatto)[2] and Senate Bill 18 (2004, Burton)[3], City staff consulted with the Confederated Villages of Lisjan Nation (Lisjan Nation) regarding the proposed project. The goal of tribal consultation is to avoid significant effects on tribal cultural resources or to develop mutually agreed upon mitigation measures.

During consultation, the Lisjan Nation requested to incorporate a mitigation measure that requires the City to enter into consultation based on the specifics of a proposed development, even when an EIR is not required, or when only an addendum to an EIR is required. The goal of this proposed consultation would be to reduce the potential for any future project to unearth tribal cultural resources that would result in a potential impact to the significance of the resource (Impact TCR-1, Chapter 4, Section 4.3 Tribal Cultural Resources, ***Attachment 4, Exhibit C***).

Under AB 52, consultation must be initiated by the City for all projects that require environmental review under CEQA. However, this request would require the City to initiate consultation for projects that do not require environmental review, which could potentially establish a precedent for future projects. This request is included for City Council consideration in the Alternative Actions Considered section below.

BACKGROUND

As part of the 2021 *Zoning Overlay at the Pacific Steel Casting Property* referral, City Council requested that staff rezone the PSC site to address a number of known issues at and around the site, including environmental contamination, blighted conditions and delayed pension payment to PSC employees. Staff from the Planning and Development Department and the Office of Economic Development worked together to research and understand property constraints and economic conditions to develop a response that addressed the goals of the referral, conformed with the City's adopted plans and encouraged development, which is considered beneficial to the City, the community and the environment.

Funding to support implementation of the 2021 referral was made available in summer 2022. Shortly thereafter, staff from Land Use Planning and Economic Development collaborated on an approach to respond to the referral. Economic Development staff produced a report, which is Attachment 4 to the February 1, 2023 Planning Commission

[2] Requires public agencies to consult with Native American tribes during the California Environmental Quality Act (CEQA) process. The legislation aims to protect tribal cultural heritage and provide a formal structure for tribes to provide input on proposed projects.
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB52&search_keywords=

[3] Requires public agencies to consult with Native American tribes when an amendment to a local jurisdictions' General Plan, any Specific Plan, or a designation of open space, is proposed. The legislation aims to protect tribal cultural heritage and provide a formal structure for tribes to provide input on the proposed amendment.
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200320040SB18

staff report, that provides insights into the economic conditions in West Berkeley and the building needs of modern manufacturers, to help ensure changes to the Zoning Ordinance would facilitate future redevelopment.

In October 2022, the City received a Zoning Map amendment application from Rhoades Planning Group on behalf of SPUR Capital Partners. The amendment requests the City re-designate the zoning of the PSC, the Clearflow Valves site, and Berkeley Forge and Tool properties, an area totaling 10.26 acres (***Attachment 4, Exhibit C,*** Chapter 3 Project Description, Figure 3-3), from M to MU-LI. This application is consistent with the Council referral and includes a description of a conceptual development project, herein referred to as the Potential Berkeley Forge Development. The Potential Berkeley Forge Development proposes redevelopment of a 10.26-acre portion of the project site with approximately 900,000 square feet of light manufacturing, R&D, laboratory, and/or office uses. The proposed M-RD zoning amendments help to advance the Potential Berkeley Forge Development by ensuring the Zoning Ordinance would enable entitlement of a project that fell within this same development envelope and purpose. The City has not received an application for the Potential Berkeley Forge Development; however, submittal of a formal application is anticipated subsequent to adoption of the proposed zoning and plan amendments discussed in this report. It is therefore considered a reasonably foreseeable project and is evaluated in the Draft EIR at the project level, to the extent feasible. This evaluation will help streamline the environmental review process for a future project that resembles the Potential Berkeley Forge Development. All development projects that could be constructed in the proposed M-RD district, including those that are based on the conceptual design of the Potential Berkeley Forge Development, would need to be evaluated for any potential environmental effects per CEQA requirements. Similarly, they would need to comply with the City's municipal code and permitting process prior to entitlement.

Given the research conducted by the Office of Economic Development and the information provided in the Zoning Map amendment application, staff presented an approach to the Planning Commission in February and March 2023. Based on feedback received at those meetings, staff conducted additional research to refine the allowed uses and development standards of the proposed M-RD district. Staff also prepared a Draft EIR to evaluate the potential environmental effects of the proposed amendments, which were presented to the Planning Commission in November 2024.

Planning Commission Comments

On November 6, 2024, the Planning Commission conducted a public hearing and City staff presented amendments to Title 23 of the BMC, and conforming amendments to the West Berkeley Plan and General Plan (***Attachment 6***). The Commissioners expressed support for the proposed amendments and recommended that City Council adopt the proposed ordinance, with the following direction to staff:

1. Conduct research on providing more robust Transportation Demand Management (TDM) and opportunities to reduce parking requirements and parking onsite.
    a. Regarding TDM, the Draft EIR for this project includes a requirement that any future development provide a TDM program. The purpose of this program is to ensure that vehicle demand associated with new development aligns with the City's adopted requirements.[4] In order to create any new TDM requirements for non-residential development, staff would need a referral to study new non-residential TDM and non-residential parking requirements together as part of a comprehensive project. This is because TDM and parking requirements are evaluated all together.
    b. Parking maximums have not been studied in non-residential areas of Berkeley, and that research would need to be undertaken together with non-residential TDM as part of any new project.
    c. Regarding parking minimums, staff are proposing to eliminate the minimum requirement for all uses in the proposed M-RD district, following the assumption that the land value in Berkeley is high, and parking is expensive to build. These dynamics would likely result in a decision to provide only the amount of parking demanded.
2. Look into development standards for landscaping and open space.
    a. Staff conducted research into current requirements for landscaping and open space, as well as requirements in industrial zoning districts across nearby cities. Currently, Title 23 of the BMC does not require open space in any non-residential district; however, Design Review is required for projects in those districts. A few nearby cities (Emeryville, Oakland, and South San Francisco) require either open space or landscaping in industrial zones, ranging from landscape buffers along public frontages to up to five percent of the lot area. Planning Commission's recommendation was intended to encourage more pedestrian friendly designs, with landscaped areas and building setbacks from the property line. Understanding this goal and leveraging research findings, staff are proposing to add an open space requirement equal to two percent of the gross floor area of any new building or addition to an existing building (see *Table 3 above*).

       The existing BMC standards for usable open space would apply, meaning that at least 40 percent of the required open space would need to be landscaped.[5] As an example, a 100,000 square-foot building would provide at least 2,000 square feet of usable open space, and at least 800

[4] City of Berkeley VMT Criteria and Thresholds, June 29, 2020. https://berkeleyca.gov/sites/default/files/2022-02/VMT-Criteria-and-Thresholds.pdf

[5] Usable Open Space, BMC Section 23.304.090, https://berkeley.municipal.codes/BMC/23.304.090

square feet would be landscaped. Also, the Design Review process would apply to any development project in the M-RD.[6] As part of this process, the Design Review Committee would have the authority to make recommendations on design of open space and landscaping.

3. Have the staff report clarify incidental uses and the legal nonconforming aspect of that. The following two definitions are provided to explain how these types of uses will be handled if City Council advances this item.
    a. Incidental uses: The M-RD district would allow incidental uses per the proposed use table (*see **Attachment 1***). Incidental uses may occupy a lot and/or building that is secondary to and could be independent from the principal permitted use. For example, a cafeteria could be incidental to an R&D use. An incidental use must not exceed 25 percent of the floor area of the primary use, and if it consists of commercial sales or a different line of products or services than the primary use, the incidental use may not generate gross sales above 33 percent of the gross sales generated by the primary use.[7]
    b. Legal non-conforming uses: With implementation of the proposed M-RD zoning, the existing legal non-conforming vehicle rental use at 600 Gilman Street would remain legal non-conforming. Title 23 of the BMC allows such uses to remain occupied in their current condition as of right, and both changes to and substantial expansions of non-conforming uses are allowed by obtaining a Use Permit.[8] Also, portions of the project site and surrounding areas contain semi-vacant and vacant parcels that are conducive to temporary uses, such as contractor yards. Under the proposed M-RD zoning, a property owner could apply for a temporary use permit on any of these sites. Permit requirements vary based on the nature of the use, and this information can be found in Section 23.302.040 of the BMC.

Environmental Review

A Draft EIR was prepared for the project (see ***Attachment 4***) that evaluates the potential environmental effects of: 1) adoption and implementation of the proposed M-RD zoning and associated Plan amendments; and 2) the Potential Berkeley Forge Development. The conceptual project was evaluated because it would be facilitated by adoption and implementation of the proposed M-RD zoning; however, it is only evaluated to the extent site planning details have been provided.

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[6] "Project" meaning an activity requiring a building permit or sign permit that involves any of the following: 1) Modifying the exterior of an existing structure; 2) Additions to an existing structure; 3) Demolishing all or a portion of an existing structure; 4) Removing all or part of a building facade fronting the public right-of-way; 5) Constructing a new structure; or 6) Installing a sign or replacing a sign with a different location, size, or design.

[7] https://berkeley.municipal.codes/BMC/23.502.020(U)(9)

[8] Berkeley Municipal Code Section 23.324.040 – Nonconforming Uses.

The Draft EIR was made available for review through the City's website, at the Planning and Development Department at 1947 Center Street (2nd Floor), and at the following locations in the city:

- Tarea Hall Pittman South Branch Library, 1901 Russell Street
- West Branch Library, 1125 University Avenue
- Central (Downtown) Library, 2090 Kittredge Street.

The environmental review process for the Project has included:

- **December 27, 2022:** A Notice of Preparation (NOP) of a Draft EIR was circulated to potentially interested parties and agencies.
- **February 1, 2023:** The City held an EIR scoping meeting as part of the regularly scheduled Planning Commission meeting.
- **October 21, 2024:** A Notice of Availability for the Draft EIR was distributed to State and local planning agencies.
- **October 21, 2024 – December 5, 2024 (45 days):** The Draft EIR was made available for public review on October 21, 2024 and the public comment period closed on December 5, 2024.
- **November 6, 2024.** A Planning Commission hearing was held to receive comments from Commissioners and the public on the Draft EIR.
- **March 13, 2025.** The Final EIR document, consisting of the Draft EIR and the Response to Comments (RTC), was published.

City Council certification is required to complete this part of the environmental review of the Project.

Draft EIR

1. **Potentially Significant Impacts Identified in the Draft EIR.** All environmental impacts, relevant City Standard Conditions of Approval, and mitigation measures are summarized in the CEQA Findings and Statement of Overriding Considerations (see ***Attachment 4, Exhibit B***). Other than the impacts discussed below, all of the environmental effects of the Project can be reduced to less than significant levels through implementation of Standard Condition(s) of Approval and/or recommended mitigation measures.

   The Draft EIR (see ***Attachment 4, Exhibit C***) identified five significant and unavoidable environmental impacts in Sections 4.2, 4.5 and 4.6 related to Cultural Resources, Air Quality, and Greenhouse Gas Emissions. All other environmental effects of the proposed Project can be reduced to less than significant levels through implementation of Standard Condition(s) of Approval and/or recommended mitigation measures. The findings include a statement of overriding consideration that provides reasons the Project could be adopted even though those impacts could occur.

2. **Alternatives.** As required by Section 15126.6 of the CEQA Guidelines, an EIR must examine a range of reasonable alternatives to the proposed Project that would feasibly obtain most of the CEQA Project Objectives, and avoid or substantially lessen the Project's significant environmental impacts.

- **Alternative 1: No Action Alternative.** This alternative is a version of the "no project" alternative (*CEQA Guidelines* Section 15126.6(e)) that assumes no construction on the site would occur. The existing buildings would not be demolished and would instead remain in place, unchanged from existing conditions. The existing Manufacturing land use and zoning designations would remain, and in the City of Berkeley General Plan and West Berkeley Area Plan would not be amended.
- **Alternative 2: General Plan Compliant Alternative.** This alternative is a version of the "no project" alternative (*State CEQA Guidelines* Section 15126.6(e)) that assumes the project site would be redeveloped pursuant to the current land use and zoning designations. Implementation of the General Plan Compliant Alternative would allow for the development of approximately 1,005,365 square feet of manufacturing and industrial uses on the 11.54-acre project site. Under this alternative, the maximum height would be limited to 45 feet.
- **Alternative 3: Reduced Development Alternative.** This alternative assumes the project site would be limited to the PSC site, consistent with the City Council referral. The PSC overlay zoning boundary would include nine parcels totaling 354,317 square feet. These parcels are currently developed with 250,606 square feet of industrial uses (see ***Attachment 4, Exhibit C, Table 3.A***). This alternative would also require a minimum 100-foot buffer between any existing residential use and proposed new non-residential use, including surface parking lots or structures. Accordingly, future development on the project site would need to be set back from the existing building at 1306 Third Street. Focusing development on the PSC site with a required buffer would reduce the overall buildout potential of the project site by approximately 50 percent, resulting in up to 566,300 square feet of non-residential space and a minimum of 566 off-street automobile parking spaces.
- **Environmentally Superior Alternative.** CEQA requires the identification of the environmentally superior alternative among the options studied, which is the alternative among those studied that has the fewest significant environmental impacts. Table 5.A in the Draft EIR indicates whether each alternative's environmental impact is greater, lesser, or similar to that of the proposed project.

  As described in Section 5.8 of the Draft EIR, the No Action Alternative would result in the fewest impacts and would be environmentally superior to the proposed project. However, if the No Action Alternative is the environmentally superior alternative, the EIR must identify an environmentally superior alternative

from among the other alternatives.[9] None of the other alternatives would avoid the significant and unavoidable impacts to air quality or GHG emissions, due to the lack of construction details and the usage of natural gas. Of the development alternatives, Alternative 2 the "General Plan Compliant Alternative" would avoid the significant and unavoidable air quality impacts associated with construction risk, but would not avoid or reduce the significant and unavoidable historic resource impact associated with 1306 Third Street. Alternative 3 the "Reduced Development Alternative" would avoid the significant and unavoidable historic resource impact associated with 1306 Third Street, and would lower the significant and unavoidable construction health risk impacts at 1306 Third Street because the development potential would be reduced by 50 percent.

Because Alternative 3 would avoid the proposed project's significant and unavoidable impacts on built historic resources and would have lower impacts than the proposed project as they relate to the significant and unavoidable impact to air quality, and it would meet most of the project objectives, it is considered as the Environmentally Superior Alternative.

Final EIR

The Final EIR consists of the Draft EIR and Response to Comments on the Draft EIR. The City received written and oral comments about the Draft EIR during the official public comment period (from October 21, 2024 through December 5, 2024). All of the written comments are reproduced in their entirety in the Response to Comments document of the Final EIR. Responses to all of the comments that pertain to the EIR are addressed, including specific revisions to text in the Draft EIR that are being made to correct errors or omissions or clarify information presented in the Draft EIR. In no case do these revisions result in a greater number of impacts or impacts of a substantially greater severity than those set forth in the Draft EIR such that recirculation of the Draft EIR would be required.

Mitigation Monitoring Reporting Program (MMRP)

The EIR identifies the applicable mitigation measures that will be implemented to reduce the impacts associated with the implementation of the proposed project. CEQA requires a public agency to adopt a monitoring and reporting program (see ***Attachment 4, Exhibit A***) for assessing and ensuring compliance with any required mitigation measures applied to proposed development.

CEQA Findings and Statement of Overriding Consideration

The final EIR identifies significant environmental impacts that would result from implementation of the proposed project. The City finds that the inclusion of certain mitigation measures (see the MMRP) would reduce all but the following significant impacts to levels that are less than significant: historical architectural resources, air

[9] *State CEQA Guidelines* Section 15126.6(e)(2).

quality associated with construction of the conceptual development project that would not include the demolition of the structure located at 1306 Third Street, and use of natural gas in future development generating greenhouse gas emissions. No feasible mitigation measures have been identified to reduce these impacts to a less-than-significant level or mitigation measures have been identified but would not reduce impacts to a level of less than significant; these impacts will remain significant unavoidable impacts of the proposed project.

CEQA Guidelines §15093(b) provides that when the decision of the public agency results in the occurrence of significant impacts that are not avoided or substantially lessened, the agency must state in writing the reasons to support its actions. Therefore in order to certify the EIR and proceed with the project, the City Council will need to make a Statement of Overriding Consideration, a formal statement by the lead agency that, having balanced the economic, legal, social, technological or other benefits of the proposed project, including region-wide or statewide environmental benefits, against its significant and unavoidable environmental impacts, the City finds that the proposed project benefits outweigh its unavoidable adverse environmental effects. The Statement of Overriding Considerations includes:

- The proposed project would result in remediation efforts at the project site to clean up existing environmentally contaminated soils that have contributed impacts to air quality and water quality in the neighborhood.
- The proposed project, through the proceeds from the sale of the Pacific Steel Casting land would enable the funding of unpaid pensions and health benefits for former steel workers who were employed at Pacific Steel Casting. These pensions were eliminated when Pacific Steel Casting closed and filed bankruptcy.
- The proposed project would provide and retain a diversity of dense, high-quality employment opportunities in West Berkeley for people at all educational levels by allowing for a mix of industrial and heavy commercial uses, such as light manufacturing and research and development, laboratory and office. As detailed in the report prepared by the City's Office of Economic Development[5] that provides context into the current and projected economic conditions in West Berkeley, the City's economy and innovation sector would benefit from new advanced manufacturing, software, life sciences, clean technology, food tech, and other science, technology, engineering and math (STEM) industries, specifically relating to employment, wages, wealth creation, social impacts, and location decisions.
- The proposed project fulfills the goals of the West Berkeley Plan to facilitate the development of multi-parcel sites, attract emerging business sectors, and retain and promote economic diversity in West Berkeley. By restoring derelict, environmentally blighted properties to productive industrial use, creating jobs and tax base in West Berkeley, the proposed project would implement the

vision of the West Berkeley Plan to maintain and improve the quality of urban life for West Berkeley residents and workers.
- The proposed project would contribute over $6 million in dedicated special assessments to be used for affordable housing, childcare, schools, and public art.
- The proposed project would contribute to increased property tax and secondary sales tax benefit to the City.
- The proposed project would facilitate new public open space and landscaping and install stormwater management systems where none exist under existing conditions. New stormwater management facilities would increase water quality and flooding resilience in the area.
- The proposed project would facilitate the construction of new sidewalk and bicycle facilities, supporting community pedestrian and bike travel in the area.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Development projections for this project and all reasonably foreseeable growth resulting from development contemplated for this project were analyzed in the EIR (***Attachment 4, Exhibit C***). Issues relating to Land Use and Planning (Section 4.1), Transportation (Section 4.4), Air Quality (Section 4.5), Greenhouse Gas Emissions (Section 4.6), Energy (Section 4.7), Hazards (Section 4.9), Hydrology (Section 4.10), and Biological Resources (Section 4.11) were analyzed in the EIR.

RATIONALE FOR RECOMMENDATION

The proposed zoning text and map changes and West Berkeley Plan and General Plan conforming text amendments are intended to encourage redevelopment of the former PSC site, as requested in the City Council referral.

ALTERNATIVE ACTIONS CONSIDERED

The Council could consider taking no action on the recommendations proposed by staff. In this case, the BMC Title 23 would remain in place, and developers would remain unlikely to approach the City with a redevelopment proposal at the former PSC site.

The inclusion of a mitigation measure in the EIR proposed by the Confederated Villages of Lisjan during tribal consultation would constitute a policy decision of the City Council. Proposed language is provided below for Council consideration:

> **Potential Mitigation Measure TCR-1a:** Given the very high potential for disturbing Tribal Cultural Resources in this highly sensitive area, including ancestral human remains, Confederated Villages of Lisjan Nation will be allowed a 30-day comment period to provide requests for additional mitigation measures based on any specific development plans proposed by a project proponent even when a supplemental EIR is not required or where only an addendum may be required.

CONTACT PERSON

Ashley James, Senior Planner, Planning and Development Department, 510-981-7458

ATTACHMENTS:

1. Ordinance
2. Resolution
   - Exhibit A: Proposed West Berkeley Plan Amendments
   - Exhibit B: Proposed General Plan Amendments
3. City Council Referral to the Planning Commission to Establish a Zoning Overlay at the Pacific Steel Casting Property, April 20, 2021
4. Final EIR and Response to Comments
   - Exhibit A. Mitigation Monitoring and Reporting Program (MMRP)
   - Exhibit B. CEQA Findings: Certifications of EIR, Rejection of Alternatives and Statement of Overriding Considerations
   - Exhibit C. Draft EIR and Appendices
5. Planning Commission Staff Reports, February 1, 2023 and March 1, 2023
6. Planning Commission Staff Report, November 6, 2024
7. Public Hearing Notice

ORDINANCE NO. -N.S.

AMENDMENTS TO THE ZONING DISTRICTS AND MAP CHAPTER (BMC 23.108), MANUFACTURING DISTRICT CHAPTER (BMC 23.206), SUPPLEMENTAL USE REGULATIONS (BMC 23.302), PARKING AND LOADING (BMC 23.322) AND ADDITION TO THE MANUFACTURING DISTRICT CHAPTER (BMC.23.206) TO ESTABLISH THE M-RD MANUFACTURING, RESEARCH AND DEVELOPMENT DISTRICT

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

Section 1. That Table 23.108-1 Zoning Districts within BMC Chapter 23.108.020 is amended to read as follows:

Table 23.108-1: Zoning Districts

DISTRICT SYMBOL	NAME OF DISTRICT
Residential Districts	
R-1	Single-Family Residential
R-1A	Limited Two-family Residential
ES-R	Environmental Safety Residential
R-2	Restricted Two-family Residential
R-2A	Restricted Multiple-family Residential
R-3	Multiple-family Residential
R-4	Multi-family Residential
R-5	High Density Residential
R-S	Residential Southside
R-SMU	Residential Southside Mixed Use
R-BMU	Residential BART Mixed Use
Commercial Districts	

DISTRICT SYMBOL	NAME OF DISTRICT
C-C	Corridor Commercial
C-U	University Avenue Commercial
C-N	Neighborhood Commercial
C-E	Elmwood Commercial
C-NS	North Shattuck Commercial
C-SA	South Area Commercial
C-T	Telegraph Avenue Commercial
C-SO	Solano Avenue Commercial
C-DMU	Downtown Mixed-Use
C-W	West Berkeley Commercial
C-AC	Adeline Corridor Commercial
Manufacturing Districts	
M	Manufacturing
MM	Mixed Manufacturing
MU-LI	Mixed Use-Light Industrial
MU-R	Mixed Use-Residential
M-RD	Manufacturing, Research and Development
Special Districts	
S	Specific Plan
U	Unclassified

Section 2. That Table 23.206-1 within BMC Section 23.206.020(A) be amended to read:

TABLE 23.206 1: ALLOWED LAND USES IN MANUFACTURING DISTRICTS

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	**Manufacturing Districts**					**Use-Specific Standards** Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	**MM**	**MU-LI**	**MU-R**	**M-RD**	
Residential Uses						
Accessory Dwelling Unit	NP	NP	NP	See 23.306	NP	
Dwellings						
Single-Family	NP	NP	NP	AUP*	NP	23.206.090(B)(8)
Multi-Unit Residential	NP	NP	NP	ZC*	NP	23.206.090(B)(7)&(8)
Group Living Accommodation	NP	NP	NP	UP(PH)*	NP	23.206.090(B)(8)
Hotel, Residential	NP	NP	NP	NP	NP	
Mixed-Use Residential	NP	NP	NP	UP(PH)*	NP	23.206.090(B)(8)&(9)
Senior Congregate Housing	NP	NP	NP	See 23.**310**	NP	
Public and Quasi-Public Uses						
Child Care Center	NP	NP	AUP*	UP(PH)*	AUP*	23.206.040(CB~~)~~&(DC~~)~~
Cemetery/Crematory/Mausoleum	NP	NP	NP	NP	NP	
Club/Lodge	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)	UP(PH)*	23.206.040(FE~~)~~
Columbaria	NP	NP	NP	–	NP	

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	M	**MM**	**MU-LI**	**MU-R**	**M-RD**	
Community Care Facility	NP	NP	NP	ZC*	NP	23.206.090(B)(3)
Community Center	NP	NP	NP	UP(PH)	NP	
Emergency Shelter	NP	NP	NP	–	NP	
Hospital	NP	NP	NP	NP	NP	
Library	NP	NP	NP	UP(PH)	NP	
Low Barrier Navigation Center	NP	NP	NP	ZC	NP	
Mortuaries and Crematories	NP	NP	NP	UP(PH)*	NP	23.206.090(B)(6)
Municipal Animal Shelter	UP(PH)	UP(PH)	UP(PH)	–	UP(PH)	
Nursing Home	NP	NP	NP	UP(PH)	NP	
Park/Playground	NP	NP	NP	UP(PH)*	NP	23.206.040(C)
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	NP	NP	NP	UP(PH)	NP	
School	NP	NP	NP	UP(PH)*	NP	23.206.040(C)
School, Vocational	NP	NP	ZC* [1]	UP(PH)	ZC* [1]	23.206.040(Q)~~80(B)(12)~~
Supportive Housing	NP	NP	NP	ZC*	NP	23.302.070(I)- Supportive Housing
Retail Uses						
Alcoholic Beverage Retail Sale	NP	NP	UP(PH)* [2]	NP *	NP	23.206.080(B)(3); 23.206.090(B)(2); 23.310

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	M	**MM**	**MU-LI**	**MU-R**	**M-RD**	
Firearm/Munitions Business	NP	NP	NP	NP	NP	
Industrial and Mining Products	AUP [2]	AUP [2]	AUP [4]	NP	NP	
Pawn Shop/Auction House	NP	NP	NP	NP	NP	
Pet Store	NP	NP –	NP	NP	NP	
Retail, General	NP	NP	AUP*	AUP* [3]	AUP*	23.206.040(G)~~6.080(B)(6)~~; 23.206.090(B)(4)
Smoke Shop	NP	NP	NP	NP	NP	
Personal and Household Service Uses						
Personal and Household Services, General	NP	NP	NP	AUP	NP	
Kennels and Pet Boarding	NP	NP	NP	UP(PH)	NP	
Laundromats and Cleaners	NP	NP	NP	AUP	NP	
Veterinary Clinic	NP	NP	NP	UP(PH)	NP	
Video Tape/Disk Rental	NP	NP	NP	NP	NP	
Office Uses						
Business Support Services	NP	NP	AUP [6]	AUP [3]	AUP [6]	

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	M	**MM**	**MU-LI**	**MU-R**	**M-RD**	
Banks and Financial Services, Retail	NP	NP	–	NP	NP	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	NP	NP	–	–	NP	
Medical Practitioners	NP	NP	NP	AUP [3]	NP	
Non-Chartered Financial Institutions	NP	NP	–	–	NP	
Office, Business and Professional	NP	ZC* [4]	AUP [4]	AUP [3]	AUP [4]	23.206.070(B)(2)
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses						
Adult-oriented Business	-	-	NP	NP	NP	
Amusement Device Arcade	NP	NP	ZC	ZC	NP	23.302.070(B)
Bar/Cocktail Lounge/Tavern/Tap Room/Wine Tasting	NP	NP	NP	See 23.~~306~~310	NP	
Commercial Recreation Center	NP	NP	–	NP	NP	
Entertainment Establishment	NP	NP	–	UP(PH)	NP	
Food Service Establishment under	--	--	AUP*	AUP*	AUP*	23.302.070(E)

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	M	**MM**	**MU-LI**	**MU-R**	**M-RD**	
5,000 sq. ft.						
Food Service Establishment 5,000 sq. ft. or larger	--	--	UP(PH)*	UP(PH)*	UP(PH)*	23.302.070(E)
Group Instruction	ZC	ZC	–	ZC	ZC	
Health and Fitness Facility	NP	NP	–	NP	NP	
Hotel, Tourist	NP	NP	NP	NP	NP	
Motel, Tourist	NP	NP	NP	NP	NP	
Theater	NP	NP	UP(PH)*	NP	NP	23.206.080(B)(4~~10~~)
Vehicle Service and Sale Uses						
Alternative Fuel Station	AUP [4]	AUP [4]	AUP [4]	AUP	AUP [4]	
Gasoline/Vehicle Fuel Station	NP	NP	NP	NP	NP	
Large Vehicle Sales and Rental	–	NP	AUP [4]	NP	AUP [4]	
Small Vehicle Sales and Rental	–	NP	NP	NP	NP	
Tire Sales and Service	–	–	–	NP	NP	
Vehicle Parts Store	NP	NP	NP	UP(PH)	NP	
Vehicle Repair and Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Vehicle Rentals	NP	–	–	NP	NP	
Vehicle Sales, New	AUP* [7]	NP	NP	NP	NP	23.206.060(B)(3)

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	M	MM	MU-LI	MU-R	M-RD	
Vehicle Sales, Used	AUP* [7]	NP	NP	NP	NP	23.206.060(B)(3)
Vehicle Wash	NP	NP	NP	NP	NP	
Vehicle Wrecking	AUP [7]	AUP [4]	AUP* [4]	NP	NP	23.206.080(B)(5~~11~~)
Industrial and Heavy Commercial Uses						
Bus/Cab/Truck/Public Utility Depot	AUP [8]	AUP [8]	AUP* [4]	UP(PH)	AUP* [4]	23.206.040(B)~~80(B)(4)~~
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	NP	NP	
Contractors Yard	AUP [7]	AUP [7]	AUP [4]	UP(PH)	AUP [4]	
Dry Cleaning and Laundry Plant	ZC* [9]	ZC [9]	ZC [1]	UP(PH)	NP	23.206.060(B)(2)
Laboratory						
Commercial Physical or Biological	NP	AUP [4]	UP(PH)*	NP	AUP [4]	23.206.040(S)~~80(B)(5)~~
Cannabis Testing	NP	AUP [4]	UP(PH)	NP	AUP [4]	
Manufacturing						
Construction Products	ZC* [9]	ZC* [9]	UP(PH)*	NP	UP(PH)	
Light Manufacturing	ZC* [7]	ZC* [7]	ZC* [1]	AUP* [3]	ZC [1]	23,206.040(H); 23.206.090(B)(5)
Pesticides/Herbicides/ Fertilizers	NP	NP	NP	–	NP	
Petroleum Refining and Products	NP	NP	NP	–	NP	
Pharmaceuticals	AUP [4]	AUP [4]	AUP* [4]	–	AUP* [4]	23.206.040(J)~~80(B)(7)~~
Primary Production Manufacturing	AUP [4]	AUP [4]	NP	NP	NP	

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	M	**MM**	**MU-LI**	**MU-R**	**M-RD**	
Semiconductors	UP(PH)	UP(PH)	NP	–	UP(PH)	
Material Recovery Enterprise	-	-	UP(PH)	-	UP(PH)	
Media Production	ZC [10]	ZC [10]	ZC [10]	AUP [11]	ZC [10]	
Mini-storage	NP	NP	NP	NP	NP	
Recycled Materials Processing	ZC* [9]	ZC* [9]	UP(PH)*	–	UP(PH)*	23.206.040(L~~H~~); 23.206.040(M)~~80(B)(9)~~
Recycling Redemption Center	AUP [7]	ZC [9]	UP(PH)*	AUP	UP(PH)*	23.206.040(M)~~80(B)(9)~~
Repair Service, Non-Vehicle	ZC* [9]	ZC* [9]	ZC* [1]	AUP	ZC* [1]	23.206.040(I~~G~~)
Research and Development	-	ZC [12]	ZC [12]	–	ZC [13]	
Services to Buildings and Dwellings	AUP	AUP	AUP	AUP	AUP	
Warehouse	ZC [9]	ZC [9]	ZC [1]	UP(PH)	ZC [1]	
Warehouse-Based Non-Store Retailer	ZC [9]	ZC [9]	ZC [1]	–	ZC [1]	
Wholesale Trade	ZC [9]	ZC [9]	ZC* [1]	AUP [3]	ZC* [1]	23.206.040(R)~~80(B)(13)~~
Incidental Uses						
Amusement Devices	NP	NP	AUP	AUP	AUP	
Alcoholic Beverage Service	See 23.310					
Cafeteria, On-Site	ZC [2]	AUP [2]	ZC [2]	AUP	ZC [2]	
Child Care Center	NP	NP	See 23.206.040.B			

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	M	**MM**	**MU-LI**	**MU-R**	**M-RD**	
Columbaria	–	–	–	–	–	
Food Service Establishment under 20,000 sq. ft.	AUP*	AUP*	AUP*	AUP*	AUP*	23.302.070(E)
Food Service Establishment 20,000 sq. ft. or larger	NP	AUP*	NP	AUP*	NP	23.302.070(E)
Home Occupations	NP	NP	NP	See 23.206.040 .B	NP	
Live Entertainment, Unamplified	NP	NP	ZC	ZC	ZC	
Live Entertainment, Amplified	NP	NP	AUP	AUP	AUP	
Retail Sales of Goods Manufactured On-Site	AUP* [143]	AUP* [154]	AUP* [154]	AUP*	AUP* [15]	23.206.040(N~~I~~)
Storage of Goods Manufactured On-Site (>25% gross floor area)	ZC	ZC	ZC	AUP	ZC	
Wholesale Activities	ZC	ZC	ZC	AUP	ZC	
Other Miscellaneous Uses						
Art/Craft Studio	ZC* [10]	ZC [10]	ZC* [10]	AUP [11]	ZC* [10]	23.206.040(A)
ATM, Exterior and Attached to Bank	AUP	AUP	-	AUP	NP	
ATM, Interior or Exterior and Not With Bank	AUP	AUP	AUP	AUP	AUP	

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	M	**MM**	**MU-LI**	**MU-R**	**M-RD**	
Circus/Carnival	NP	NP	UP(PH)*	UP(PH)	UP(PH)*	23.206.040(ED)
Drive-in Uses	NP	NP	NP	NP	NP	
Live/Work	NP	NP	See 23.312		NP	NP
Parking Lot/Structure	See 23.302.070.G					
Public Market, Open Air	–	–	UP(PH)* [165]	–	UP(PH)* [16]	23.206.040(K)80(B)(8)
Public Market, Enclosed	–	–	AUP [5]	–	AUP [5]	
Short-Term Rental	-	-	-	ZC*	NP	23.314
Urban Agriculture, Low-Impact	ZC	ZC	ZC	ZC	ZC	
Urban Agriculture, High-Impact	AUP	AUP	AUP	AUP	AUP	

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	Manufacturing Districts					Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	M-RD	
	Notes: [1] Requires an AUP for uses 20,000 sq. ft. to 30,000 square feet. Requires a Use Permit for uses more than 30,000 sq. ft. [2] Not permitted 20,000 sq. ft. or more. [3] Requires a Use Permit if 5,000 sq. ft. or more [4] Requires a Use Permit for uses more than 20,000 sq. ft. [5] Requires a Use Permit for more than 5,000 sq. ft. of floor area. [6] Not permitted over 3,000 sq. ft. [7] Requires a Use Permit for uses more than 40,000 sq. ft. [8] Requires a Use Permit for uses 20,000 sq. ft. to 40,000 sq. ft. [9] Requires an AUP for uses 20,000 sq. ft. to 40,000 square feet. Requires a Use Permit for uses more than 40,000 sq. ft. [10] Requires an AUP for uses 10,000 sq. ft. to 20,000 sq. ft. Requires a Use Permit for uses more than 20,000 sq. ft. [11] Allowed with Zoning Certificate if under 1,000 sq. ft. Requires Use Permit if over 20,000 sq. ft. [12] Requires an AUP for uses more than 20,000 sq. ft. [13] Requires an AUP for uses 60,000 sq. ft. to 100,000 sq. ft. Requires a Use Permit for uses 100,000 sq. ft. or more. [14~~3~~] Not permitted 1,500 sq. ft. or more. [15~~4~~] Requires a Use Permit for sales area 1,501 to 3,000 sq. ft. Not permitted over 3,000 sq. ft. [16~~5~~] Requires Use Permit for markets over 5,000 sq. ft.					

Section 3. That Table 23.206-2 within BMC Section 23.206.030 be amended to read:

TABLE 23.206-2. NEW FLOOR AREA PERMIT REQUIREMENTS

DISTRICT/NEW GROSS FLOOR AREA	PERMIT REQUIRED FOR NEW FLOOR AREA
M, MM	
Less than 20,000 sq. ft.	ZC
20,000 to less than 40,000 sq. ft.	AUP
40,000 sq. ft. or more	UP(PH)
M-RD	
Less than 60,000 square feet	ZC
60,000 to less than 100,000 square feet	AUP
100,000 square feet or more	UP(PH)
MU-LI	
Less than 10,000 sq. ft.	ZC
10,000 to less than 20,000 sq. ft.	AUP
20,000 sq. ft. or more	UP(PH)
MU-R	
Less than 5,000 sq. ft.	ZC
5,000 to less than 10,000 sq. ft.	AUP
10,000 sq. ft. or more	UP(PH)

Section 4. That BMC Section 23.206.030(B) be amended to read:

B. Tenant Space Reconfiguration.

1. Reconfiguration of tenant space in an existing building in the M, MM, MU-LI, and M-RD districts requires a permit as listed in Table 23.206-3.
2. In the MU-R district, tenant space reconfiguration projects affecting 5,000 square or more require a Use Permit.
3. As used in this section, tenant reconfiguration means any physical change to an existing building's walls separating leased spaces so as to change:

(a) The number of lease spaces for commercial businesses; or

(b) The square footage of leasable floor area of an existing commercial lease space.

TABLE 23.206-3: TENANT SPACE RECONFIGURATION REQUIREMENTS IN THE M, MM, MU-LI, AND M-RD DISTRICTS

TENANT SPACE RECONFIGURATION PROJECT	PERMIT REQUIRED FOR TENANT SPACE RECONFIGURATION PROJECT
Previously separated spaces combined into a larger space	ZC
Creating 2 to 5 separate new tenant spaces	ZC
Creating 6 to 9 separate new tenant spaces	AUP
Creating 10 or more separate new tenant spaces	UP(PH)

4. **MM and M-RD District Findings.** To approve an AUP or Use Permit for a tenant reconfiguration project in the MM or M-RD district, the review authority must find that the conversion is necessary to implement the purpose of the district.

5. **MU-LI District Findings.** To approve a Use Permit for a tenant reconfiguration project in the MU-LI district, the review authority must find that the reconfiguration would not create or contribute to a shortage of industrial spaces in West Berkeley for spaces of the size being converted and either:

   (a) The reconfiguration can be reasonably expected to better serve the purposes of the district than leaving the space intact; or

   (b) The reconfiguration would create spaces which could cross-subsidize larger industrial spaces.

Section 5. That BMC 23.206.040 be amended to read:

23.206.040 Use-Specific Regulations

A. **Art/Craft Studios in the M, ~~and~~ MM, and M-RD Districts**. Art/craft studios are allowed in the M, MM and M-RD ~~and MM~~ districts only as workspaces. Live/work is not permitted.

~~A.~~B. **Bus/Cab/Truck/Public Utility Depot in the MU-LI and M-RD Districts.** A Use Permit is required for a bus/cab/truck/public utility depot in the MU-LI or M-RD district if the lot is over 20,000 square feet, regardless of use floor area.

~~B.~~C. **Child Care Centers in the MU-LI, ~~and~~ MU-R, and M-RD Districts.** Table 23.206-4 shows permit requirements for child care centers in the MU-LI, ~~and~~ MU-R, and M-RD districts.

TABLE 23.206-4: MU-LI, ~~AND~~ MU-R, AND M-RD CHILD-CARE CENTER PERMIT REQUIREMENTS

USE CHARACTERISTIC	PERMIT REQUIRED
Incidental Use	
Providing childcare for employees only	ZC
Providing childcare for non-employees	AUP
Principal Use	UP(PH)

~~C.~~D. **Child-Serving Uses in the MU-LI, ~~and~~ MU-R and M-RD Districts**.

1. As used in this section, "child-serving use" means a school, child care center, family day care, or park/recreational facility used by children.

2. Before acting on an application to establish or expand a child-serving use in the MU-LI, ~~or~~ MU-R, or M-RD districts, the applicant shall prepare and submit to the City an appropriate risk analysis or risk assessment, as determined by the City, that evaluates the risk to children in the use from other activities near the site.

3. All child-serving uses in the MU-LI, ~~and~~ MU-R and M-RD districts must notify in writing, on a form approved by the City, all parents of children in the child-serving use that the use is in the MU-LI, ~~or~~ MU-R or M-RD district, light manufacturing is a permitted activity in the district, and that primary production manufacturing or construction products manufacturing may be permitted uses in adjacent districts. The child-serving use must require each parent or guardian to confirm in writing that they have read and understood this information. Written confirmations shall be returned to the child-serving use and maintained at the use for City review.

4. To approve an AUP or Use Permit to establish or expand a child-serving use, the review authority must find that:
   (a) The child-serving use is not incompatible with adjacent and nearby uses, including industrial uses;
   (b) The risk analysis or risk assessment shows that there is not significant risk to children in the use from other activities near the site; and
   (c) The applicant has made adequate provisions to comply with the

parent/guardian notification requirement in Paragraph (3) above.

~~D.~~E. **Circuses and Carnival in the MM, ~~and~~ MU-LI, and M-RD Districts.** Circuses and carnivals are allowed in the MM, ~~and~~ MU-LI, and M-RD districts only as a temporary use.

F. **Club and Lodges in the M, MM, ~~and~~ MU-LI, and M-RD Districts.** Clubs and lodges are allowed in the M, MM, ~~and~~ MU-LI and M-RD districts only for persons working in the district.

~~E.~~G. **General Retail in the MU-LI and M-RD Districts.** Allowed general retail uses in the MU-LI and M-RD districts are limited to food product stores and building materials and garden supply stores. Other types of general retail uses are not permitted. Food product stores are not permitted if over 2,000 square feet. Building materials and garden supply stores are permitted with an AUP if under 20,000 square feet and with a Use Permit if 20,000 square feet or more.

~~F.~~H. **Manufacturing Uses in the M, MM, ~~and~~ MU-LI, and M-RD Districts**. For manufacturing uses in the M, MM, ~~and~~ MU-LI, and M-RD districts otherwise allowed with a Zoning Certificate, an AUP is required to establish the use within 150 feet of a residential use in a Residential District or in the MU-R district.

I. **Non-Vehicle Repair Service in the M, MM, ~~and~~ MU-LI, and M-RD Districts.** Retail sales associated with a non-vehicle repair service are not permitted in the M, MM, ~~and~~ MU-LI, and M-RD districts.

J. **Pharmaceuticals Manufacturing in the MU-LI and M-RD Districts**. Pharmaceuticals manufacturing is allowed in the MU-LI or M-RD districts only in locations at least 500 feet from a Residential District or the MU-R district.

~~G.~~K. **Public Market, Open Air in the MU-LI and M-RD Districts.** Open air markets in the MU-LI or M-RD districts with 5,000 square feet or less of lot area are allowed with an AUP.

L. **Recycled Materials Processing in the M and MM Districts.** For recycled materials processing facilities under 10,000 square feet in the M and MM districts, an AUP is required if processing occurs outside of a building.

~~H.~~M. **Recycling Facilities in the MU-LI and M-RD Districts.** Recycled materials processing and recycling redemption centers are allowed in the MU-LI and M-RD districts only on lots greater than 20,000 square feet.

~~I.~~N. **Retail Sale of Goods Manufactured On-Site**. The following requirements apply to incidental retail sales in all Manufacturing Districts:

1. The size and character of signs for the retail use shall clearly indicate that the retail use is not the primary use of the site.

2. Maximum retail floor area: 10 percent of total gross floor area.

~~3. Outdoor sales of food service is not permitted.~~

~~J.~~O. **Storage, Wholesale, Manufacturing as Incidental Use.** If a storage, wholesale, or manufacturing use is allowed in the M, MM, ~~and~~ MU-R, or M-RD district with a Zoning Certificate, the use is allowed incidental to another permitted use without the requirement for an AUP or Use Permit.

P. **Microbes or biological agents** – See Section 23.302.020(E)

~~K.~~Q. **Noise**. For purposes of the Noise Ordinance, Municipal Code Chapter 13.40, the Manufacturing Districts are considered Industry Districts.

R. **Vocational Schools in the MU-LI and M-RD Districts**. A vocational school in the MU-LI or M-RD district must provide training for occupations and/or industries found in the West Berkeley Plan area.

~~L.~~S. **Wholesale Trade in the MU-LI and M-RD Districts.** Proximity to Residential Use. For wholesale trade use in the MU-LI or M-RD districts otherwise allowed with a Zoning Certificate, an AUP is required to establish the use within 150 feet of a residential use in a Residential District or in the MU-R district.

Section 6. That BMC Section 23.206.080(B) be amended to read:

B. Land Use Regulations

1. **Allowed Land Uses.** See Table 23.206-1: Allowed Land Uses in Manufacturing Districts.

2. **Use Permit Not Required.** An existing use in the MU-LI district may be modified or intensified without a Use Permit if:

   (a) A Use Permit is not required by this chapter; and

   (b) The Zoning Officer determines that the modification or intensification of the use can reasonably be expected not to increase any impact regulated under environmental performance standards.

3. **Alcoholic Beverage Retail Sales.** Alcoholic beverage retail sales are allowed in the MU-LI district only when incidental to food product stores.

~~4. **Bus/Cab/Truck/Public Utility Depot.** A Use Permit is required for a bus/cab/truck/public utility depot in the MU-LI district if the lot is over 20,000 square feet, regardless of use floor area.~~

~~5. **General Retail.** Allowed general retail uses in the MU-LI district are limited to food product stores and building materials and garden supply stores. Other types of general retail uses are not permitted. Food product stores are not permitted if over 2,000 square feet. Building materials and garden supply stores are~~

~~permitted with an AUP if under 20,000 square feet and with a Use Permit if 20,000 square feet or more.~~

~~6. **Pharmaceuticals Manufacturing.** Pharmaceuticals manufacturing is allowed in the MU-LI district only in locations at least 500 feet from a Residential District or the MU-R district.~~

~~7. **Public Market, Open Air.** Open air markets in the MU-LI district with 5,000 square feet or less of lot area are allowed with AUP.~~

~~8. **Recycling Facilities.** Recycled materials processing and recycling redemption centers are allowed in the MU-LI district only on lots greater than 20,000 square feet.~~

~~9.~~4. **Theaters.** Only live stage performances are allowed in a theater in the MU-LI district. Motion picture theaters are not permitted.

~~10.~~5. **Vehicle Wrecking.** Permits required for vehicle wrecking the MU-LI district is determined by size of lot, not floor area.

~~11. **Vocational Schools.** A vocational school in the MU-LI district must provide training for occupations and/or industries found in the West Berkeley Plan area.~~

~~12. **Wholesale Trade Proximity to Residential Use.** For wholesale trade use in the MU-LI district otherwise allowed with a Zoning Certificate, an AUP is required to establish the use within 150 feet of a residential use in a Residential District or in the MU-R district.~~

Section 7. That BMC Section 23.206.100 be amended to read:

~~23.206.100 Permit Findings~~

~~A. All Manufacturing Districts. To approve an AUP or a Use Permit in a Manufacturing District, the review authority must find that the project:~~

~~1. Is consistent with the purposes of the district;~~

~~2. Is compatible with the surrounding uses and buildings;~~

~~3. Complies with the adopted West Berkeley Plan; and~~

~~4. Meets any applicable performance standards for off-site impacts.~~

~~B. **Additional Findings.** In addition to the findings in Section 23.206.100.A (All Manufacturing Districts), the review authority must also make the following findings to approve an AUP or Use Permit in each of the Manufacturing Districts.~~

~~1. M and MM Districts. The project:~~

~~(a) Is unlikely, under reasonably foreseeable circumstances, to induce a substantial change of use in buildings from manufacturing, wholesale trade, or warehousing uses; and~~

~~(b) Is designed in such a manner to be supportive of the industrial character of the district. Such physical compatibility shall include materials used; facade treatments; landscaping; lighting; type, size and placement of awnings, windows, and signs; and all other externally visible aspects of the design of the building and site.~~

~~2. MU-LI District. The project:~~

~~(a) Is unlikely, under reasonably foreseeable circumstances, to induce a substantial change of use in buildings from manufacturing, wholesale trade, or warehousing uses;~~

~~(b) Is designed in such a manner to be supportive of the industrial character of the district. Such physical compatibility shall include materials used; facade treatments; landscaping; lighting; type, size and placement of awnings, windows, and signs; and all other externally visible aspects of the design of the building and site; and~~

~~(c) If the building and/or site is split between the MU-LI district and the C-W district, there are clear and appropriate distinctions in all design aspects between the portions of the building and site within the MU-LI district and the portions within the C-W district.~~

~~3. MU-R District. The project:~~

~~(a) Is unlikely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from residential, live/work, light industrial, or arts and crafts uses; and~~

~~(b) Is designed to be supportive of the character and purposes of the district.~~

23.206.100 M-RD Manufacturing, Research and Development District

A. **District Purpose**. The purpose of the Manufacturing, Research and Development (M-RD) district is to:

1. Support a mix of industrial and heavy commercial uses, such as light manufacturing and research and development, particularly those which can provide high quality employment at all educational levels and add significantly to the tax base;
2. Allow office and laboratory uses that support light industrial and research and development uses;
3. Provide flexibility to facilitate the development and reuse of large sites with an urban campus-like environment, demonstrating high-quality design and site planning that includes amenities for employees and customers; and

4. Support the development of industrial uses which satisfy performance standards that protect the environment.

B. **Land Use Regulations**.

1. **Allowed Land Uses.** See Table 23.206-1: Allowed Land Uses in Manufacturing District.

C. **Additional Permit Requirements.** See Section 23.206-1: Allowed Land Uses in Manufacturing Districts.

D. **Development Standards.** See Table 23.206-15 for development standards in the M-RD district.

TABLE 23.206-15. M-RD DEVELOPMENT STANDARDS

Development Standards		Supplemental Standards
Lot Area, Minimum	No minimum	23.304.020– Lot Requirements
Floor Area Ratio, Maximum	2.0	
Lot Line Setbacks, Minimum		
Front	No minimum	23.304.030– Setbacks
Rear	No minimum	
Interior Side	No minimum	
Street Side	No minimum	
Building Separation, Minimum	No minimum	
Lot Coverage, Maximum	80%	23.304.120– Lot Coverage
Minimum Usable Open Space, Minimum, per 1,000 square feet of gross floor area	20 square feet	23.304.090 – Usable Open Space
Main Building Height, Maximum	55 ft 105 [1]	23.304.050– Building Height

[1] Maximum Main Building Height of 105 feet may be allowed pursuant to Section 23.206.100(D)(1) (Modification of Development Standards on Large Sites).

1. **Modifications to Development Standards on Large Sites.**

(a) **Purpose**. The purpose of these provisions is to facilitate the development and reuse of large sites as an urban campus-like environment with high-quality design and site planning with amenities for employees and customers.

(b) **Applicability**. This section applies to projects located on a site of at least 9 acres, which may comprise multiple parcels and blocks, excluding intervening streets/roads/right-of-way or similar.

(c) **Allowed Modification.** The ZAB shall allow modifications to lot coverage, height and setback standards in Table 23.206-15, as follows, subject to the permit findings in Section 23.206.100(D)(1)(e):

i. Main building(s) may comply with the maximum FAR and coverage standards on a project-wide basis, rather than on a parcel-by-parcel basis, as follows:

a) The FAR and/or coverage for main buildings on an individual parcel shall not exceed the maximum allowed in Table 23.206-15 by more than 20 percent.

b) The project complies with the maximum allowed FAR and coverage in Table 23.206-15.

ii. Main building(s) shall not exceed a maximum building height of 105 feet.

(d) **Development Plan**. The applicant shall submit a development plan that includes all of the following:

i. A detailed phasing plan that shows the general location and timing of all physical development, including on and off-site infrastructure, architectural plans, and locations of proposed uses; and

ii. A detailed development comparison demonstrating how the changes in development standards for the proposed project maximize amenities for both employees and customers.

(e) **Findings for Approval.**

i. To approve any modification allowed in this section, the ZAB shall make all of the following findings:

a) That the modification(s) to the development standard(s) are warranted to support a project that demonstrates enhanced design and site planning. Enhanced design elements shall include but not be limited to varied and unique architectural features and innovative site layouts that maximize amenities for both employees and customers. Such modification(s) shall result in a development that achieves the purposes of the M-RD district which could not be achieved by strict application of the development standards; and

b) The applicant has demonstrated that each phase of development does not unduly burden future project implementation, ensures implementation of the project within a reasonable time period, and all required on and off-site infrastructure and amenities are provided.

ii. To approve a Modification to Development Standards on Large Sites, the ZAB shall also make all required Use Permit findings and follow all procedures in Section 23.406.040 (Use Permits) and any additional Use

Permit findings required by the Zoning Ordinance for the use or development in the applicable district.

(f) **Conditions of Approval**. Additional project specific conditions may be imposed to support the findings for approval. Project specific requirements may include but are not limited to a reimbursement agreement, surety/bond/letter of credit, or private maintenance agreement. The approving body shall identify the project requirements within the Conditions of Approval.

(g) **Deed Restriction**. A deed restriction shall be prepared requiring compliance with the Conditions of Approval (and as amended), in perpetuity. The property owner shall file and record the deed restriction with the Alameda County Recorder's Office.

E. **Permit Findings**. See Section 23.206.110 (Permit Findings).

Section 8. That BMC Section 23.206.110 be adopted to read:

23.206.110 Permit Findings

A. **All Manufacturing Districts**. To approve an AUP or a Use Permit in a Manufacturing District, the review authority must find that the project:
1. Is consistent with the purposes of the district;
2. Is compatible with the surrounding uses and buildings;
3. Complies with the adopted West Berkeley Plan; and
4. Meets any applicable performance standards for off-site impacts.

B. **Additional Findings.** In addition to the findings in Section 23.206.110(A) (All Manufacturing Districts), the review authority must also make the following findings to approve an AUP or Use Permit in each of the Manufacturing Districts.
1. M and MM Districts. The project:
   (a) Is unlikely, under reasonably foreseeable circumstances, to induce a substantial change of use in buildings from manufacturing, wholesale trade, or warehousing uses; and
   (b) Is designed in such a manner to be supportive of the industrial character of the district. Such physical compatibility shall include materials used; facade treatments; landscaping; lighting; type, size and placement of awnings, windows, and signs; and all other externally visible aspects of the design of the building and site.
2. MU-LI District. The project:
   (a) Is unlikely, under reasonably foreseeable circumstances, to induce a substantial change of use in buildings from manufacturing, wholesale trade, or warehousing uses;
   (b) Is designed in such a manner to be supportive of the industrial character of the district. Such physical compatibility shall include materials used; facade treatments; landscaping; lighting; type, size and placement of awnings, windows, and signs; and all other externally visible aspects of the design of the building and site; and
   (c) If the building and/or site is split between the MU-LI district and the C-W

district, there are clear and appropriate distinctions in all design aspects between the portions of the building and site within the MU-LI district and the portions within the C-W district.

3. MU-R District. The project:
   (a) Is unlikely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from residential, live/work, light industrial, or arts and crafts uses; and
   (b) Is designed to be supportive of the character and purposes of the district.
4. M-RD District. The project:
   (a) Is unlikely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from industrial or heavy commercial uses; and
   (b) Is designed to be supportive of the character and purposes of the district. Such physical compatibility shall include materials used; facade treatments; landscaping; lighting; type, size and placement of awnings, windows, and signs; and all other externally visible aspects of the design of the building and site.

Section 9. That Table 23.302-2 within BMC Section 23.302.020(E) be amended to read:

Table 23.302-2. Permit Requirements for Outdoor Uses

DISTRICT/USE CHARACTERISTICS [1]	PERMIT REQUIRED
All Commercial Districts Except for C-W	
Not abutting a residential district	AUP
Abutting a residential district	UP(PH)
C-W	
Not abutting a residential district and less than 10,000 s. ft.	AUP
Abutting a residential district	UP(PH)
10,000 sq. ft. or more	UP(PH)
M, MM, M-RD [2]	
Less than 20,000 sq. ft.	ZC
20,000 sq. ft. or more	AUP
MU-LI	
Less than 20,000 sq. ft.	ZC
20,000 to 30,000 sq. ft.	AUP
More than 30,000 sq. ft.	UP(PH)
MU-R	

Not abutting a residential district	AUP
Abutting a residential district	UP(PH)
Notes: [1] Size is measured as the lot area of the outdoor activity or storage. [2] In the M, ~~and~~ MM, and M-RD districts, permits are required only for activity or storage not ancillary to a permitted use.	

Section 10. That BMC Section 23.302.070(E)(4) be amended to read:

4. MU-LI, ~~and~~ MU-R, and M-RD District – Findings.

(a) To approve an AUP or Use Permit to establish or expand a food service establishment in the MU-LI, ~~or~~ MU-R, or M-RD district, the review authority must find that the establishment of the use, given its size, location, physical appearance and other relevant characteristics, will not have a significant detrimental impact on the industrial character of the area.

Section 11. That Table 23.302-7 within BMC Section 23.302.070(G) be amended to read:

TABLE 23.302-7: PERMIT REQUIREMENTS FOR PARKING LOTS/STRUCTURES

DISTRICT	PERMIT REQUIRED
Residential Districts	
R-3	Use Permit for all parking lots and structures. [1]
R-S, R-SMU, R-BMU	Use Permit for parking structures only. Parking lots are not permitted, except on lots between Acton Street and Virginia Gardens and between Peralta Avenue and Northside Avenue in the R-BMU.
All other residential districts	Use Permit for all parking lots and structures.
Commercial Districts	
C-C, C-U	Zoning Certificate for parking lots and structures with 5 spaces or fewer. Use Permit for more than 5 spaces.
C-SO	AUP for parking lots and structures with 5 spaces or fewer. Use Permit for more than 5 spaces.
C-DMU	AUP for parking lots with 8 spaces or fewer. Use Permit for all parking structures. Lots with more than 8 spaces not permitted.
C-N, C-E, C-NS, C-SA	Use Permit for all parking lots and structures.
C-T	Use Permit for all parking structures. All parking lots not permitted.

C-W	AUP for parking lots and structures with 10 spaces or fewer. Use Permit for parking lots and structures with more than 10 spaces.
Manufacturing Districts	
M, MM	AUP for parking lots and structures with 10 or fewer spaces exclusively for uses in the district. Use Permit for parking lots and structures with any number of spaces not exclusively for uses in the district.
MU-LI, M-RD	Zoning Certificate for parking lots and structures with 10 or fewer spaces exclusively for uses in the district. AUP for parking lots and structures with 11 spaces or more exclusively for uses in the district. Use Permit for parking lots and structures with any number of spaces not exclusively for uses in the district.
MU-R	Zoning Certificate for parking lots and structures exclusively for uses in the district. Use Permit for parking lots and structures not exclusively for uses in the district.
Notes: Parking lots and structures in the R-3 district are not permitted within the Southside Plan area	

Section 12. That Table 23.322-4 within BMC Section 23.322.030(C) is hereby amended to read:

TABLE 23.322-4: REQUIRED OFF-STREET PARKING IN MANUFACTURING DISTRICTS

Land Use	Required Parking Spaces
Residential Uses	
Accessory Dwelling Unit	None required
Dwellings	None required
Group Living Accommodation	None required
Non-Residential Uses	
All non-residential uses except uses listed below	M-RD District: None required All Other Districts: 2 per 1,000 sq. ft.
Art/Craft Studio	M-RD District: None required All Other Districts: 1 per 1,000 sq. ft.
Community Care Facility	None required

Land Use	Required Parking Spaces
Food Service Establishment	M-RD District: None required All Other Districts: 1 per 300 sq. ft.
Library	1 per 500 sq. ft. of publicly accessible floor area
Laboratories	M-RD District: None required All Other Districts: 1 per 650 sq. ft.
Nursing Home	1 per 5 residents, plus 1 per 3 employees
Medical Practitioners	One per 300 sq. ft.
Large Vehicle Sales and Rental	MU-LI District: 1.5 per 1,000 sq. ft. M-RD District: None required All Other Districts: 1 per 1,000 sq. ft. of display floor area plus 1 per 500 sq. ft. of other floor area; 2 per service bay
Manufacturing	MU-R District: 1.0 per 1,000 sq. ft. M-RD District: None required All Other Districts: 1 per 1,000 sq. ft. for spaces less than 10,000 sq. ft.; 1 per 1,500 sq. ft. for spaces 10,000 sq. ft. or more
Storage, warehousing, and wholesale trade	M-RD District: None required All Other Districts: 1 per 1,000 sq. ft. for spaces of less than 10,000 sq. ft.; 1 per 1,500 sq. ft. for spaces 10,000 sq. ft. or more
Live/Work	MU-LI District: 1 per 1,000 sq. ft. of work area where workers/clients are permitted MU-R District: if workers/clients are permitted in work area, 1 per first 1,000 sq. ft. of work area and 1 per each additional 750 sq. ft. of work area
Research and Development	M-RD District: None required All Other Districts: 1 per 1,000 sq. ft.
Notes: [1] For multiple dwellings where the occupancy will be exclusively for persons over the age of 62, the number of required off-street parking spaces may be reduced to 25% of what would otherwise be required for multiple-family dwelling use, subject to obtaining a Use Permit.	

Section 13. That Table 23.322-12 within BMC Section 23.322.100(A) be amended to read:

TABLE 23.322-12: LAND USES REQUIRING OFF-STREET LOADING SPACES

District	Land Use [1]
R-1, R-1A, R-2	Schools 10,000 sq. ft. or more

R-2A	Senior congregate housing, nursing homes and schools 10,000 sq. ft. or more
R-3	Senior congregate housing, hospitals, nursing homes, schools 10,000 sq. ft. or more
R-4, R-5	Senior congregate housing, hospitals, nursing homes, offices, schools 10,000 sq. ft. or more
R-S, R-SMU	All non-residential uses 10,000 sq. ft. or more
All C Districts except C-T	All commercial uses 10,000 sq. ft. or more
C-T	No loading spaces required for all land uses
All M Districts except M-RD	All commercial and manufacturing uses 10,000 sq. ft. or more
M-RD	Research and Development uses 25,000 sq. ft. or more; All other commercial and manufacturing uses 10,000 sq. ft. or more.
Note: [1] Land use size is total gross floor area.	

Section 14. That Table 23.322-13 within BMC Section 23.322.100(B) be amended to read:

TABLE 23.322-13: NUMBER OF REQUIRED OFF-STREET LOADING SPACES

District	Spaces Required [1]
Residential and Commercial Districts	1 space for the first 10,000 sq. ft. plus 1 additional space for each additional 40,000 sq. ft
Manufacturing Districts	Research and Development uses in M-RD: 25,000 to 100,000 sq. ft. – 1 space; more than 100,000 to 200,000 sq. ft. – 2 spaces; each additional 100,000 sq. ft. – 1 space. All other uses in all other M Districts: 1 space for the first 10,000 sq. ft. plus 1 additional space for each additional 25,000 sq. ft
Note: [1] Land use size is total gross floor area.	

Section 15. 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.

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

A RESOLUTION TO (A) CERTIFY THE ENVIRONMENTAL IMPACT REPORT (SCH# 2022120549) AND ADOPT RELATED CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS, A STATEMENT OF OVERRIDING CONSIDERATIONS, MITIGATION MEASURES, AND A MITIGATION MONITORING AND REPORTING PROGRAM; AND (B) APPROVING AND ADOPTING AMENDMENTS TO THE WEST BERKELEY PLAN, INCLUDING AMENDMENTS TO THE LAND USE DIAGRAM AND THE LAND USE ELEMENT, AND AN AMENDMENT TO THE GENERAL PLAN LAND USE ELEMENT INDUSTRIAL LAND USE DESIGNATION TO RE-DESIGNATE CERTAIN PARCELS WITHIN THE PROJECT AREA TO BE CONSISTENT WITH ASSOCIATED ZONING TEXT AMENDMENTS TO ESTABLISH THE MANUFACTURING, RESEARCH & DEVELOPMENT DISTRICT.

WHEREAS, the City of Berkeley (“City”), in accordance with the provisions of California Government Code Section 65300 et seq., is required to adopt a General Plan for its long-range development, and further to periodically update that plan to reflect current conditions; and

WHEREAS, the City adopted the West Berkeley Plan in 1993, and adopted amendments to that plan in 1999 and 2011; and

WHEREAS, on April 20, 2021, City Council adopted a referral to the City Manager to amend the zoning ordinance for the creation an overlay at the former Pacific Steel Casting site due to the unique issues of public concern associated with the property; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) (“CEQA”) and the State CEQA Guidelines (Title 14, Sections 15000 et seq. of the California Code of Regulations (“CEQA Guidelines”), the City of Berkeley, as lead agency, prepared an Environmental Impact Report for the proposed project (SCH No. 2022120549) (“EIR” or “Final EIR”); and

WHEREAS, on December 21, 2022, a Notice of Preparation of a Draft Environmental Impact Report (EIR) was published to analyze the potential environmental impacts of the proposed zoning and plan amendments; and

WHEREAS, on February 1, 2023, a duly noticed Draft EIR scoping hearing was held by the Planning Commission to receive comments on the scope and content of the EIR; and

WHEREAS, on February 1, 2023, the Planning Commission received a presentation on the draft zoning amendments and provided comments on the proposed zoning text; and

WHEREAS, on February 2, 2023, a duly noticed Draft EIR scoping hearing was held by the Landmarks Preservation Commission to receive comments on the scope and content of the EIR; and

WHEREAS, on March 1, 2023, the Planning Commission received a presentation on proposed revisions to the draft zoning text and provided comments on the proposed zoning text; and

WHEREAS, on October 21, 2024, a Notice of Availability/Release of a Draft EIR was issued, along with the publication of the Draft EIR itself, both of which were made available to the public/governmental agencies for review and comment; and

WHEREAS, a public hearing notice was provided to the Confederated Villages of Lisjan tribe on October 23, 2024, pursuant to California Government Code Section 65092 for the public hearing held on November 6, 2024; and

WHEREAS, a public hearing notice was published in the Berkeley Voice on October 23, 2024 and October 30, 2024, and posted in three public places on October 30, 2024, pursuant to California Government Code Section 65090 for the public hearing held on November 6, 2024; and

WHEREAS, on November 6, 2024, the Planning Commission held a duly noticed public hearing, received comments on the Draft EIR, and considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request, which was preceded by the distribution of notices in accordance with State and local noticing requirements; and

WHEREAS, on November 7, 2024, the Landmarks Preservation Commission held a public hearing to receive comments on the Draft EIR; and

WHEREAS, a Notice of Availability/Release of a Final EIR was issued and a Final EIR was published on March 13, 2025; and

WHEREAS, the Final EIR consists of the October 2024 Draft EIR and the March 2025 Final EIR; and

WHEREAS, notice of public hearing was prepared pursuant to Zoning Ordinance Section 22.04.020, *Amendment-Procedures required-Planning Commission and City Council*, and Gov. Code Section 65355; and

WHEREAS, on November 6, 2024, the Planning Commission held a duly noticed public hearing and took public testimony, which was preceded by the distribution of notices in accordance with State and local noticing requirements; and, after conducting and closing the public hearing, recommended that the City Council: (1) Adopt a Resolution, as recommended by the Planning Commission to (a) Adopt an Ordinance, as recommended by Planning Commission, amending Title 23 of the Berkeley Municipal Code (BMC) to create the Manufacturing, Research And

Development District, and make conforming changes to other BMC sections, as well as adopt Zoning Map changes, and (b) Adopt a Resolution, as recommended by Planning Commission to (a) amend the West Berkeley Plan Land Use Diagram to redesignate certain parcels from Manufacturing (M) to Manufacturing, Research and Development (M-RD), and (b) amend the West Berkeley Plan Land Use Element text to incorporate the new M-RD district, and (c) amend the General Plan Land Use Element to incorporate the new M-RD district into the Manufacturing Land Use Designation; and

WHEREAS, the proposed Zoning Ordinance and Zoning Map amendments are consistent with the General Plan and any applicable specific plan or area plan. The zoning ordinance amendments are consistent and compatible with the General Plan, as the proposed Manufacturing, Research and Development (M-RD) district will support manufacturing and industrial uses necessary for a multi-faceted economy and job growth, consistent with General Plan Policy LU-33. Further, the zoning ordinance amendments are consistent with the West Berkeley Plan, as the M-RD district designates land for manufacturing employment, provides development standards to expand the light manufacturing sector, and provides space for office, service, laboratory and R&D businesses, consistent with Goal 1; and

WHEREAS, the proposed Zoning Ordinance and Zoning Map amendments are consistent with state law. The zoning ordinance amendments are consistent with state law because they do not reduce the intensity of use allowed under the existing General Plan or zoning pursuant to Gov. Code section 66300(b)(1). Further, staff prepared an EIR in accordance with CEQA Guidelines to evaluate the potential environmental effects of adoption and implementation of the proposed zoning and General Plan and West Berkeley Plan amendments, as well as the Berkeley Forge Development to the extent site planning details have been provided; and

WHEREAS, the proposed Zoning Ordinance and Zoning Map amendments will not be detrimental to the public interest, health, safety, convenience, or welfare. The zoning ordinance amendments serve the public interest by facilitating development of a former manufacturing site known to have a number of problems of public concern, including environmental contamination, former PSC workers awaiting receipt of their pension benefits contingent upon a future sale of the property, and neighborhood blight and safety concerns resulting from an eight-acre multi-block area of vacant buildings and graffitied fencing around the property. The zoning ordinance amendments support development of the site to contribute to the tax base and economic vitality in Berkeley, which in turn contributes positively to the community. The zoning ordinance amendments will not result in the immediate approval of any specific development project. Any future development project will continue to be subject to the City's development and environmental review procedures; and

WHEREAS, the proposed Zoning Ordinance and Zoning Map amendments are internally consistent with other applicable provisions of the Zoning Ordinance. The Zoning Ordinance amendments to create the M-RD district include non-substantive revisions to the Zoning Ordinance to ensure internal consistency; and

WHEREAS, the affected site is physically suitable in terms of design, location, shape, size, and other characteristics to ensure that the permitted land uses and development will comply with the Zoning Ordinance and General Plan and contribute to the health, safety, and welfare of the property, surrounding properties, and the community at large. The proposed Zoning Map Amendment to create the M-RD district results in an approximately 11-acre area that is well-defined and uniform to facilitate potential redevelopment. The M-RD district is located at a designated industrial entry corridor to Berkeley, and continues to implement the objectives and policies of the General Plan and West Berkeley Plan, specifically West Berkeley Plan's Goal 1 of providing for an economic and land use mix that incorporates manufacturing and office/laboratory uses to benefit Berkeley businesses and the City and promote the varied and interest character of the area. Further, the proposed M-RD district will provide consistency with the Zoning Ordinance and General Plan by locating manufacturing land uses in an area designated for industrial land use. The health, safety and welfare of the property, surrounding properties, and community at large will be served by approval of the proposed Zoning Map Amendment because it will ensure that that former Pacific Steel Casting property will be redeveloped over time in an attractive and consistent manner, that environmentally contaminated soils will be remediated, and that significant employment opportunities at all education levels will be created in the industrial area of Berkeley; and

WHEREAS, the proposed West Berkeley Plan and General Plan amendments serve the public interest by facilitating redevelopment of a former manufacturing site known to have a number of problems of public concern, including environmental contamination, former PSC workers awaiting receipt of their pension benefits contingent upon a future sale of the property, and neighborhood blight and safety concerns resulting from an eight-acre multi-block area of abandoned buildings and graffitied fencing around the property; and

WHEREAS, the proposed West Berkeley Plan and General Plan amendments are consistent and compatible with the General Plan. Inclusion of the Manufacturing, Research and Development (M-RD) district in the General Plan is consistent and compatible with the existing General Plan Manufacturing Land Use designation and Policy LU-33 – West Berkeley Plan, as the district purposes, allowed uses and development standards intend to maintain and preserve areas of Berkeley for manufacturing and industrial uses necessary for a multi-faceted economy and job growth and will help maintain a full range of land uses and economic activities including manufacturing. Further, inclusion of the M-RD district in the West Berkeley Plan and related amendments to the West Berkeley Plan are consistent and compatible with the West Berkeley Plan, as the M-RD district designates land for manufacturing employment, provides development standards to expand the light manufacturing sector, and provides space for office, service, laboratory and R&D businesses. Therefore, these amendments further the West Berkeley Plan's Goal 1 of providing for an economic and land use mix that incorporates manufacturing and office/laboratory uses to benefit Berkeley businesses and the City and promote the varied and interest character of the area; and

WHEREAS, the potential effects of the proposed West Berkeley Plan and General Plan amendments have been evaluated and have been determined not to be detrimental to the public health, safety, or welfare. The General Plan and West Berkeley Plan amendments serve the public interest by facilitating redevelopment of a former manufacturing site known to have a number of problems of public concern, including environmental contamination, former PSC workers awaiting receipt of their pension benefits contingent upon a future sale of the property, and neighborhood blight and safety concerns resulting from an eight-acre multi-block area of vacant and disused buildings and graffitied fencing around the property. These amendments support redevelopment of the site to contribute to the tax base and economic vitality in Berkeley, which in turn contributes positively to the community. These amendments will not result in the immediate approval of any specific development project. Any future development project will be subject to the City's development and environmental review procedures; and

WHEREAS, all documents constituting the record of this proceeding are and shall be retained by the City of Berkeley Planning and Development Department, Land Use Planning Division, at 1947 Center Street, Berkeley, California.

NOW, THEREFORE, IT BE RESOLVED that the Council of the City of Berkeley, as the final decision-making body for the lead agency, hereby certifies that the Final EIR has been completed in compliance with CEQA and reflects the independent judgment and analysis of the City.

BE IT FURTHER RESOLVED, that no recirculation of the EIR is required.

BE IT FURTHER RESOLVED, that the City Council adopts and incorporates into the Project all of the mitigation measures that are within the responsibility and jurisdiction of the City and that are identified in the CEQA Findings.

BE IT FURTHER RESOLVED, that the City Council adopts and incorporates by reference into this Resolution the Mitigation Monitoring and Reporting Program (Exhibit A).

BE IT FURTHER RESOLVED, that the City Council as the final decision-making body for the lead agency, hereby adopts and incorporates by reference into this Resolution the CEQA Findings and Statement of Overriding Considerations (Exhibit B) with regard to the significant environmental effects of the project.

BE IT FURTHER RESOLVED by the City Council that the West Berkeley Plan Land Use Diagram and text is hereby amended, as shown in Exhibit A, and the General Plan Manufacturing Land Use Designation is hereby amended, as shown in Exhibit B.

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager to make non-substantive, technical conforming edits (e.g., correction of typographical errors and/or clerical errors) to the Berkeley Municipal Code, including

but not limited to page, figure or table numbering, or internal cross-references to amended or new sections of the Berkeley Municipal Code, and to return to the Planning Commission and City Council for major revisions only.

BE IT FURTHER RESOLVED that nothing in this Resolution shall be interpreted or applied so as to create a requirement, power, or duty in conflict with any federal or State law.

Exhibits
A: Draft West Berkeley Plan amendments
B: Draft General Plan amendments

EXHIBIT A
DRAFT
WEST BERKELEY PLAN AMENDMENTS

Revisions are proposed to Section IV, "Goals and Policies." The following text and proposed modifications represent page 35 of the West Berkeley Plan (1993) Goal 2:

Channel development—both new businesses and residences and the expansion of existing businesses—to districts various which are appropriate for the various existing elements of the West Berkeley land use mix.

Rationale:

The Preferred Land Use Concept was based on the concept of channeling different types of uses to different parts of West Berkeley, within the context of its overall mix. It therefore developed a new zoning districting plan for West Berkeley. This Goal and its associated policies set forth the rationales for creating each of the districts.

Policies:

A. Create a Manufacturing district as a general industrial district, where the full range of existing manufacturers—both "heavy" and "light"—can function without interference from other types of uses.

B. Create a Mixed Manufacturing district as a general industrial district, where both heavy and light manufacturers can function, along with "biotech" industries and office users which can recycle the upper stories of buildings.

~~B.~~C. Create a Manufacturing, Research and Development district where a range of industrial uses can function, while providing an opportunity for research and development, office/laboratory and retail uses to operate in proximity to an industrial entry corridor.

~~C.~~D. Create a Light Manufacturing district which allows a wide range of light manufacturers to continue to operate and expand and limits loss of their spaces to other uses, while providing an opportunity for office development where it will not unduly interfere with light manufacturing uses, and for laboratory development in appropriate locations.

~~D.~~E. Create a Mixed Residential district as a special mixed use district which will recognize and support the continued evolution of a unique mix of residential, light industrial, and arts and crafts uses, with a particular effort to strengthen residential concentrations existing there.

~~E.~~F. Create a Commercial district which will foster the continued vitality of West Berkeley's neighborhood and regional serving retail trade, in as pedestrian-friendly a manner as possible.

~~F.~~G. Maintain Residential districts which will provide decent, safe, and sanitary living environments for a wide range of types of household.

Revisions are proposed to Section V, "The Land Use Districting Concept of the Plan" The following text and proposed modifications represent pages 37 through 39 of the West Berkeley Plan (1993)

V. THE LAND USE DISTRICTING CONCEPT OF THE PLAN

One of the most important parts of the West Berkeley Plan is its land use concept. The land use concept is designed to guide West Berkeley's evolution through at least the year 2005. The concept lays out a completely revised set of land use districts for West Berkeley (see Map 1). These districts are designed to become new zoning districts once the final Plan is adopted.

The concept represents a balance between a strong emphasis on the need to conserve desirable existing uses and the need to allow reasonable evolution and development. It seeks to balance the legitimate, yet sometimes conflicting interests of the many "stakeholders" in West Berkeley—residents, manufacturers, workers and their unions, retailers, property owners, the University, the City itself, and many others. The Plan land use concept seeks to give clear guidance on what activities are desired where within Berkeley, yet allow the continued development of a creative, exciting mixed use area. For the first time in West Berkeley, the land use concept provides a clear gradation of uses and development intensity from the residential areas, through mixed use areas to the manufacturing areas.

Overview of the Districting Concept

While the concept was developed through an intensely participatory process, which required numerous tradeoffs and compromises from all participants (see the Process section), there is nonetheless an underlying logic to the concept. The concept recognizes that, although West Berkeley is, on the whole, an area with very mixed uses, individual areas within it do have certain predominant uses. Other areas have a mix of uses, but they do not generally have the full range of uses from "heavy" manufacturing to single family detached residential (see Figure 1-4 for a diagrammatic depiction of the varying mix of uses in the Plan's land use districts). There are ~~6~~ 7 land use designations (types of zoning) for the whole of West Berkeley.

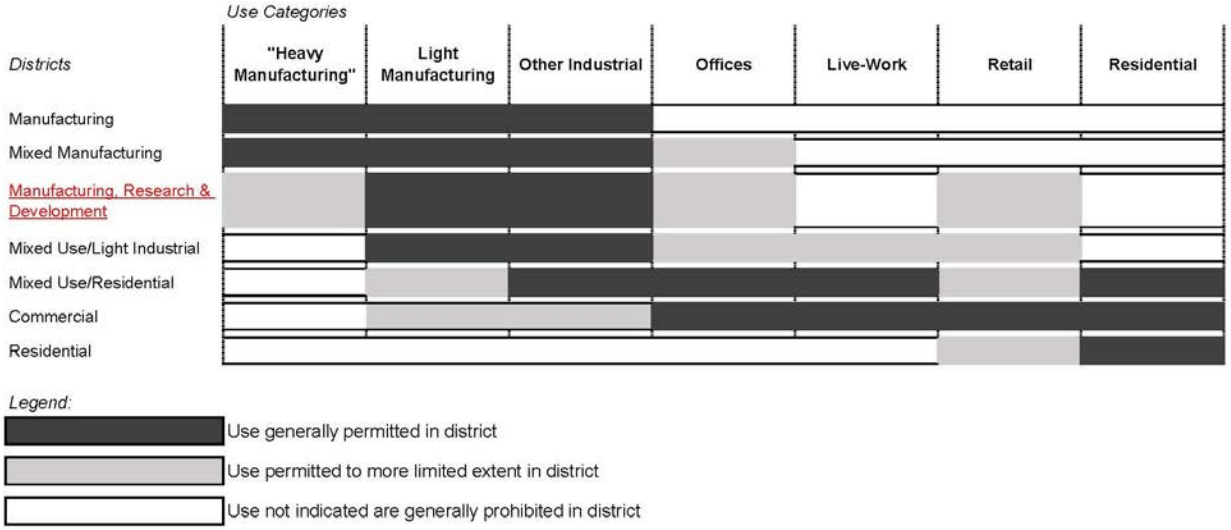
Some areas have a use mix dominated by "heavy" and "light" manufacturing, these are designated as the Manufacturing and Mixed Manufacturing districts. In the northwest section of West Berkeley, near the Gilman Street entry corridor, a range of industrial uses can function, as well as research and development, office/laboratory and retail use, this area is designated as Manufacturing, Research and Development. In much of West Berkeley, light manufacturing and other light industrial uses (e.g. auto repair) are the primary land use, these areas are designated as Mixed Use/Light Industrial district. Retail commercial concentrations have developed, not only along San Pablo and University Aves., but around 4th & University and 7th & Ashby as well. These areas were designated Commercial. Some areas mix industrial and residential uses closely together—these areas have been designated Mixed Use/Residential. The remaining areas are overwhelmingly residential, and remain in their existing residential zoning (whether it be R-1A, R3, or R4). This pattern is described in more detail in the following section.

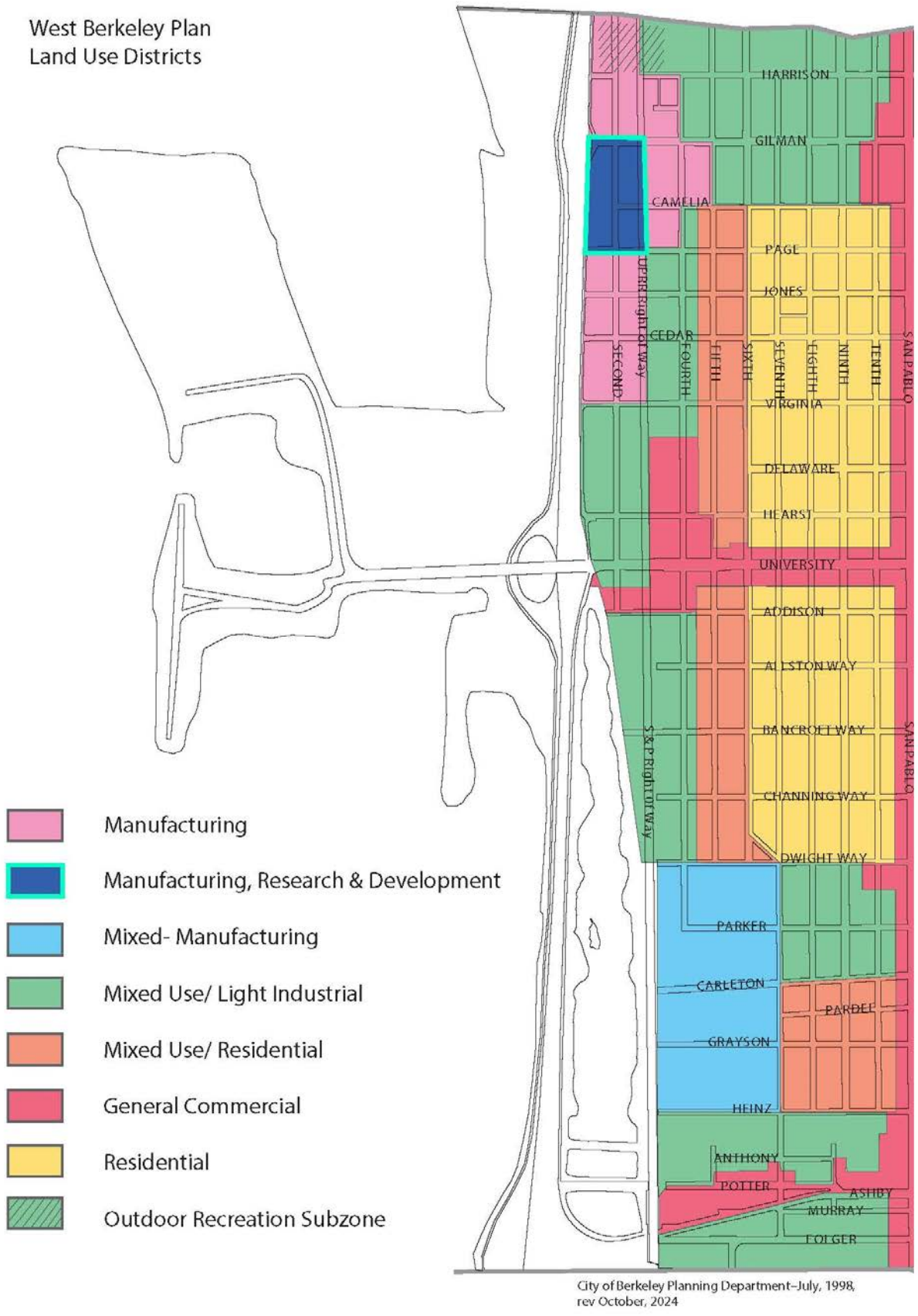
In addition to this overall concept, there were a number of principles which guided the development of the land use concept. Most important among these were:

- New land use districts/zones should recognize the existing character of an area, and create as few non-conformities as possible;

- The zoning should allow desired development in an area (e.g. residential infill, expansion of existing manufacturers), but generally not permit a radical change of area character;
- Although they are not the only consideration, the desires of businesses, property owners, and residents in a particular area are especially important in developing districting/zoning for that area;
- Zoning should specify, as clearly as possible, permitted and prohibited uses in an area, to give guidance to applicants (for permits) and to reduce permit processing time;
- Manufacturing, wholesaling, and warehousing space should be maintained in those uses as much as possible, to meet the Council/Planning Commission mandate to maintain manufacturing jobs;
- All uses, even those permitted in a zone, are subject to review for environmental impacts. However, whether an Environmental Impact Report (EIR), an Initial Study, or other environmental document is needed will be determined by the nature and scale of an application;
- Existing residential clusters within mixed use areas should be strengthened and legitimized;
- Residents should be buffered from the effects of heavy industrial uses as much as possible;
- Retail uses should be clustered, to strengthen existing retail areas, to make them for walkable, and to prevent retail sprawl.

Figure 1-4: **The Spectrum of Permitted Uses**
West Berkeley Plan Districts Generally Permitted Uses by District




West Berkeley Plan
Land Use Districts
HARRISON
GILMAN
CAMELIA
PAGE
JONES
CEDAR
SECOND
FOURTH
FIFTH
SIXTH
SEVENTH
EIGHTH
NINTH
TENTH
SAN PABLO
VIRGINIA
DELAWARE
HEARST
UNIVERSITY
ADDISON
ALLSTON WAY
BANCROFT WAY
CHANNING WAY
DWIGHT WAY
PARKER
CARLETON
GRAYSON
HEINZ
ANTHONY
POTTER
ASHBY
MURRAY
FOLGER
Manufacturing
Manufacturing, Research & Development
Mixed- Manufacturing
Mixed Use/ Light Industrial
Mixed Use/ Residential
General Commercial
Residential
Outdoor Recreation Subzone
City of Berkeley Planning Department–July, 1998,
rev October, 2024

Specific Districts in the Concept

General Manufacturing Districts

There are 2 small districts in the Plan which allow process intensive, “heavier” manufacturing uses, as well as light industrial uses. These are the Manufacturing District in northwestern West Berkeley (largely west of the railroad tracks), and the Mixed Manufacturing District in southwestern West Berkeley (around the Colgate and Miles sites). These areas are the present home to most West Berkeley "heavy" industries such as steelmaking and ink production. These districts are closely targeted to industrial uses, and generally do not allow residential, live-work, retail, or office uses (except on upper stories in the Mixed Manufacturing District). Office, laboratory, and retail uses which are integral to a manufacturing operation (e.g. a store selling products made on site) are permitted in the district. These small areas—some ~~94~~ 82 acres in the Manufacturing zone and 79 acres in the Mixed Manufacturing zone—most closely follow the model of “Protected Manufacturing Districts” that manufacturing advocates sought for West Berkeley. While industrially oriented, the Mixed Manufacturing district is somewhat less tightly targeted than the Manufacturing District, allowing freestanding laboratories and office uses on upper stories, so that multi-story buildings in the district can be more easily used.

Manufacturing, Research & Development District

The district is proposed for the area around the former Pacific Steel Casting and Berkeley Forge and Tool Inc. sites in northwest West Berkeley (west of the railroad tracks), at Gilman Street and Eastshore Highway. This district targets industrial and research and development uses, office and business support uses are permitted along with select types of retail uses and generally does not allow residential, live-work, or commercial uses. Office uses are permitted, along with some types of retail; however, most types of retail are not allowed. Due to its location along a key industrial entry corridor, this district provides flexibility in the FAR and lot coverage requirements for large multi-acre sites in order to encourage high-quality site planning and design.

EXHIBIT B
DRAFT
GENERAL PLAN AMENDMENTS

Revisions are proposed to the Manufacturing Land Use Designation. The following text and proposed modifications represent page LU-24 of the General Plan (2002).

Manufacturing
These areas are intended to maintain and preserve areas of Berkeley for manufacturing and industrial uses necessary for a multi-faceted economy and job growth. Appropriate uses for these areas are identified in the West Berkeley Plan. Within these areas, building intensity will generally range from a Floor Area Ratio (FAR) of less than 1 to an FAR of 2. For information purposes, the compatible zoning districts for this classification are: Manufacturing (M), Mixed Manufacturing (MM), ~~and~~ Mixed Use-Light Industrial (MU-LI), and Manufacturing, Research and Development (M-RD), which all allow a maximum FAR of 2 and a maximum building height of 45 to 105 feet.

Rashi Kesarwani
Councilmember, District 1

ACTION CALENDAR
April 20, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Councilmember Taplin (Co-Sponsor)

SUBJECT: Referral to the Planning Commission to Establish a Zoning Overlay at the Pacific Steel Casting Property

RECOMMENDATION

Refer to the Planning Commission to create a zoning overlay at the Pacific Steel Casting (PSC) property in West Berkeley—currently zoned Manufacturing (M) and redesignate it as Mixed Use - Light Industrial (MULI) due to the unique issues of public concern associated with this property (described below); specifically, include in the PSC zoning overlay allowances to enable all MULI uses and override any existing constraints in the Berkeley Municipal Code for Zoning (Title 23) on such MULI uses for the PSC property.

CURRENT SITUATION AND ITS EFFECTS

The Pacific Steel Casting (PSC) property sits at the corner of Eastshore Highway and Gilman Street, extending two blocks south to Page Street with structures on either side of Second Street. Once a thriving manufacturer of custom industrial-use parts employing more than 650 workers, PSC declared bankruptcy in 2014 and permanently shuttered in 2018. The site is known to have a number of problems of public concern, including: (1) environmental contamination at the site, (2) hundreds of blue-collar workers awaiting receipt of their pension benefits as a result of a future sale of the property, and (3) neighborhood blight and safety concerns resulting from an eight-acre multi-block area of abandoned buildings and graffitied fencing around the property.

The site, which is in close proximity to the highly-anticipated reconstruction of the Gilman Interchange, has generated some interest from real estate and business representatives for numerous mixed-use light industrial uses, such as biotechnology labs, warehouse and commercial uses, or office space, among other possibilities. The site has been on the market for more than two years without a serious buyer

due in part to concerns that the current Manufacturing zoning designation limits the potential uses of the site to heavy manufacturing only. Because of the difficulty in generating a prospective buyer for the PSC site—more than two years have elapsed since the property was first put on the market—and the issues of public concern noted above, a zoning overlay specifically for the PSC site is recommended. This referral and establishment of a zoning overlay signals to prospective buyers that the City is eager to see this site reinvented and contributing to our tax base and the vitality of our post-Covid local economy.

BACKGROUND

Established in 1934 and owned for more than 80 years by the Genger and Delsol families, PSC declared bankruptcy in 2014. Prior to that, a worker class action lawsuit was filed in 2011 against the company for wage theft.[1]

In 2014, the company was purchased by Speyside Equity for $11.3 million. Until that time, the company had been generating $100 million in sales annually. Speyside turned the assets of PSC into a limited liability company and pledged to honor the collective bargaining agreements with the union representing the workers, including assuming pension liabilities and paying workers' health benefits.[2] The new company, Pacific Steel Casting LLC, however, failed to pay those benefits in part due to growing financial insecurity prompted by plummeting gas and oil prices which limited the need for production, and in part due to increased competition from China. It was also later discovered that Speyside used suspect financial practices that further drove the company into the ground.[3]

According to reporting from Berkeleyside, "The Speyside Fund, Speyside Equity, Alcast Company of Illinois, various business partners and managers, 'looted' $14.5 million from the West Berkeley company over a four-year period, and justified the siphoning off by 'cooking' the books, according to the action filed by Sarah L. Little, the bankruptcy trustee."[4] These legal entanglements encumber the land for any potential buyers, as it is predicted it will take between $27 to $30 million to make the workers and all the past creditors whole. This is in addition to the costs it will take for the environmental remediation of the property.

FISCAL IMPACT

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[1] See Berkeleyside, Nov. 7, 2019 article, "Buyers of Pacific Steel Casting 'looted' its assets, made 'insider deals,' according to bankruptcy trustee:" https://www.berkeleyside.com/2019/11/07/buyers-of-pacific-steel-casting-looted-its-assets-made-insider-deals-according-to-bankruptcy-trustee

[2] See Berkeleysides' Dec. 12, 2017 article, "Temporary reprieve for workers: Pacific Steel Casting to remain open through March:" https://www.berkeleyside.com/2017/12/12/reprieve-workers-berkeleys-pacific-steel-casting-remain-open-march

[3] See Berkeleysides' Nov. 7, 2019 article, ""Buyers of Pacific Steel Casting 'looted' its assets, made 'insider deals,' according to bankruptcy trustee:" *Op Cit.*

[4] Berkeleyside, Nov. 7, 2019, *Op. Cit.*

Staff time to facilitate the Planning Commission referral and prepare language for the zoning overlay.

ENVIRONMENTAL SUSTAINABILITY

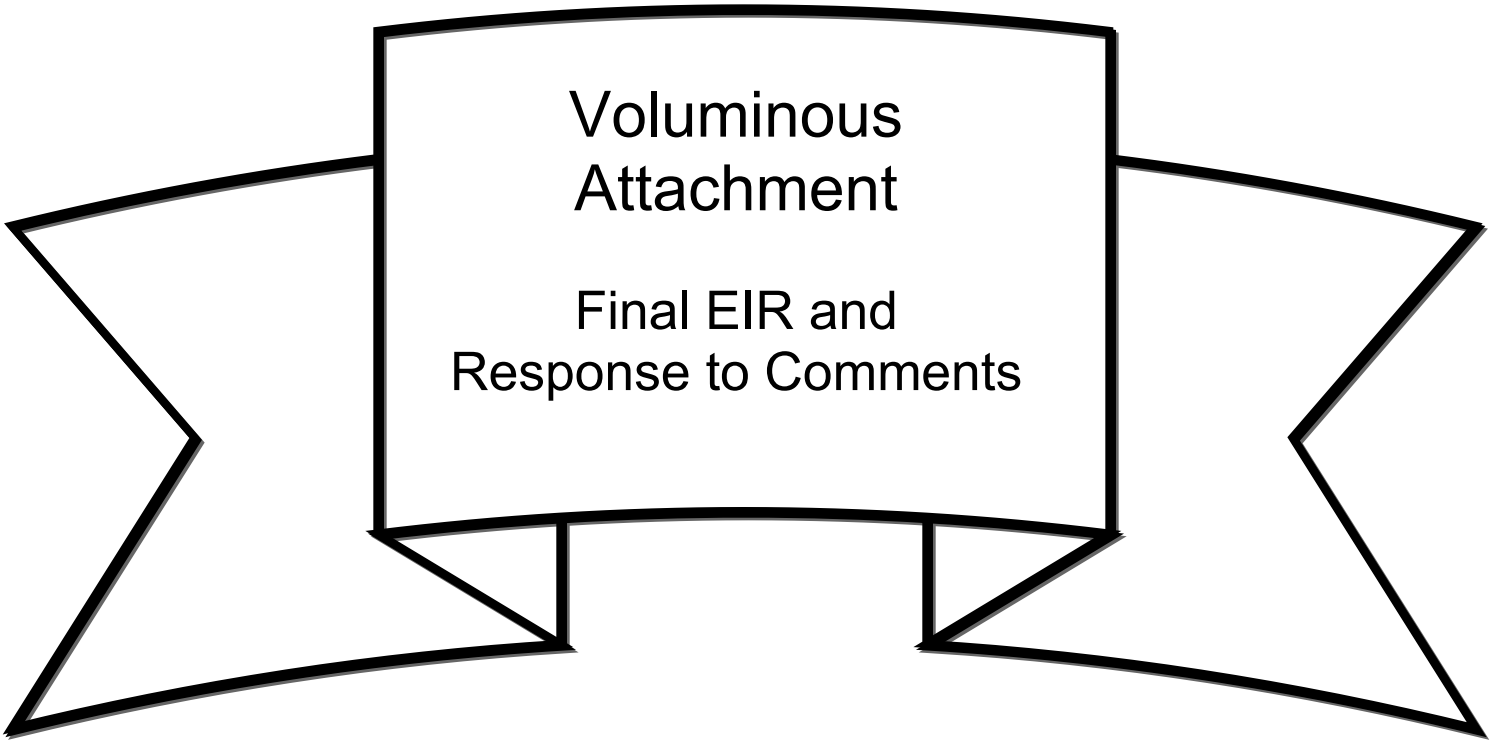
The PSC site requires considerable environmental remediation. A property buyer would address all of the environmental clean-up issues, contributing to a revitalization of West Berkeley's Gilman District and responsible stewardship of the land. The 2014 Atwell, LLC report commissioned by Speyside Equity, LLC concluded that substances such as arsenic, petroleum hydrocarbons, tetrachloroethylene and trichloroethylene and others were present in samplings taken during the environmental investigation of the site.

RATIONALE FOR RECOMMENDATION

Creating a zoning overlay to enable the PSC site to be zoned MULI will increase the desirability of this property for prospective buyers. This in turn could reap many public benefits once the site is sold. First and foremost, it could enable former PSC workers to receive their pension benefits. It would also result in an environmentally sound property and contribute to the City's tax base.

CONTACT PERSON

Councilmember Rashi Kesarwani, District 1 (510) 981-7110



Attachment 4 to this report is on file and available for review at the City Clerk Department, or can be accessed from the City of Berkeley Website.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley, City Council's Web site
http://www.berkeleyca.gov

Planning and Development Department
Land Use Planning Division

DATE: February 1, 2023

TO: Members of the Planning Commission

FROM: Ashley James, Senior Planner

SUBJECT: Pacific Steel Casting Zoning and General Plan Amendments and Environmental Impact Report (EIR) Scoping Session

---

SUMMARY

- City staff are preparing Zoning Ordinance and Zoning Map amendments and associated General Plan amendments to re-zone an approximately 11-acre area within the West Berkeley Plan Area from M (Manufacturing) to a new district entitled M-RD (Manufacturing, Research and Development). The 11-acre area contains 18 parcels and is bounded by Gilman Street to the north, the Union Pacific Railroad tracks to the east, Page Street to the south, and Eastshore Highway to the west (**Figure 1**). The Planning Commission is asked to receive a staff presentation and provide feedback on the proposed zoning and associated West Berkeley Plan and General Plan changes.

- The City has determined, based on the scale and scope of the proposed project, that an Environment Impact Report (EIR) is required to evaluate the potential physical environmental impacts that could result from future development in accordance with the new zoning. A Notice of Preparation (NOP) to gather input from agencies and the public was released on December 27, 2022 for a 60-day comment period ending on February 27, 2023. In this scoping session, the Planning Commission will receive a status report on the NOP, consider public testimony, and provide comments on the scope and content of the EIR.

BACKGROUND

On April 20, 2021, the City Council referred to the Planning Commission creation of a zoning overlay at the former Pacific Steel Casting (PSC) property in West Berkeley, which is currently zoned Manufacturing (M), and re-designate it as Mixed Use - Light Industrial (MU-LI) due to the unique issues of public concern associated with this property (described below); specifically, include in the PSC zoning overlay allowances to enable all MU-LI uses and override any existing constraints in the Berkeley Municipal

Code for Zoning (Title 23) on such MU-LI uses for the PSC property, such as manufacturing floor area replacement requirements (**Attachment 1**).

Figure 1: Project Area

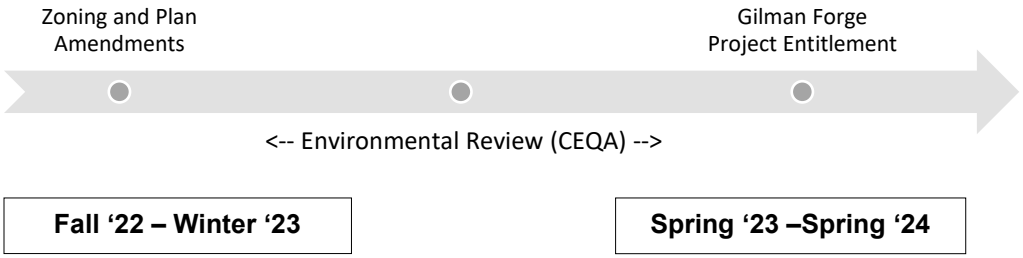


In October of 2022, the Planning Department received a zoning map amendment application from Rhoades Planning Group on behalf of SPUR Capital, pursuant to BMC Chapter 23.412 (Zoning Ordinance Amendments), to re-designate the zoning of 15 parcels over an 8.16-acre area at the PSC and Berkeley Forge and Tool properties from M to MU-LI, consistent with the Council referral. That application includes only the parcels that SPUR Capital has site control over, referred to here as “Gilman Forge,” and is thus slightly smaller than the total project area being considered in the rezoning and EIR. According to the applicant statement, the project sponsor intends to submit a development project application following completion of the rezoning and EIR. The

applicant statement provides preliminary information regarding the possible uses and development envelope of the project (**Attachment 2**).

Environmental review will fully evaluate the potential physical effects to the environment of the proposed policy changes as well as the proposed future development project (**Figure 2**). The role of the Planning Commission is to provide comments on the draft zoning and plan amendments, the NOP, and the EIR when it becomes available, and make a recommendation to the City Council for decision.

Figure 2: Planning and Entitlement Process



PROJECT DESCRIPTION

The project being analyzed in the EIR is the proposed zoning text and map amendments and associated General Plan amendments, as well as the proposed Gilman Forge concept plan. The EIR will evaluate the maximum reasonable development scenario of the rezone and associated general plan amendments, as well as demolition of the existing buildings, construction of up to 1,000,000 square feet of nonresidential space at a maximum building height of 105 feet, and up to 2,000 off-street automobile parking spaces. The proposed M-RD zoning district regulations are described in greater detail below. The EIR will also evaluate the impact of the Gilman Forge concept plan, located on an approximately 8.16-acre portion of the project area, to the extent that such development is foreseeable at the time of preparation of this programmatic EIR. The buildout of the concept plan is assumed to be consistent with the development standards of the proposed M-RD zoning district.

Rationale for Approach to Re-Zoning from M to M-RD

As stated above, the Council referral is to create a zoning overlay at the former PSC property in West Berkeley, which is currently zoned M, and re-designate it as MU-LI, and include in the overlay allowances to enable all MU-LI uses and override existing constraints on MU-LI uses for the property. Staff is recommending that a new zoning district be created for the following reasons.

Staff evaluated the utility of an overlay district as a means of achieving the objective of the referral, and noted that an overlay district is typically applied over multiple underlying districts as a more efficient method of applying additional regulations to serve a particular public purpose (e.g., airport noise, creek setbacks). An overlay typically modifies development standards and administrative processes; it does not

usually modify allowed land uses. As the underlying zoning at the site is M and the referral seeks to reduce constraints on allowed uses, Staff found that an overlay is not the preferred zoning method to achieve the objectives of the referral.

The referral also intends to re-zone the site from M to MU-LI and override existing constraints on MU-LI uses to enable redevelopment. The property representative has identified certain constraints in the MU-LI regulations, including allowed uses, maximum height, and protections on existing manufacturing uses, that would interfere with their intended development. Staff found that re-zoning to MU-LI with exceptions would be inefficient in that the zoning would essentially be mooted by the exceptions. Therefore, staff is recommending creation of a new district – Manufacturing, Research & Development (M-RD) – that is consistent with the existing adopted Plans for the area and General Plan Manufacturing land use designation, helps achieve the objectives of the referral and zoning map amendment application, and facilitates implementation (i.e., does not require Variances or other exceptions to MU-LI standards on a project-by-project basis).

The Office of Economic Development has prepared a report that provides context into the current and projected economic conditions in West Berkeley to help inform the City's approach to addressing the Council referral. Specifically, the report provides information about the city's economy and the innovation sector in particular – advanced manufacturing, software, life sciences, clean technology, food tech, and other science, technology, engineering and math (STEM) industries – such as employment, wages, wealth creation, social impacts and location decisions. A discussion of the economic conditions and impacts of the proposed rezoning within the West Berkeley industrial area is also provided (**Attachment 4**).

M-RD Zoning District Boundary

As shown in Figure 1 above, Staff propose that the M-RD district boundary encompass the 15 parcels that make up the PSC and Berkeley Forge and Tool properties, as well as three additional parcels in the immediate vicinity, resulting in a two-block area bounded by Gilman Street to the north, the Union Pacific Railroad tracks to the east, Page Street to the south, and the Eastshore Highway to the west consisting of 11 acres over 18 parcels. The three additional parcels are the following:

- 1306 Third Street: A 6,204 square-foot parcel developed with a two-story, approximately 6,000 square-foot building containing three live/work units, which is a legal non-conforming use.
- 600 Gilman Street: A 11,625 square-foot parcel developed with a one-story, approximately 1,000 square-foot building containing a vehicle rental service.
- 1433 Eastshore Hwy: A 38,850 square-foot parcel developed with a one-story metal building totaling approximately 1,944 square feet containing a recycled materials processing use.

The proposed boundary would be consistent with the Council referral to re-zone the PSC property and includes the Berkeley Forge and Tool properties that are part of the

applicant-initiated zoning map amendment. The additional three parcels would complete the two-block boundary to facilitate potential future development. More information about each parcel included in the district, including address, APN, parcel size, and existing use, is provided in Attachment 3.

Proposed District Intent and Purposes

The proposed M-RD district would be consistent with the Manufacturing land use designation and adopted plans, and would further the objectives of the Council referral and zoning map amendment application.

General Plan Land Use Element. The Manufacturing designation is intended to maintain and preserve areas of Berkeley for manufacturing and industrial uses necessary for a multi-faceted economy and job growth, and the appropriate uses are identified in the West Berkeley Plan.[1] The General Plan Land Use Element policy regarding Industrial Areas is to take actions that will achieve the three purposes of the West Berkeley Plan:

1. Maintain the full range of land uses and economic activities including residences, manufacturing, services, retailing, and other activities in West Berkeley.
2. Maintain the ethnic and economic diversity of West Berkeley's resident population.
3. Maintain and improve the quality of urban life, environmental quality, public and private service availability, transit and transportation, and aesthetic and physical qualities for West Berkeley residents and workers.[2]

West Berkeley Plan. Accordingly, the goal of the West Berkeley Plan Land Use Element is to provide for a continued economic and land use mix, incorporating manufacturing, other industrial, retail and office/laboratory uses, to benefit Berkeley residents and businesses economically, benefit the City government fiscally, and promote the varied and interesting character of the area.[3] Policies under this goal speak to:

- Retaining sufficient land and buildings to maintain manufacturing employment;
- Providing, through zoning districts, development standards, the appropriate tools to expand the light manufacturing sector; and
- Providing space and designating appropriate locations for office, service and laboratory businesses, particularly growing Berkeley based businesses which are particularly suited to West Berkeley's physical environment.

Proposed M-RD District. The proposed purposes of the M-RD district are to:

[1] City of Berkeley General Plan, *Land Use Element*. Land Use Classifications – Manufacturing, page LU-24. 02_Land Use Element-FINAL.pdf (berkeleyca.gov)

[2] City of Berkeley General Plan, *Land Use Element.* Element Objectives, Policy LU-33, page LU-17. 02_Land Use Element-FINAL.pdf (berkeleyca.gov)

[3] City of Berkeley West Berkeley Plan, *Land Use Element.* Goal 1, page 34. 12/14/1993; CLK - Resolution; City Council; 57301; (berkeleyca.gov)

1. Implement the West Berkeley Plan Manufacturing, Research and Development District designation;
2. Support a mix of industrial and heavy commercial uses, such as light manufacturing and research and development, particularly those which retain a diversity of employment opportunities in West Berkeley and can provide high quality employment for people at all educational levels and add significantly to the tax base;
3. Allow office and laboratory uses that support light industrial and research and development uses, and provide for high employment density;
4. Provide opportunities for an urban campus-like environment with high-quality design and site planning that includes amenities for employees and visitors;
5. Support the development of industrial uses which satisfy performance standards that protect the environment; and
6. Facilitate land uses that improve the quality of the West Berkeley environment, while allowing existing industrial uses.

While a number of industrial uses are allowed, this district is more restrictive with regard to heavy industrial uses than the Manufacturing (M) or Mixed Manufacturing (MM) districts in order to maintain and improve the quality of the West Berkeley environment. Further, the proposed uses are tightly targeted to a mix of light manufacturing, research and development (R&D), laboratory and office uses to provide for high-quality employment density for people at all educational levels.

Proposed Allowed and Prohibited Uses

The M-RD district would permit a variety of uses, including office, industrial and heavy commercial, laboratory, light manufacturing, and R&D, which would primarily be subject to the permit requirements of the MU-LI district. This proposed set of allowed uses would help ensure that the mix of industrial and heavy commercial uses provide high-quality employment for people at educational levels, add significantly to the tax base, and support uses that improve the quality of the West Berkeley environment. The existing live/work use at 1306 Third Street would continue to be legally non-conforming and the existing vehicle rental use at 600 Gilman Street would become non-conforming.

Staff are proposing a narrower set of allowed uses than the MU-LI district for consistency with the objectives of the 2021 Council referral and purposes of the M-RD district listed above. The following uses allowed in the MU-LI district that would be prohibited in the M-RD district are:

- *Public and Quasi-Public, Retail and Food and Alcohol Service, Lodging, Entertainment and Assembly, Vehicle Service and Sales use categories:* Club/lodge, Retail, Theaters, and Vehicle Service and Sales, except for Alternative Fuel Stations.
- *Industrial and Heavy Commercial use category:* Bus/Cab/Truck/Public Utility Depot, Commercial Excavation, Contractors Yard, Construction Products Manufacturing, Recycled Materials Processing, and Recycling Redemption Center.

- *Incidental and miscellaneous use category:* Live Entertainment, Art/Craft Studios, Live/Work, Public Markets, and Urban Agriculture.

Proposed Development Standards

While the full zoning district text will be developed over the next several months and presented to the Planning Commission for a recommendation to Council with the Final EIR, staff has developed basic standards to set a project description for analysis in the EIR. Table 1 below provides a summary of the proposed development standards along with the policy rationale. Each regulation is further discussed below. Overall, the proposed development standards are consistent with the MU-LI district standards, except for changes to the maximum allowed height, maximum lot coverage, and minimum vehicle parking. Staff are presenting additional standards that could be included to meet the intent and purposes of the district but are not required as part of the EIR project description.

Table 1. Summary of Proposed Zoning Regulations

Regulation	Existing M Standard	Proposed M-RD Standard	Rationale
Maximum Height	45 feet	105 feet	Facilitate construction of buildings with minimum floor-to-floor heights and floor plates for allowed uses (e.g. 20-foot ground-floor height, smaller floorplates)
Maximum Floor Area Ratio (FAR)	2.0	2.0	Maintain maximum buildout evaluated in General Plan EIR
Minimum Setbacks, and Building Separation	Not regulated	Not regulated	Maintain existing development pattern in Manufacturing districts.
Maximum Lot Coverage	Not regulated	50 percent	Provide opportunities for an urban campus-like environment that includes amenities for employees and visitors.
Minimum Off-Street Parking and Minimum Bicycle Parking	Vehicle: See BMC Table 23.322-4	Vehicle: Same as Table 23.322-4, with following changes: • All non-residential uses except uses listed below: 1 per 1,000 sq.ft. • Laboratories: 1 per 1,000 sq.ft. • Storage, warehousing, and wholesale trade: 1, per 1,000 sq.ft.	Provide flexibility for future users and acknowledge current Transportation Demand Management practices.

	Bicycle: 1 per 2,000 sq.ft.	Bicycle: Same requirements as existing for non-residential uses	Maintain existing Manufacturing district standard

Maximum FAR

No changes are proposed to the existing maximum FAR of 2.0 allowed in the M district. As the total area of the proposed M-RD district is approximately 463,549 square feet, the maximum buildout of approximately 927,098 square feet of gross floor area would be the same amount that was previously evaluated in the General Plan and West Berkeley Plan and the associated EIRs. In other words, development within this district would not exceed the amount of development already anticipated in the area.

Maximum Building Height

The proposed maximum building height of 105 feet is higher than the current maximum of 45 feet allowed in the M district. The proposed maximum is supported by a recommendation in the Council referral to enable all MU-LI uses and override any existing constraints in the Zoning Ordinance on such uses. Allowed uses in both the MU-LI and proposed M-RD district include research and development and laboratories, which require certain building design characteristics that necessitate additional building height allowances. This topic was addressed as part of the Bayer Development Agreement process[4] and in the current zoning map amendment application, which is summarized below:

- Minimum Floor Heights: The nature of research and development and laboratory uses can include large pieces of machinery, deliveries, equipment, and ductwork that require taller ceiling heights and highly reinforced floors. These uses generally require 20-foot ground-floor heights and 16.5-foot upper story heights, measured floor to floor, in order to provide leasable space, which would result in a two-story building under the existing 45-foot height limit, impacting the feasibility of future development.

- Building Modulation and Variation: The average floor plate size for research and development and laboratory uses is approximately 35,000 square feet, and is usually no larger than 50,000 square feet. Floor plates larger than 50,000 sq. ft. can result in operational inefficiencies given the requirements for laboratory uses that include equipment, air circulation and structural integrity, and subsequent impacts on the functionality and mechanical, electric, and plumbing (MEP) infrastructure. Additionally, the privacy, safety and security needs of these tenants makes a multi-tenant approach to leasing less attractive than other uses.

[4] October 20, 2021. *Public Hearing on Bayer Development Agreement, Attachment 3.F, Report on Justification for Heights.* Planning Commission. 2021-10-20 PC Agenda Packet.pdf (berkeleyca.gov)

Within Berkeley, the Amended and Restated Bayer Development Agreement allows a maximum height of 80 feet for production uses (similar to Pharmaceuticals Manufacturing) and 65 feet for other uses (Administration, Laboratory, Utility, Warehouse) in the campus.[5] Since the West Berkeley Plan was adopted in 1993, three variances have been approved to allow construction of buildings intended for research and development and laboratory uses that range from 60 to 74 feet in height.[6] A common finding among the variances granted is that unique building requirements for these uses justify additional height. Outside of Berkeley within the Bay Area region, maximum height limits in districts that allow research and development and laboratory uses range from 35 to 100 feet, and a few do not regulate maximum height. Some cities provide flexibility by offering discretionary permit procedures such as awarding 'bonus height' if the project meets certain community goals, including providing community benefits, above a base allowed height. Assuming that buildings developed in the proposed M-RD zoning district would have a ground floor height of 20 feet with subsequent floors at a height of 16.5 feet, the maximum height of 105 feet would allow up to six stories.[7]

Additional height for buildings that contain other uses, such as for administrative purposes (offices, conference rooms, cafeteria, etc.), can provide benefits for employees and visitors. For example, additional height can free up floor area that can result in the development of amenities and open spaces that will provide a social benefit, as well as help attract and retain talent. A taller building can occupy a smaller footprint than would otherwise be feasible, allowing opportunities to include on-site public open space, landscaping, and street trees, bioswales to capture stormwater, and pedestrian and bicycle facilities. These benefits are consistent with the purposes of the proposed M-RD district as well as the General Plan Land Use Element Policy LU-33 to "…improve the quality of urban life, environmental quality…and aesthetic and physical qualities for West Berkeley residents and workers."

Lot Coverage, Setbacks and Building Separation

While lot coverage is not currently regulated in any Manufacturing district, the proposed M-RD zoning sets the maximum at 50 percent. The proposed maximum was developed assuming a FAR of 2.0 and minimum building height of 4 stories on parcels in the project area. Regulating lot coverage in this district would support development of on-site open space and green space associated with new development, consistent with the purposes of the district and policies of the General Plan and West Berkeley Plan. Setbacks and minimum building separation would not be regulated, similar to other Manufacturing districts.

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[5] November 30, 2021. *Bayer Healthcare LLC – Amended and Restated Development Agreement.* City Council. City Council Report ##-##-#### (berkeleyca.gov)

[6] 742 Grayson: 74 feet (ZP2021-0161); 740 Heinz: 74 feet (UP05-10000017); 725 Potter: 45 feet, four stories (UP01-10000047).

[7] Four-story building: between 70 to 85 feet; Five-story building: 86 to 102 feet; Six-story building: 103 to 118 feet.

Minimum Off-Street Vehicular Parking and Bicycle Parking

Minimum parking requirements in Manufacturing districts vary depending on the type of use, from a low of 1 per 1,500 square feet for buildings over 10,000 square feet in size that contain manufacturing uses to a high of 1 per 300 square feet for food service establishments and medical practitioners.[8] The proposed minimum parking requirements of the M-RD district would be set at 1 per 1,000 square feet for laboratories and other uses not otherwise listed in Table 23.322-4, which include research and development and office. The proposed change would standardize the off-street requirement among these allowed uses, acknowledging the fact that multiple uses may occupy different portions of one building at any time and the amount of floor area dedicated to one use may change over time.

The proposed off-street parking minimum also considers the amount of parking demanded by recently approved, similar developments in the vicinity. For example, the Bayer Development agreement includes a minimum parking ratio of 1 per 1,000 square feet for production and laboratory uses; the project at 742 Grayson Street sought and was granted a parking reduction to allow 325 spaces where 380 are the minimum; and the project at 600 Addison provided the minimum amount required. Further, the proposed minimum supports current Transportation Demand Management (TDM) practices to reduce vehicle miles traveled by lowering the amount of off-street parking required, and is consistent with the polices of the West Berkeley Plan to provide "through…development standards…space…for expansion of manufacturing firms, particularly the growing light manufacturing sector" by freeing up space for new gross floor area that would otherwise be reserved for parking.[9]

Additional Development Standards

The Planning Commission is asked to provide feedback on the following additional development standards, as well as any other topics not addressed that Staff should consider in developing the zoning text.

- Minimum Open Space: A minimum open space requirement is not currently required in any Manufacturing district; however, Staff notes that open space could be complementary to the proposed maximum height limit, as the additional height would free up space to provide amenities. Looking to recent projects entitled in the Manufacturing districts, open space has been provided as part of the 600 Addison Street project, totaling 75,000 square feet; at 742 Grayson Street (50,000 square feet); and the Bayer campus (at least 9 acres by year 30 of the development agreement). An open space requirement would help further the purpose of the M-RD district to provide opportunities for an urban campus-like environment that includes amenities for employees and visitors. Additionally, the proposed requirement is supported by General Plan Land Use Policy LU-33 to "…improve the quality of urban

[8] BMC Section 23.322.030(C)

[9] City of Berkeley West Berkeley Plan, *Land Use Element*. Policy 1B, page 34. 12/14/1993; CLK - Resolution; City Council; 57301; (berkeleyca.gov)

life, environmental quality…and aesthetic and physical qualities for West Berkeley residents and workers."

The City of Berkeley similarly regulates open space in the Commercial – Downtown Mixed Use (C-DMU) District by requiring at least 1 square foot of privately-owned public open space per 50 square feet of commercial floor area. Looking to other jurisdictions such as Emeryville, open space in the M-RD district could be provided as either common or privately-owned public open space. Common open space is defined as: fields, courtyards, sport courts, pedestrian paths, outdoor eating areas, landscaping, gardens and similar uses, and could be located at the ground level, on terraces above the ground level, and/or the roof.

- Site and Building Design Standards: The Physical Form Element of the West Berkeley Plan identifies Gilman Street as an Industrial Entry Corridor and considers the question of how the area may be improved as an entry corridor while recognizing that it is to remain an industrial corridor. The Plan suggests that the answer may be improved design of private sites and the public right-of-way by, for example, strengthening the "street wall without losing industrial utility", creating a setting where industrial buildings "turn their faces" to Gilman through greater design uniformity that improves the street image.[10] Further, Goal 3 of the Physical Form Element is to "visually improve the…the entry corridors into West Berkeley." Consistent with the adopted Plan, a proposed purpose of the M-RD zoning is to encourage an urban campus-like environment with high-quality design and site planning that includes amenities for employees and visitors. Although site and building design standards are not included in other Manufacturing districts, they have been included in two recently-adopted zoning districts – the Adeline Corridor (C-AC) and Residential BART Mixed-Use (R-BMU). Potential topic areas include:
  - Building placement and orientation:
    - Requiring main building entrances to face Second Street.
  - Facades:
    - Requiring a minimum amount of articulation on all facades facing publicly accessible open space and/or public streets.
    - Improving areas between the building and front property line, or between a building and open space or public right-of-way, with pedestrian-scale amenities.
  - Building colors and materials:
    - Requiring a minimum number of colors, differentiating the base, middle and top, etc.
  - Ground floor street frontages:
    - Requiring a minimum ground-story height.
  - Green roofs or other building sustainability features.

[10] City of Berkeley West Berkeley Plan, *Physical Form Element*. West Berkeley's Entry Corridors, Gilman St. – Industrial Entry Corridor, page 134. 12/14/1993; CLK - Resolution; City Council; 57301; (berkeleyca.gov)

- Parking location, screening and landscaping:
  - Light screening
  - Percent of off-street parking provided in surface lots versus parking structures.

General Plan and West Berkeley Plan Amendments

The proposed zoning text and map amendments require associated amendments to the General Plan and West Berkeley Plan to ensure consistency between the Zoning Ordinance and the General Plan.[11] The General Plan and West Berkeley Plan changes will add the new zoning district (Manufacturing, Research and Development) to the Manufacturing land use classification. Pursuant to BMC Chapter 22.04, the Planning Commission will be asked to consider these proposed amendments with the proposed zoning text and map amendments and EIR.

DISCUSSION

The purpose of this scoping meeting is to receive comments from the Planning Commission and the public on the scope and content of the EIR. These comments, along with the comments received through the NOP review period, will be considered in the preparation of the EIR. The result of the EIR analysis will inform the zoning changes and the recommendations submitted to the City Council for adoption. The Planning Commission should review the NOP, provide comments on the scope and content of the EIR, and receive comments from members of the public, organizations and interested agencies on issues the EIR should address. Written comments can be directed in writing to Ashley James, Senior Planner either by mail or electronically:

Land Use Planning Division
1947 Center Street, 2nd Floor
Berkeley, CA 94704

AJames@cityofberkeley.info.

Comments must be received on or before 5pm on Monday, February 27, 2023.

The Planning Commission is also requested to provide feedback on the proposed zoning text and associated West Berkeley Plan and General Plan changes.

NEXT STEPS

The Planning Department has hired LSA to prepare the CEQA analysis, including the NOP. This scoping meeting informs the community and public agencies about the Zoning Text, Map and General Plan Amendments and EIR, and solicits comments from the Planning Commission and the public regarding the EIR scope, issues of concern, potential alternatives, and mitigation measures. These comments, along with the comments collected through the entire review period, will be considered in the preparation of the EIR. The result of the EIR analysis will inform future Planning

[11] The West Berkeley Plan is an amendment to Berkeley's General Plan, providing policies to guide development in West Berkeley.

Commission discussion and the recommendations submitted to the City Council for adoption.

Following the close of the NOP comment period, the Draft EIR will be prepared and circulated for the required 45-day public comment period. Although the Zoning and General Plan Amendments would not approve any physical development (e.g., construction of buildings or infrastructure), the EIR will assume that such actions are reasonably foreseeable future outcomes. Therefore, the EIR will evaluate the potential physical environmental impacts that could result from future actions for implementing the policies and programs, and resulting development, at a programmatic level. To the extent that technical studies have been received as part of the Zoning Map Amendment application, the EIR will evaluate potential impacts at a project-level of detail.

The Draft EIR will also examine a reasonable range of alternatives to the proposed project, including the CEQA-mandated No Project Alternative and other potential alternatives that may be capable of reducing or avoiding potential environmental effects while meeting most of the basic objectives of the project. In addition, the EIR will address cumulative impacts, growth inducing impacts, and other issues required by CEQA. The estimated timeline for the public portions of the CEQA review are as follows:

Table 2. Project Timeline

Description	Timing	Public Review Process
60-day NOP Comment Period	December 21, 2022 – February 27, 2023	Scoping Meetings: • 2/1/23 Planning Commission • 2/2/23 Landmarks Preservation Commission
Draft EIR released for 45-day review and comment period	Summer-Fall 2023	Planning Commission meeting
Final EIR and Final Zoning and General Plan amendments adopted	Fall-Winter 2023	Planning Commission recommendation; City Council action

ATTACHMENTS

1. City Council Referral to the Planning Commission to Establish a Zoning Overlay at the Pacific Steel Casting Property, April 20, 2021
2. Zoning Map Amendment Application (PLN2022-0079), October 25, 2022
3. Notice of Preparation
4. City of Berkeley, Office of Economic Development. *The Innovation Ecosystem in West Berkeley: An Economic Snapshot*, January 2023.

Rashi Kesarwani
Councilmember, District 1

ACTION CALENDAR
April 20, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Councilmember Taplin (Co-Sponsor)

SUBJECT: Referral to the Planning Commission to Establish a Zoning Overlay at the Pacific Steel Casting Property

RECOMMENDATION

Refer to the Planning Commission to create a zoning overlay at the Pacific Steel Casting (PSC) property in West Berkeley—currently zoned Manufacturing (M) and redesignate it as Mixed Use - Light Industrial (MULI) due to the unique issues of public concern associated with this property (described below); specifically, include in the PSC zoning overlay allowances to enable all MULI uses and override any existing constraints in the Berkeley Municipal Code for Zoning (Title 23) on such MULI uses for the PSC property.

CURRENT SITUATION AND ITS EFFECTS

The Pacific Steel Casting (PSC) property sits at the corner of Eastshore Highway and Gilman Street, extending two blocks south to Page Street with structures on either side of Second Street. Once a thriving manufacturer of custom industrial-use parts employing more than 650 workers, PSC declared bankruptcy in 2014 and permanently shuttered in 2018. The site is known to have a number of problems of public concern, including: (1) environmental contamination at the site, (2) hundreds of blue-collar workers awaiting receipt of their pension benefits as a result of a future sale of the property, and (3) neighborhood blight and safety concerns resulting from an eight-acre multi-block area of abandoned buildings and graffitied fencing around the property.

The site, which is in close proximity to the highly-anticipated reconstruction of the Gilman Interchange, has generated some interest from real estate and business representatives for numerous mixed-use light industrial uses, such as biotechnology labs, warehouse and commercial uses, or office space, among other possibilities. The site has been on the market for more than two years without a serious buyer

due in part to concerns that the current Manufacturing zoning designation limits the potential uses of the site to heavy manufacturing only. Because of the difficulty in generating a prospective buyer for the PSC site—more than two years have elapsed since the property was first put on the market—and the issues of public concern noted above, a zoning overlay specifically for the PSC site is recommended. This referral and establishment of a zoning overlay signals to prospective buyers that the City is eager to see this site reinvented and contributing to our tax base and the vitality of our post-Covid local economy.

BACKGROUND

Established in 1934 and owned for more than 80 years by the Genger and Delsol families, PSC declared bankruptcy in 2014. Prior to that, a worker class action lawsuit was filed in 2011 against the company for wage theft.[1]

In 2014, the company was purchased by Speyside Equity for $11.3 million. Until that time, the company had been generating $100 million in sales annually. Speyside turned the assets of PSC into a limited liability company and pledged to honor the collective bargaining agreements with the union representing the workers, including assuming pension liabilities and paying workers' health benefits.[2] The new company, Pacific Steel Casting LLC, however, failed to pay those benefits in part due to growing financial insecurity prompted by plummeting gas and oil prices which limited the need for production, and in part due to increased competition from China. It was also later discovered that Speyside used suspect financial practices that further drove the company into the ground.[3]

According to reporting from Berkeleyside, "The Speyside Fund, Speyside Equity, Alcast Company of Illinois, various business partners and managers, 'looted' $14.5 million from the West Berkeley company over a four-year period, and justified the siphoning off by 'cooking' the books, according to the action filed by Sarah L. Little, the bankruptcy trustee."[4] These legal entanglements encumber the land for any potential buyers, as it is predicted it will take between $27 to $30 million to make the workers and all the past creditors whole. This is in addition to the costs it will take for the environmental remediation of the property.

FISCAL IMPACT

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[1] See Berkeleyside, Nov. 7, 2019 article, "Buyers of Pacific Steel Casting 'looted' its assets, made 'insider deals,' according to bankruptcy trustee:" https://www.berkeleyside.com/2019/11/07/buyers-of-pacific-steel-casting-looted-its-assets-made-insider-deals-according-to-bankruptcy-trustee

[2] See Berkeleysides' Dec. 12, 2017 article, "Temporary reprieve for workers: Pacific Steel Casting to remain open through March:" https://www.berkeleyside.com/2017/12/12/reprieve-workers-berkeleys-pacific-steel-casting-remain-open-march

[3] See Berkeleysides' Nov. 7, 2019 article, ""Buyers of Pacific Steel Casting 'looted' its assets, made 'insider deals,' according to bankruptcy trustee:" *Op Cit.*

[4] Berkeleyside, Nov. 7, 2019, *Op. Cit.*

Staff time to facilitate the Planning Commission referral and prepare language for the zoning overlay.

ENVIRONMENTAL SUSTAINABILITY

The PSC site requires considerable environmental remediation. A property buyer would address all of the environmental clean-up issues, contributing to a revitalization of West Berkeley's Gilman District and responsible stewardship of the land. The 2014 Atwell, LLC report commissioned by Speyside Equity, LLC concluded that substances such as arsenic, petroleum hydrocarbons, tetrachloroethylene and trichloroethylene and others were present in samplings taken during the environmental investigation of the site.

RATIONALE FOR RECOMMENDATION

Creating a zoning overlay to enable the PSC site to be zoned MULI will increase the desirability of this property for prospective buyers. This in turn could reap many public benefits once the site is sold. First and foremost, it could enable former PSC workers to receive their pension benefits. It would also result in an environmentally sound property and contribute to the City's tax base.

CONTACT PERSON

Councilmember Rashi Kesarwani, District 1 (510) 981-7110

Applicant Statement
Gilman Gateway
December 15, 2022

Gilman Gateway will revitalize a 10+ acre, environmentally impacted, vacant, formerly industrial property into Berkeley's premier research and development and life sciences campus. The Gilman Gateway is composed of the former Pacific Steel Casting and Berkeley Forge and Tool sites. Pacific Steel Casting ceased operations in 2018 and is currently under bankruptcy. Berkeley Forge and Tool is in the process of closing operations. The project provides an opportunity to build on the history of research, development, and manufacturing in West Berkeley and will bring the next era of innovation in life sciences to Berkeley.



The proposed rezoning encompasses the former Pacific Steel Casting and Berkeley Forge and Tool sites, both of which have ceased operations



Concept diagram of new Research and Development/Life Science Innovation campus

This application proposes the rezoning of the land generally bounded by Eastshore Highway, Gilman Street, Union Pacific Railroad tracks, and Page Street. The zoning designation is proposed to change from M (Manufacturing) to MU-LI (Mixed-Use Light Industrial). This application is consistent with the Berkeley General Plan Manufacturing land use designation. MU-LI is identified in the General Plan as compatible with the General Plan Manufacturing land use designation.

Rezoning the properties offers numerous financial, social, and environmental benefits to the City and local community. The Gilman Gateway project fulfills the goals of the West Berkeley Plan to facilitate development of multi-parcel sites, attract emerging business sectors, and retain and promote economic diversity in West Berkeley. By restoring derelict, environmentally blighted properties to productive industrial use, creating jobs and tax base in West Berkeley, the Gilman Gateway project will implement the vision of the West

Rezoning Request: Zoning map amendment as identified and supported by the 2021 City Council referral: rezone subject sites from Manufacturing (M) to Mixed Use-Light Industrial (MU-LI). The project team expects that the City will initiate accompanying text amendments, as permitted under BMC Section 23.412.020(B) and in accordance with the Council referral, including:

- Maximum height of 105 feet
- Allowed uses, including Research and Development
- Exemption from MU-LI protected use regulations

Berkeley Plan to maintain and improve the quality of urban life for West Berkeley residents and workers.[1]



The sale of the Pacific Steel Casting site will fund the unpaid pensions of its former workers.

The proceeds from the sale of the Pacific Steel Casting land—currently held in bankruptcy court—will fund the unpaid pensions of the company's former workers, whose pensions were eliminated when Pacific Steel Casting closed and filed bankruptcy.



Modern skilled industrial labor employment

The project will also contribute over $6 million in dedicated special assessments to be used for affordable housing, childcare, schools, and public art.

In addition, the project will also:

- contribute to increased property tax and secondary sales tax benefits to the City
- revitalize and environmentally blighted site;
- create new public open space and landscaping, and install stormwater management systems, where none exist today;
- create new sidewalk and bicycle facilities, supporting community pedestrian and bike travel across the new flyover;
- further Berkeley's history of progressive research and innovation, supporting new jobs at a range of skill levels to train and keep workers and existing businesses in Berkeley, as well as attracting new businesses to further energize the city.

These enhancements will help drive environmental improvements across West Berkeley in the form of improved air quality, social equity, environment, bicycle and pedestrian access, and flooding resilience. This rezoning request is the first step toward making this vision a reality.



Subject site along Camelia and Second Streets

[1] Resolution No. 57,301-NS Adopting the West Berkeley Plan as an area plan and as an amendment to the City of Berkeley's Master Plan (December 14, 1993).

City Council #1 Referral Priority

In 2021, the City Council approved a Council referral to the Planning Commission to create a zoning overlay at the Pacific Steel Casting property. The referral called for redesignation of the project area as Mixed Use-Light Industrial (MU-LI) to enable allowed MU-LI uses and override existing constraints in the Zoning Ordinance, such as manufacturing floor area replacement requirements. This overlay was intended as an incentive to attract a buyer of the property, which had sat vacant and in limbo, beginning with Pacific Steel Casting's layoffs in 2011 and ending with its declaring bankruptcy in 2014 and closure in 2018.



Rashi Kesarwani
Councilmember, District 1

ACTION CALENDAR
April 20, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Councilmember Taplin (Co-Sponsor)

SUBJECT: Referral to the Planning Commission to Establish a Zoning Overlay at the Pacific Steel Casting Property

RECOMMENDATION
Refer to the Planning Commission to create a zoning overlay at the Pacific Steel Casting (PSC) property in West Berkeley—currently zoned Manufacturing (M) and redesignate it as Mixed Use - Light Industrial (MULI) due to the unique issues of public concern associated with this property (described below); specifically, include in the PSC zoning overlay allowances to enable all MULI uses and override any existing constraints in the Berkeley Municipal Code for Zoning (Title 23) on such MULI uses for the PSC property.

In 2021, the City Council approved a referral to the Planning Commission to establish a Zoning Overlay at the Pacific Steel Casting site to encourage redevelopment.

In 2022, the City Council adopted the rezoning of the Pacific Steel Casting property as its #1 priority out of 46 Council referrals. This action emphasizes the City's support for rezoning, redevelopment of vacant obsolete buildings, environmental clean-up, and sale of the property, which will also aid in the pension payout. In turn, the Council adopted a budget item in its 1st tier of budget priorities to fund City staff positions to assist with project review and approval, and environmental analysis under the California Environmental Quality Act (CEQA).

Project Site

Located on Berkeley's northwestern edge, the site includes a collection of 15 parcels bisected by Second Street from Gilman Street to Page Street. The subject parcels proposed for rezoning are identified in Table 1 and include approximately 10.2 acres (net of public rights-of-way). In addition to the former Pacific Steel Casting parcels, the rezoning request includes sites owned by Berkeley Forge & Tool, which is in the process of closing its operations.

The project site has been characterized by heavy industrial uses for over a century, evolving from iron and steel industries to warehouses and foundries. Industries operating within and in the vicinity of the site have environmentally impacted soil and soil vapor, as detailed below. The area has always been vehicle, rail, and heavy truck oriented—no sidewalks, no bike facilities, limited street trees, overhead utility poles, and railroad tracks in the street. Since the closure of Pacific Steel Casting, the area has suffered from neglect.



Gilman Street/Berkeley Gateway currently

Table 1: Rezoning Request by Address & APN

Address	*APN*
1305 Eastshore Hwy	59-2344-1-2
1331 Eastshore Hwy	59-2344-7
1401 Eastshore Hwy	59-2341-4
1421 Second St	59-2340-8-2
1420 Second St	59-2341-5
1330 Second St	59-2344-5-1
1320 Second St	59-2344-4-1
1314 Second St	59-2344-3-1
1333 Second St	59-2345-9
1337 Second St 1332 Third St	59-2345-8-1
1310 Third St	59-2345-2-2
625 & 631 Camelia St	59-2345-7
635 Camelia St	59-2345-6-1
643 Camelia St	59-2345-4
1311 Second St 630 & 640 Gilman St	59-2345-1

Site Context

The project site is located at the northwest corner of the city. It is one of the three major gateways to the city from the west. The sites are generally bounded by Interstate 80 and the Frontage Road to the west, Gilman Street to the north, Union Pacific Railroad (UPRR) freight and passenger tracks to the east, and Page Street to the south. Camelia Street extends west to Second Street but does not connect to the Eastshore frontage road.

The subject parcels fall within the General Plan designation for Manufacturing, which includes manufacturing and light industrial use, and the West Berkeley Plan, as shown in Figure 1. The site is zoned for Manufacturing (M) which implements the West Berkeley Plan's Manufacturing designation, as shown in Figure 2.

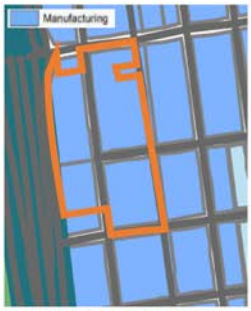


Figure 1: General Plan Map


Figure 2: Zoning & Parcel Map


Figure 3: Vicinity Map, by Zoning District



Most existing buildings are in disrepair, plagued by hazardous materials, and cannot be adaptively reused under current building code requirements and for contemporary R&D.



Second Street currently lacks sidewalks, bicycle facilities, and street trees. Illegal dumping, RV parking and tent encampments encompass the lower portion of the street and sidewalks.

The proposed uses and buildings are compatible with the West Berkeley Plan in that they will develop research and development, and ancillary uses, that meet the West Berkeley Plan's Manufacturing designation; provide a range of job opportunities and wage ranges, including those that do not require advanced degrees. Additionally, the project will improve the quality of the West Berkeley environment by addressing impacts caused by a century of industrial use, and adding new bioretention systems, landscaping, street trees, bicycle improvements and sidewalks, which will create a more inviting, accessible and health inducing urban design.

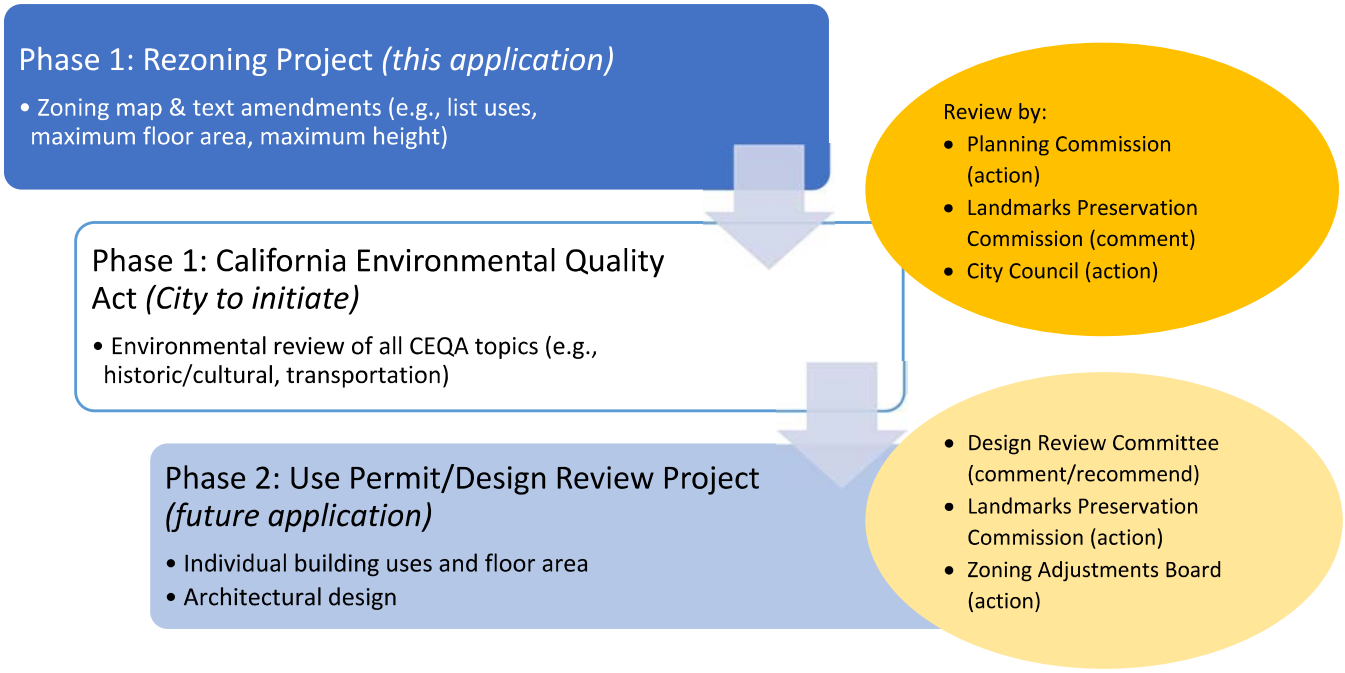
The surrounding area is also designated Manufacturing under the city's general plan, and zoned Manufacturing (M) and Mixed Use-Light Industrial (MU-LI), as shown in Figure 3. The proposed uses are compatible with the surrounding uses, which include: warehousing, manufacturing, office, research and development, live/work units, wineries and breweries, transfer and recycling centers, restaurants and retail stores. Additionally, the combination of laboratory, office and research & development (R&D) uses envisioned for the subject site would further contribute to the economic and land use diversity in the West Berkeley area.[2]

[2] The West Berkeley Plan has as a primary goal to "provide for a continued economic and land use mix, incorporating manufacturing, other industrial, retail and office/laboratory uses, to benefit Berkeley residents and

Process & Phasing

Community members and decision-makers can expect two key phases of the project: the rezoning phase and the entitlement phase, as shown in Figure 4.

Figure 4: Two-Phased Process



This rezoning project is a *policy* request—to revise the zoning designation and zoning regulations of the project—as stated in the 2021 City Council referral. The use permit project, anticipated for submittal in early 2023, is the *entitlement* request and will illustrate the architecture, placement and uses of individual buildings, and project data, including floor area, parking, etc. The CEQA analysis will be completed as part of the rezoning request, but will cover both the rezoning and entitlement portions of the project.

Rezoning Project (This Application)

This application represents a request under Berkeley Municipal Code (BMC) Section 23.412.020(A)(2), which allows property owners to request a zoning map amendment on their property. This request is explicitly identified and supported by the City Council referral: rezone the sites listed in Table 1 from Manufacturing (M) to Mixed Use-Light Industrial (MU-LI).

In addition to being consistent with the General Plan and the West Berkeley Plan, the rezoning is consistent with the Zoning Ordinance and promotes public health, environmental and economic welfare and safety. This rezoning allows the opportunity to redevelop abandoned, moribund manufacturing uses and sites into more viable research and development, and life science uses that still capture the intent of the West Berkeley Plan. This includes a range of job opportunities, including those that do not require

businesses economically, benefit the City government fiscally, and promotes the varied and interest character of the" West Berkeley area. West Berkeley Plan, p. 34.

college degrees, environmental clean-up of legacy toxic industries, and economic and social benefits to West Berkeley businesses and neighborhoods.

The City will initiate accompanying text amendments, as permitted under BMC Section 23.412.020(B) and in accordance with the Council referral. As described in the Process & Phasing section above, the project sponsor intends to submit an entitlement project following the rezoning and prepare a CEQA document that addresses both the rezoning request and the entitlement request. Therefore, the project sponsor proposes to narrowly define this rezoning request to allow for a focused CEQA review. These requests include:

1. Maximum height: Increase the maximum building height, pursuant to BMC Table 23.206-12: MU-LI Development Standards, from 45 feet to 105 feet

2. Allowed uses: Only allow the following uses, at the permit levels identified in Table 23.206-1:[3]
    - Research and Development;
    - Laboratory, Commercial Physical or Biological;
    - Office, Business and Professional;
    - Light Manufacturing; and
    - Incidental Uses (On-Site Cafeteria, Child Care Center, and Food Service Establishment)

3. Protected uses: Exempt the project site from BMC Section 23.206.050: Protected Uses, which typically requires the protection of manufacturing and warehouse uses in the MU-LI district. (Note: this request extends current regulations for the project site regarding protected uses, since BMC Section23.206.050 does not apply to the M district.)

All other MU-LI provisions in BMC Section 23.206.020 would apply to the subject site.

Use Permit/Design Review Project (Future Application)

Rezoning of the project sites will allow for preparation of an entitlement application. Based on the MU-LI zone development standard which is existing and proposed at an FAR of 2.0, the project sites could generate approximately 890,078 sq. ft. of development. For R&D uses, this floor area would require 1,780 vehicle parking spaces and 445 bicycle parking spaces.

Rationale for Building Height

The rezoning to MU-LI with a maximum height limit of 105 feet—beyond the typical MU-LI height limit of 45 feet—is justified for several reasons, including the minimum floor heights and maximum floor plates required for this type of project and the substantial cost of clean-up for this site, which has been plagued with hazardous materials and contamination for years. Notably, no change is proposed to the 2.0 FAR standard allowed in the MU-LI district. In other words, the project does not propose any increase in otherwise allowed floor area, only in its configuration in a smaller footprint and with a taller height. These justifications are detailed below.

[3] Rather than broadly allowing all of the uses permitted in the MU-LI district, pursuant to BMC Table 23.206-1, the project sponsor is identifying the specific uses that are anticipated for the project site over the life of the building. Each of these requested uses is permitted within the MU-LI.

Hazardous Materials & Site Clean-up: The project site is environmentally contaminated following years of use for manufacturing. Environmental constituents include metals, total petroleum hydrocarbon (TPH) products, and volatile organic compounds (VOCs) (primarily chlorinated solvents and petroleum products). It can be presumed that TPH and VOC impacts to soil gas are also present at the site, given their presence in soil. There is also a potential that undocumented underground storage tanks (USTs) may also still be present within the site.

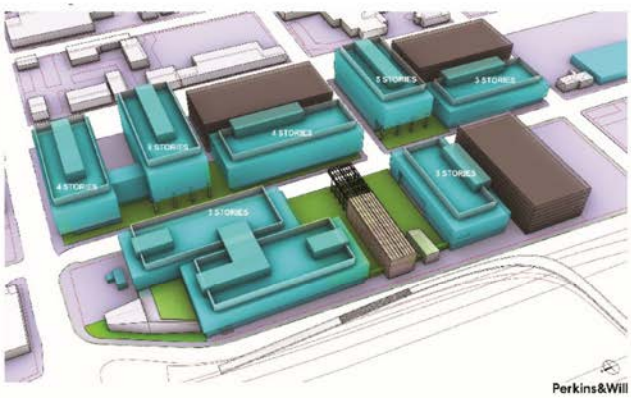
The project team is working with the State Department of Toxics Substances Control (DTSC) to fully characterize and delineate conditions and develop a plan to address site conditions that are acceptable for the research and development campus. The clean-up will likely include excavation and remediation of areas containing gross contamination, measures to separate people from environmental constituents, and mitigation measures and land use control to minimize residual risk to future users. Impacted soil excavated for disposal and encountered during construction will be transported and disposed off-site, in accordance with State law. Other soil, soil vapor concerns, and residual ground water conditions will be addressed onsite under DTSC to protect future site users and minimize the environmental footprint of remedial activities and risk (e.g., limiting generation of air quality and greenhouse gas emissions, reduce truck trips and unnecessarily taking-up scare landfill spaces).



Extent of groundwater and hazardous materials impact, preliminary testing

The cost of clean-up is a significant portion of the redevelopment expense and will cost millions of dollars. Providing for a 2.0 FAR life science campus will meet the needs of future occupants and make the project financially viable given the cost of the measures required to address the site's blighted environmental condition.

Minimum Floor Heights: The nature of R&D and life science users can include large pieces of machinery, deliveries, equipment, and ductwork that require taller ceiling heights and highly reinforced floors. As Berkeley continues to generate new innovations, companies, and technologies, space requirements and equipment needs are continuing to evolve. Future buildings will need to be flexible to adapt to these changing technologies and the needs of lessees over time. R&D and laboratory uses



Axonometric view (looking east) of potential project following rezoning.

generally require 20-foot ground-floor heights and 16.5-foot upper story heights, measured floor to floor, in order to provide these quality leasable spaces. Given the proximity to the railroad, structural framing requirements—and potentially concrete slab thickness—will be greater at this site to reduce vibration associated with passing trains. To achieve these floor heights, the project would be limited to two stories, not the four stories that are anticipated by the MU-LI district's 45-foot height limit. Therefore, the project proposes a range of building heights from 56 feet (3 stories) to 105 feet (6 stories) to create visual interest, highlight key site features and open space, and maintain views.



Figure 5: In Southwest Berkeley, several recent projects have obtained building height variances up to 80, 90, and even 128 feet, due to R&D floor height needs or other particular use requirements. (Source: Brick, Inc. 742 Grayson)

Notably, this challenge is not unique to this proposed project. As shown in Figure 5, several recent projects have obtained height variances for similar reasons, with heights variances up to 80, 90, and even 128 feet.

Building Modulation and Variation: Floor plates for research and development and laboratory uses generally should not exceed 50,000 sq. ft., with the average size being around 35,000 sq. ft., or smaller, and are market driven. The East Bay, which typically attracts earlier to mid-stage life science companies that occupy smaller spaces with a heavier lab component. Therefore, the functionality and mechanical, electric, and plumbing (MEP) infrastructure requirement for their use create cost, planning and operational inefficiencies to operate large floor plates. In addition to these inefficiency issues, multi-tenanting approach for large floor plates also raises concerns on privacy, safety, and security. This market condition necessitates smaller building footprints than what would otherwise be feasible on this large 10.2-acre site.



Plan view of potential project following rezoning.

The result is more sustainable compact building forms, with taller buildings in smaller footprints, that highlight views and open up the ground plane for other uses. Less impactful on the land, these compact forms allow opportunities for on-site public open space, landscaping, and street trees; bioswales to capture stormwater; and new sidewalks and bicycles facilities—none of which currently exist on the site.

Taller building heights of 4 to 5 stories are placed on the eastern block and transition down to 3 stories on the west block, closer to the Bay to highlight views and create visual interest from the Gilman gateway and from the pedestrian-level within the site. Additionally, the proposed concept plan offers a chance to retain a significant portion of one of the Berkeley Forge & Tool buildings with its iconic gantry crane. Lower heights adjacent to the gantry crane highlight this unique structure as a focal point for the project site's identity and provide more natural lighting to this central open space feature.

Without the height increase, the project will not be feasible as a modern research and development campus. The current height restrictions would require two-story buildings that would cover nearly all of the site area, limiting opportunities for environmental improvements, retention of existing structures, and public open space. Moreover, the floor plates would be unusable and unleasable up to 95,000 sq. ft. and 144,000 sq. ft. and still only achieve an FAR of 1.3, well below what is allowed for the zoning district.



Alternatively, a project that meets the 45-foot height limit is limited to 2 stories and 1.3 FAR, and cannot provide benefits in terms of public open space and potential retention of existing structures.

The proposed FAR requirement of 2.0 will naturally control for building height variation so there is no potential for the project to provide building heights that result entirely in 4-6 story buildings. For projects that do include buildings in this height range there will be significant open area at the ground level and/or building massing modulation.

Sea Level Rise: The building footprints lie outside the floodplain and worst-case sea level rise areas, but anecdotally, Second St. in this area is known to take on water during heavy rain events. Raising portions of the buildings a few feet improves the resiliency of the project, including the property investment, future employees' job security and safety, and the property owner's continued revenue generation. The application for the development project will further refine and detail this strategy to support the long-term resilience of the site.

Rational for Rezoning: Community Benefits

The rezoning and entitlement project will offer substantial economic, social, and environmental benefits to the City, Berkeley community, in addition to West Berkeley. In this way, the project fulfills the objectives of the West Berkeley Plan of creating City-wide benefits from industrial and light-industrial activities in West Berkeley, while offering a safe, contemporary industrial approach to economic diversity that is responsive to market demands and trends.



The former Pacific Steel Casting workers will have their pensions paid as a result of the sale of the property to Spur Capital.

Pension Funding: Following the bankruptcy of Pacific Steel Casting in 2014, the company was

purchased by a private equity firm. That firm created a new legal entity that was obligated to assume about $24 million in pension liabilities and health care benefits. The new entity intended to keep the business operating, but a series of business decisions and macroeconomic forces led to layoffs and the businesses closure in 2018. Ultimately, the new entity has not fulfilled the pension payments. Conveyance of the land, currently held in bankruptcy court, will fund the unpaid pensions of the former workers of Pacific Steel Casting. This commitment of resources for the benefit of the former workers will make good on the promises made to the workers who have been denied their earned pensions.

Environmental Clean-up of Hazardous Materials: As noted above, the project will spend millions of dollars to address impacted soils and soil vapor, and abate hazardous materials in the existing structures prior to site demolition and grading.

Environmental Health: Site remediation and the cessation of high intensity combustion activities associated with the site former use will reduce, control and minimize risks posed by historical releases to soil and substantially eliminate environmental area wide risk posed by chemicals released to the air. It will also substantially reduce the site's carbon footprint. The introduction high quality stormwater management techniques will greatly reduce run-off and improve water quality and groundwater recharge, as discussed below.

Water Quality, Flooding Resilience & Stormwater Management: The 10.2-acre property is composed of nearly 100% impervious surfaces and does not currently have any stormwater management in place. As a result, when it rains, stormwater runs off buildings and is exposed to potentially toxic hazardous materials before entering the Bay. Pre-development remedial activities and subsequent development will replace asphalt, concrete and contaminated soils with state-of-the art buildings, public open space landscaped with clean soil, and stormwater management treatments designed to capture and treat stormwater on-site. This will both avoid continuation of negative impacts and improve water quality in the Bay.

Pedestrian & Bicycle Connections: The proposed project is timely to coordinate with the under-construction Gilman interchange project. With the addition of new sidewalk and bicycle facilities, the project will support community pedestrian and bike travel across the new flyover and provide access to the San Francisco Bay, and highly significant amenities such as the Bay Trail and Tom Bates Fields.



The project will support and integrate with the planned pedestrian and bikeway improvements on Gilman by providing new sidewalks, landscaping, street trees, and a new destination in West Berkeley.

Project Feasibility: Costs associated with the purchase, clean-up and redevelopment of the property do not support pure manufacturing, wholesale or warehouse function. Regardless of the zoning use allowance, the existing buildings are not functional or usable by future potential users. The proposed rezoning and subsequent re-entitlement of the property will unlock the site's potential in a manner that serves the community, improves environmental health and quality, maintains the vision, and compliance with, the general plan, and responds to market conditions.

Property Tax and Community Value: The sale of the property and construction of the project will result in significant increases in property tax, new community investment, other business tax revenue generation for the City, including sales tax due to food and beverage spending on Gilman Street and elsewhere in Berkeley. The project has opportunity to contribute to the nascent Gilman District Business Improvement District (BID), which may provide beautification and security improvements to support local businesses, shopping, and community gathering.



The secondary sales tax benefits of West Berkeley employees have proven to be one of the City's largest revenue sources. We expect workers at this future campus to support Gilman District businesses during the workday and after hours.

Support for Manufacturing/Growth of Other Local Businesses: R&D is a necessary part of the manufacturing process that West Berkeley is trying to preserve, as called out in the West Berkeley Plan. Indeed, the project requires no modification of the general plan. Life sciences and other research and development industries take full advantage of the innovation ecosystem and ideas that are coming out of UC Berkeley and other entrepreneurial sources, such as Skydeck and UC Berkeley's Bakar Labs. Already, Berkeley is home to over 3,000 jobs in "R&D intensive industries," according to the City's Office of Economic Development, with 80% of these jobs located in West Berkeley. The city is home to over 400 businesses in software, clean tech, biotech, R&D, and related industries. Nearly 87% of these innovation companies are relatively early stage and take advantage of the city's coworking spaces, accelerators, and incubators. However, these businesses often leave Berkeley once they grow and require more space. This project can take advantage of local talent and set up shop here in Berkeley, so that jobs, businesses, and revenues do not have to be exported to South San Francisco or other hubs for life science and R&D uses.

Education Opportunities & Diverse Labor Force: This new employment destination is anticipated to have a range of job needs. This includes an estimate of over 2,700 life science related jobs being created, with an additional ~15% supporting and servicing employment and several hundreds of construction jobs during the development phase that do not require college degrees. This campus can support college degree job creation that benefit Berkeley residents who are currently commuting to other places for these same jobs. This can have the effect of improving Berkeley's job/housing balance, by better matching Berkeley residents to local jobs. Moreover, the project can offer a pipeline for students engaged in STEAM curriculum (science, technology, engineering, the arts, and mathematics)—whether at Berkeley Unified School District, City College, or UC, for education, training, and job placement.

Conclusion

The project team looks forward to working with the City of Berkeley, decision-makers, and community members on this exciting project at the Gilman Gateway.

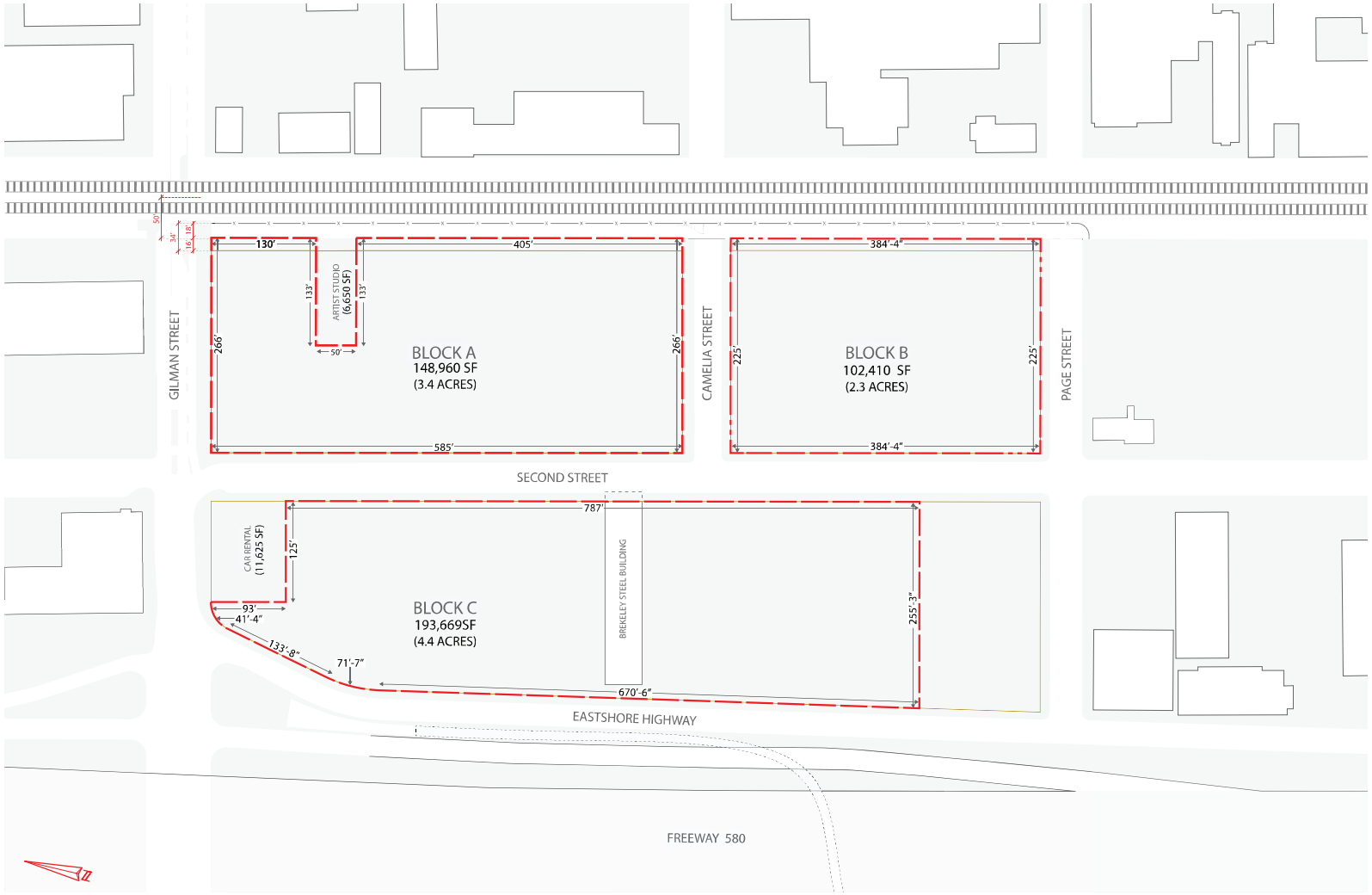


SPUR Gilman Gateway

December 14th, 2022

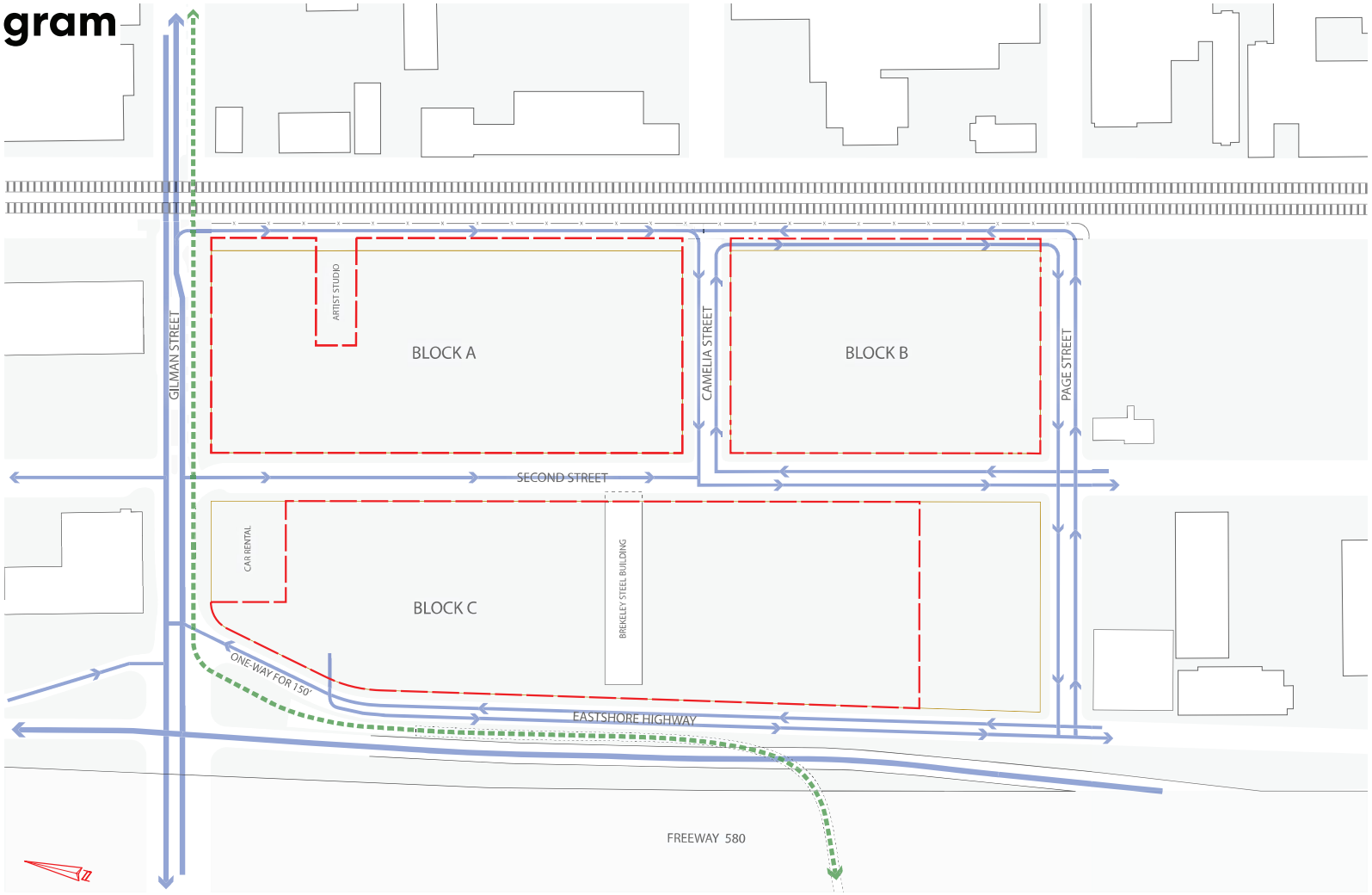
Perkins&Will

Site Diagram



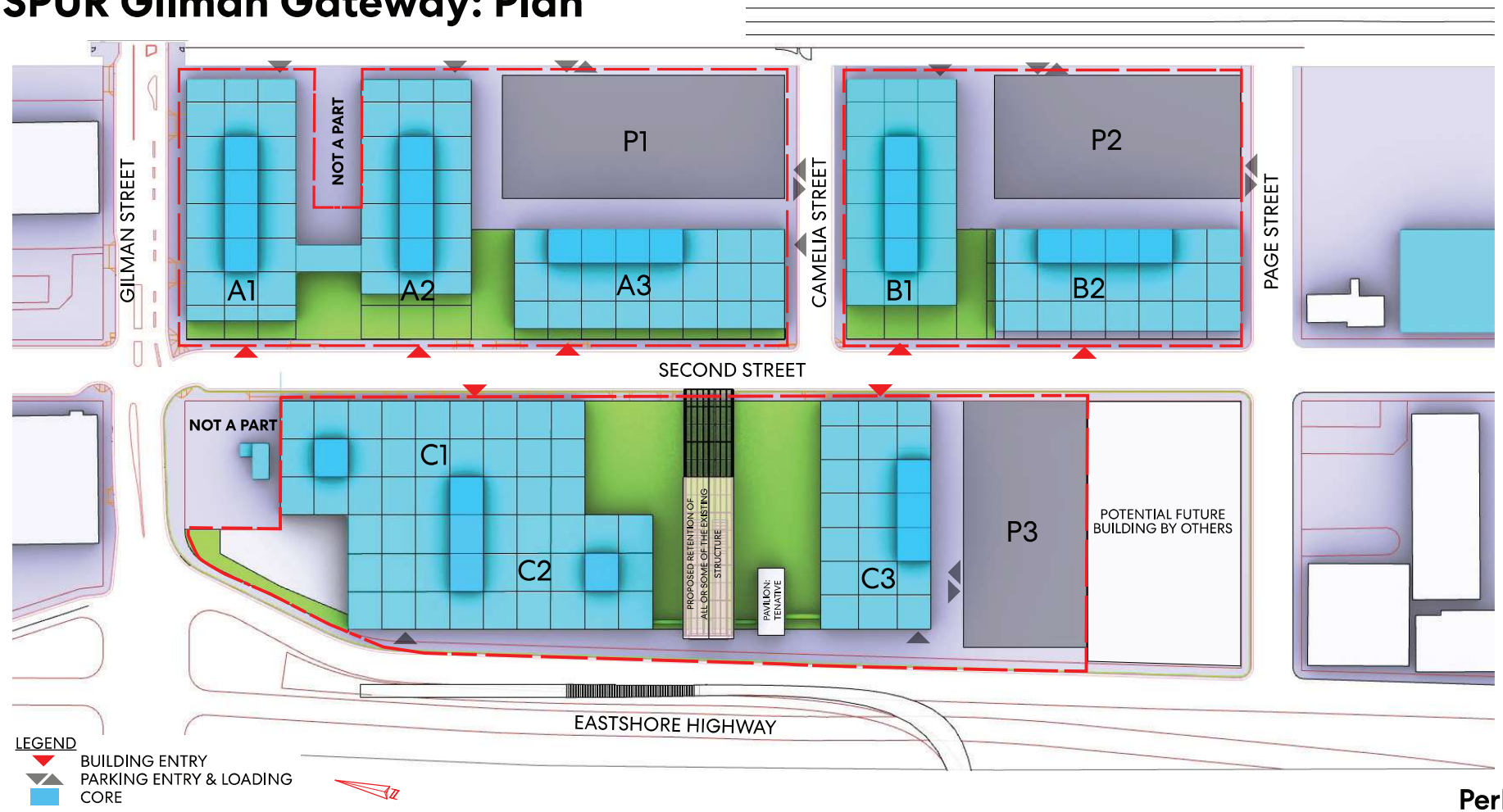
LEGEND
- PROPERTY LINE
- SETBACK LINE
- FENCE LINE

Circulation Diagram



LEGEND
- PROPERTY LINE
- SETBACK LINE
- FENCE LINE
- DIRECTION OF TRAVEL
- BIKE LANE

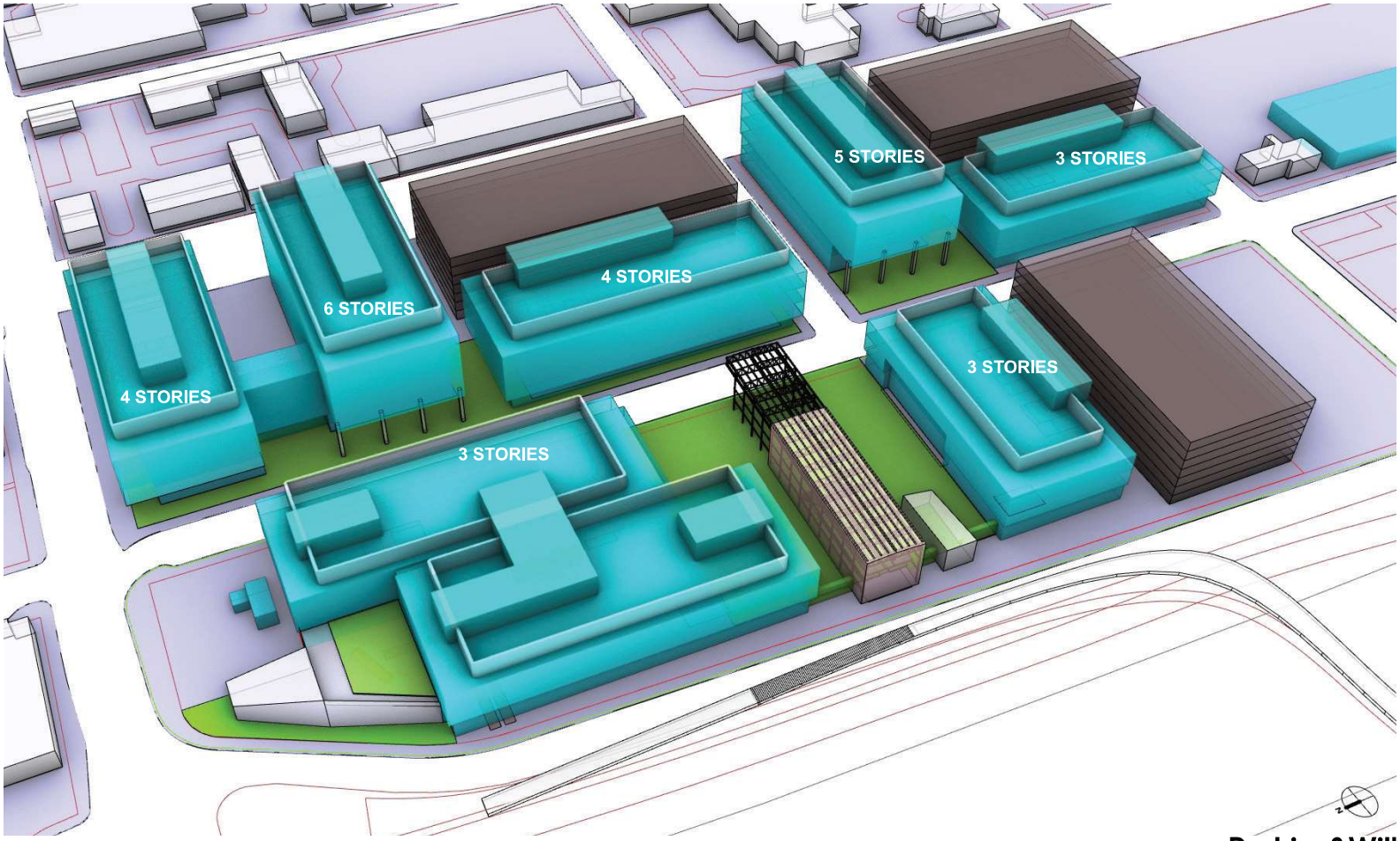
SPUR Gilman Gateway: Plan



Perkins&Will

4

SPUR Gilman Gateway: Axonometric



Perkins&Will

5

SPUR Gilman Gateway: Program Breakdown

BUILDING MATRIX

SPUR Gilman Gateway

TOTAL SITE SF 445,039 SF

BLOCK	BUILDING	HEIGHT(ft)	TOTAL # OF FLOORS	F2F HEIGHT(ft)	PROGRAM	FLOOR PLATE (sq ft)	TOTAL GFA (sq ft)	PARKING SPACES
A	A1	72	4	16' - 20'	R&D/OFFICE	25,175	113,255	
	A2	104	6	16' - 20'	R&D/OFFICE	24,195	163,830	
	A3	72	4	16' - 20'	R&D/OFFICE	26,500	114,670	
	P1	72	7	10'-12'	PARKING	35,000	245,000	662
BLOCK	**BUILDING**	**HEIGHT(ft)**		**F2F HEIGHT(ft)**	**PROGRAM**	**FLOOR PLATE (sq ft)**	**TOTAL GFA (sq ft)**	**PARKING SPACES**
B	B1	88	5	16' - 20'	R&D/OFFICE	21,615	122,055	
	B2	56	3	16' - 20'	R&D/OFFICE	23,660	76,520	
	P2	72	7	10'-12'	PARKING	31,615	221,305	594
BLOCK	**BUILDING**	**HEIGHT(ft)**		**F2F HEIGHT(ft)**	**PROGRAM**	**FLOOR PLATE (sq ft)**	**TOTAL GFA (sq ft)**	**PARKING SPACES**
C	C1 & C2	56	3	16' - 20'	R&D/OFFICE	75,000	213,200	
	C3	56	3	16' - 20'	R&D/OFFICE	24,640	73,920	
	SHED	48	1	48	AMENITY	10,500	10,500	
	PAVILION	25	1	25	AMENITY	2,128	2,128	
	P2	72	7	10'-12'	PARKING	31,615	221,305	594

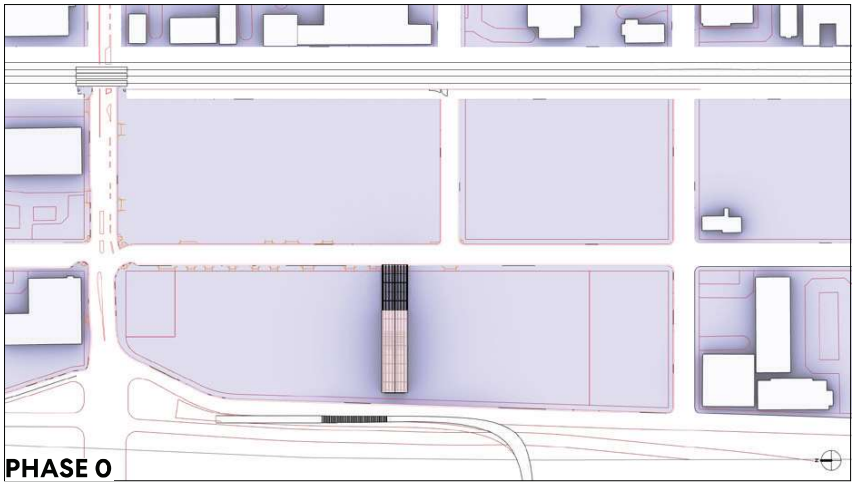
PROPOSED FAR 2.00 890,078 SF

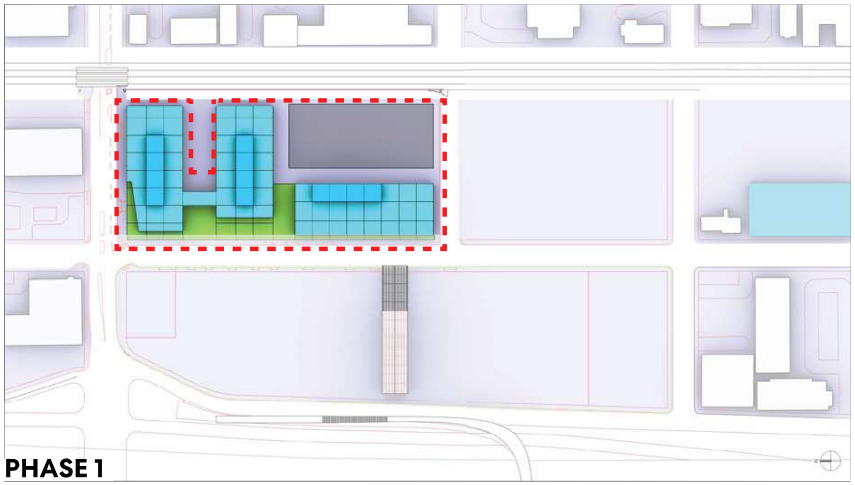
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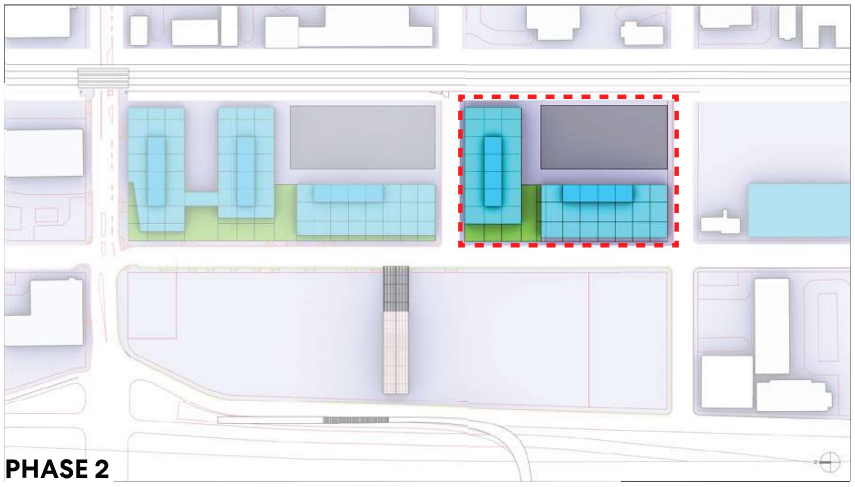
* GROUND FLOOR HEIGHTS ARE 20' ABOVE RAISED PLINTH

Perkins&Will

Phasing Diagram





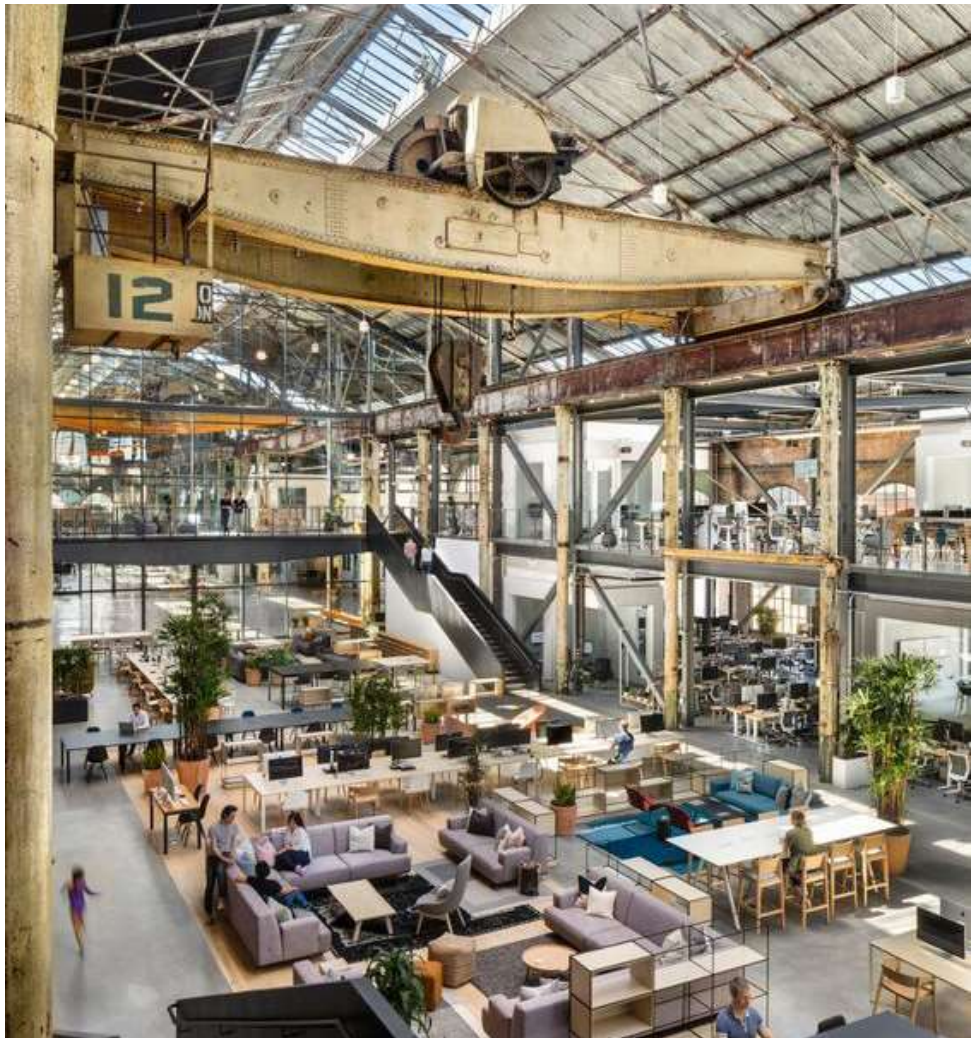




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Precedent Projects

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12




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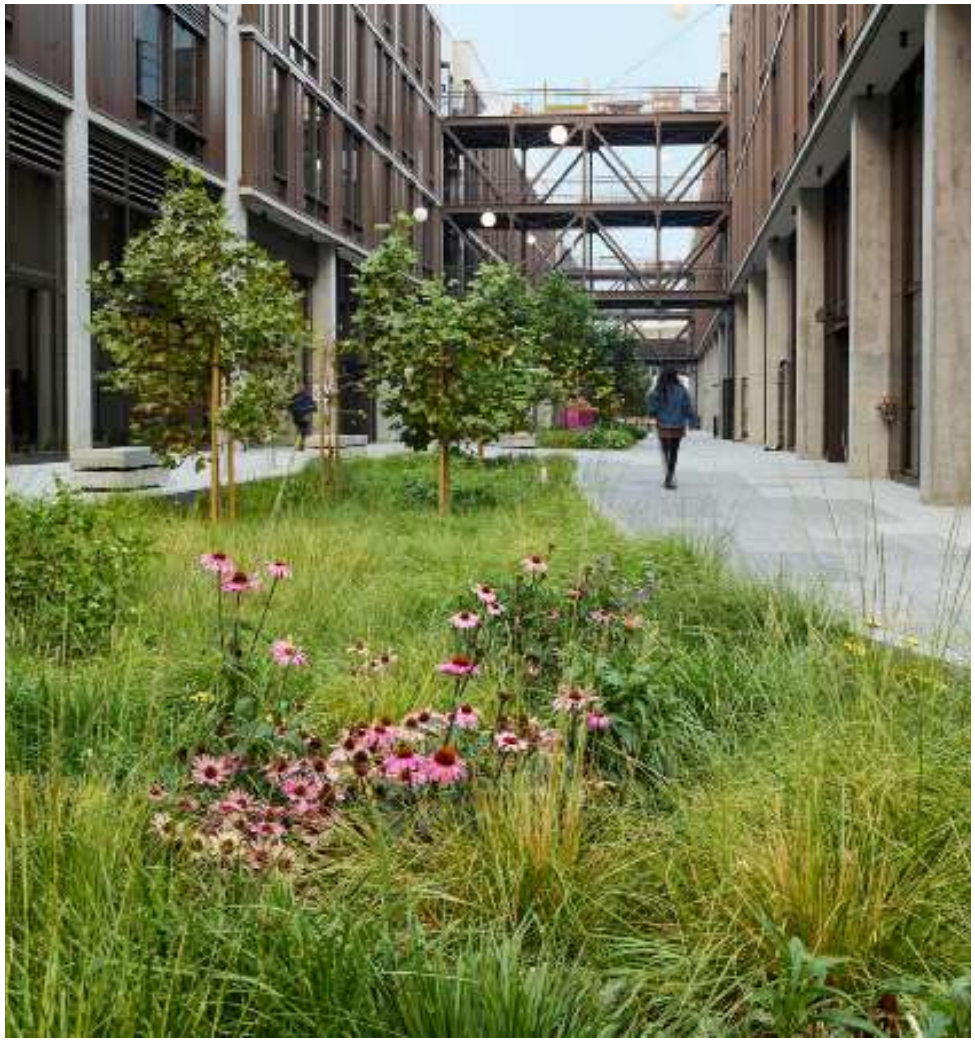
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Perkins&Will




Perkins&Will

Land Use Planning

Notice of Preparation of an Environmental Impact Report

Date:	December 21, 2022
To:	State Clearinghouse, Responsible Agencies, Trustee Agencies, Organizations, and Interested Persons
Lead Agency:	City of Berkeley
Project Title:	Gilman Gateway Rezone Project
Project Location:	The project site is comprised of 18 parcels totaling approximately 10.64 acres located in West Berkeley. The Project site is bisected by Second Street and bordered by Gilman Street to the north, Union Pacific Railroad (UPRR) and Amtrak heavy rail corridor to the east, Page Street to the south, and Eastshore Highway (Interstate 80 [I-80]) to the west.
Project Applicant:	City of Berkeley and SPUR Capital

Purpose of Notice

The City of Berkeley (City), as the lead agency, is preparing an Environmental Impact Report (EIR) for the proposed Gilman Gateway Rezone project, located at the properties listed in Table 1 below. The project will rezone the site to a new zoning district and General Plan to allow a range of light industrial, research and development, and similar/related uses, and amend the development standards related to building height and other matters. In accordance with the provisions of the State of California Environmental Quality Act (CEQA) Guidelines, California Code of Regulations (CCR) Section 15082(a). this Notice of Preparation (NOP) provides response and trustee agencies, nearby property owners, and other interested parties with a description of the proposed project and information on its potential environmental effects. The City also invites input and/or comments from public agencies and the general public as to the scope and content of the environmental information that will be studied in connection with the project.

Project Description and Location

As shown on Figure 1 below, the project site is located in West Berkeley. As shown in Table 1 and on Figure 2 below, the project site is comprised of 18 parcels totaling approximately 10.64 acres, bisected by Second Street and bordered by Gilman Street to the north, Union Pacific Railroad (UPRR) and Amtrak heavy rail corridor to the east, Page Street to the south, and Eastshore Highway (Interstate 80 [I-80]) to the west. Of these 18 parcels, 13 are associated with the former Pacific Steel Casting site and total approximately 8.16 acres. This site is developed with a number of buildings that have exceeded their economic life and are expected to be demolished and the site redeveloped by private parties. The remaining parcels include two which are associated with the former Berkeley Forge and Tool, which total approximately 1.18 acres, and three unassociated parcels totaling approximately 1.3 acres, currently occupied by a vehicle rental business, live/work building, and recycled materials processing business.

Table 1: Project Site				
Existing Uses	**Address**	**APN**	**Lot Size (sf)**	**Building Size (sf)**
Pacific Steel Casting	1305 Eastshore Highway	59-2344-1-2	8,666	n/a
	1401 Eastshore Highway	59-2341-4	41,286	26,217
	1421 Second Street	59-2340-8-2	102,366	73,640
	1420 Second Street	59-2341-5	25,452	19,942
	1320 Second Street	59-2344-4-1	55,003	44,343
	1314 Second Street	59-2344-3-1	14,000	12,504
	1333 Second Street	59-2345-9	36,575	14,840
	1337 Second Street 1332 Third Street	59-2345-8-1	14,630	2,432
	1310 Third Street	59-2345-2-2	17,985	26,550
	631 Camelia Street 625 Camelia Street	59-2345-7	8,100	5,200
	635 Camelia Street	59-2345-6-1	13,000	9,024
	643 Camelia Street	59-2345-4	5,500	n/a
	1311 Second Street 630 Gilman Street 640 Gilman Street	59-2345-1	13,000	13,000
Berkeley Forge and Tool	1331 Eastshore Highway	59-2344-7	39,192	31,092
	1330 Second Street	59-2344-5-1	12,115	10,000
Live/Work	1306 Third Street	58-2345-2-1	6,204	6,204
Vehicle Rental	600 Gilman Street	59-2344-2-1	11,625	1,008
Recycled Materials Processing	1433 Eastshore Highway	59-2341-3-2	38,850	1,944
Total Area (sf)			**463,549**	**297,940**

Existing Land Uses

The project site is currently designated Manufacturing by the City of Berkeley General Plan adopted in 2002 and zoned Manufacturing (M) per the Zoning Ordinance and West Berkeley Plan. The project site is currently developed with approximately 16 buildings totaling 297,940 square feet that have been in

use for industrial, commercial and live/work uses. There are paved roadways that extend throughout the site and the Union Pacific Railroad right-of-way is adjacent to and runs north-south along the eastern boundary of site.

The following parcels within the project area are included on the lists of sites enumerated under Government Code Section 65962.5:

- 600 Gilman Street (Budget Rent a Car)
- 1333 Second Street (Pacific Steel Plant #2)

Surrounding Land Uses

The project site is surrounded by a mix of manufacturing, warehouse, office, and commercial uses. Residential uses are located to the northeast and southeast.

Proposed Project

The project would create a new zoning district - Manufacturing, Research and Development (M-RD) – in order to facilitate future development. The M-RD zoning district would permit a variety of uses, including office, industrial and heavy commercial, laboratory, light manufacturing, and research and development (R&D), which would primarily be subject to the permit thresholds of the Mixed-Use Light Industrial (MU-LI) district. The EIR will evaluate the impact of the rezone and associated general plan amendments, as well as demolition of the existing buildings totaling approximately 298,000 square feet, except for the existing 10,000 square-foot building at 1330 Second Street, which would be adaptively reused, construction of up to 1,000,000 square feet of nonresidential space and 2,000 off-street automobile parking spaces, at a maximum building height of 105 feet.

While the proposed project does not involve any specific development project, it will evaluate the buildout of a potential future development on an approximately 8.16-acre portion of the project area to the extent that such development is foreseeable at the time of preparation of this EIR. The buildout of the potential future project is assumed to be consistent with the development standards of the proposed M-RD zoning district, and would consist of up to 900,000 square feet of R&D, office, laboratory, and light manufacturing uses and 1,900 automobile parking spaces.

Environmental Impact Report

The EIR will include a discussion of all topic areas required by the CEQA Guidelines, with a particular focus on the following specific environmental categories most relevant to the proposed project:

- Air Quality
- Cultural Resources
- Energy
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use Planning
- Transportation
- Tribal Cultural Resources

The EIR will also identify and compare a reasonable range of alternatives to the project. Alternatives will be chosen based on their ability to avoid or reduce identified significant environmental impacts of the project while achieving most of the project objectives (CEQA Guidelines Section 15126.6), and all other sections required by CEQA.

Public Review and Comment Period

The City requests written comments that focus on the scope and content of the environmental information

of the EIR for the Gilman Gateway Rezone project. All comments on environmental issues received during the public comment period will be considered when preparing the EIR.

This NOP will be circulated for a 60-day review period, which will extend from December 21, 2022 to February 27, 2023. Responses to this NOP must be received by 5:00 p.m. on February 27, 2023. Please send your written or electronic responses, with appropriate contact information, to the following:

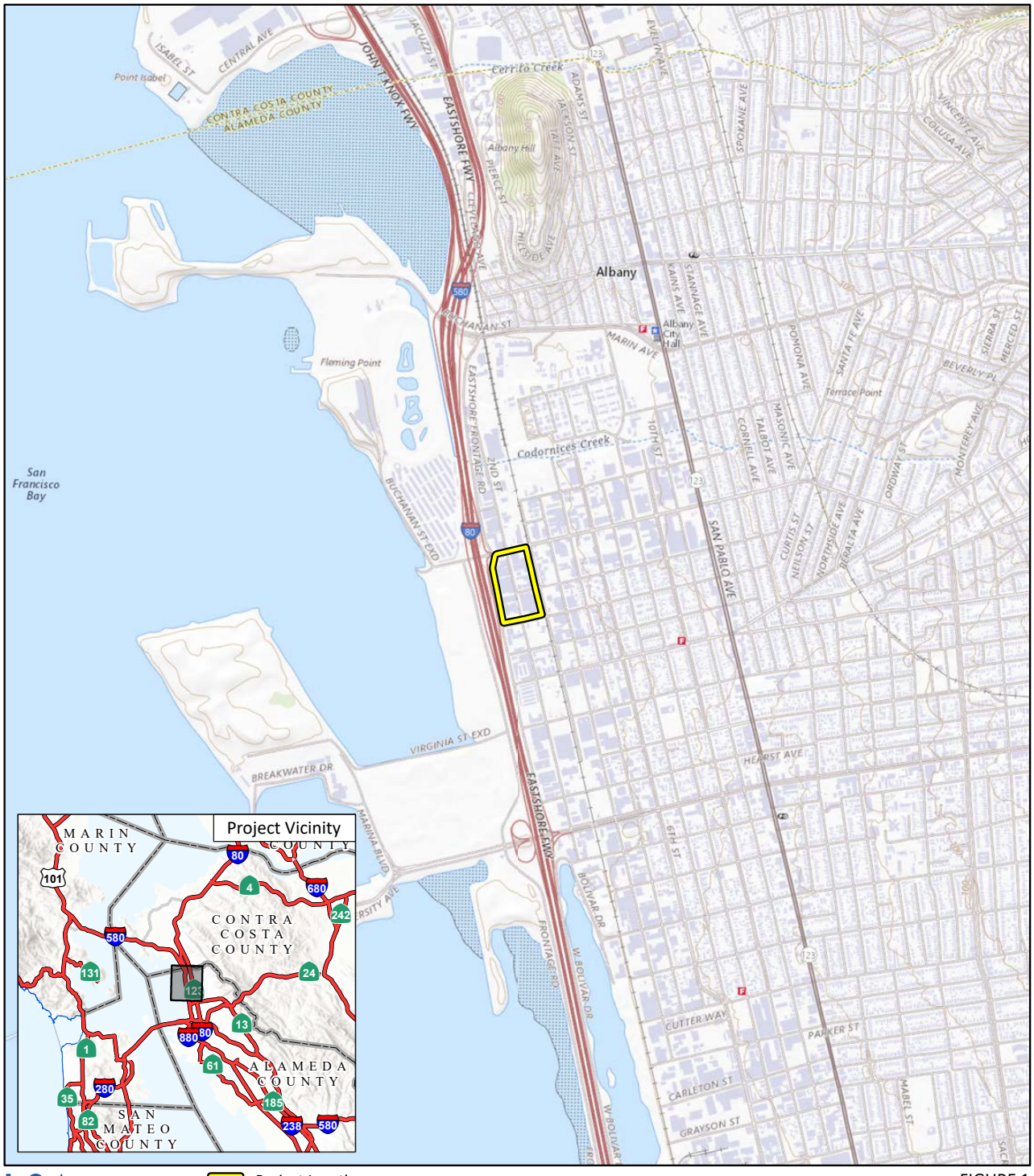
Ashley James
City of Berkeley
Land Use and Planning Division
1947 Center Street, 2nd Floor
Berkeley, CA 94704
Email: ajames@cityofberkeley.info

For electronic responses, please include the project name in the subject line.

Public Scoping Meeting

The City will hold two public meetings to inform interested parties about the project, and to provide agencies and the public with an opportunity to provide comments on the scope and content of the EIR. The meetings will be held via video and teleconference on the following dates:

- Planning Commission: Wednesday, February 1st at 7:00pm. The meeting agenda with corresponding meeting link will be posted by 5:00 p.m. on January 27 on the Commission website: Planning Commission | City of Berkeley (berkeleyca.gov)
- Landmarks Preservation Commission: Thursday, February 2nd at 7:00pm. The meeting agenda with corresponding meeting link will be posted by 5:00 p.m. on January 27 on the Commission website: Landmarks Preservation Commission | City of Berkeley (berkeleyca.gov)



LSA

FIGURE 1

SOURCE: USGS The National Map (2017)

J:\20220844\Pro\SPUR Gilman Gateway Project.aprx (12/16/2022)

Gilman Gateway Rezone Project NOP

Regional Location and Project Vicinity



FIGURE 2

LSA

Project Site Boundary
Berkeley Forge and Tool
Pacific Steel Casting
Other Parcels

0 100 200
FEET

SOURCES: Google Earth, 8/6/2020; LSA, 2022

I:\22020844\G\Aerial Photo of Project Site.ai (12/16/2022)

Gilman Gateway Rezone Project NOP
Aerial Photograph of the Project Site

The Innovation Ecosystem in West Berkeley

An Economic Snapshot

Office of Economic Development
CITY OF BERKELEY | OEDMAILBOX@CITYOFBERKELEY.INFO

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The Innovation Ecosystem in West Berkeley: An Economic Snapshot

Executive Summary

Berkeley's economy, while deeply impacted by the COVID-19 pandemic, continues to rebound, in large part because the city supports a diverse economy. The City of Berkeley's location next to the University of California – Berkeley (UC Berkeley), a preeminent public research university, and federally-funded national laboratory (Lawrence Berkeley National Laboratory) position it as a natural home for research and development (R&D) industries, including life science and climate technologies, sectors whose tremendous growth in recent years is expected to continue in the years ahead.

The purpose of this report is to provide context into the current and projected economic conditions in West Berkeley, which will inform the City's approach to addressing the 2021 Council referral to the Planning Commission to establish a zoning overlay at the Pacific Steel Casting property. Per the Council referral, "the site, which is in close proximity to the highly-anticipated reconstruction of the Gilman Interchange, has generated some interest from real estate and business representatives for numerous mixed-use light industrial uses, such as biotechnology labs, warehouse and commercial uses, or office space, among other possibilities". However, the current Manufacturing (M) zoning designation limits the potential uses of the site to heavy manufacturing only. The City's proposed approach to this referral is to create a new zoning district ("M-RD") at the approximately 10-acre project site to enable such uses, thereby allowing R&D companies to build their teams and refine their technologies in Berkeley, bringing with them local jobs, investments, and associated improvements to neighborhood vitality. Furthermore, consistent with the Council referral, the proposed change in zoning regulations at this site would enable the current prospective buyer to clean up a contaminated property, pay off the pensions of Pacific Steel Casting's former employees, and turn a currently underutilized and unsightly property into a productive hub of economic activity in West Berkeley. Ultimately, the proposed change would support the City's innovation ecosystem, improve economic vitality in nearby West Berkeley commercial corridors, and improve the environment, thus contributing to a better quality of life for local community members.

The Berkeley Economy

In the past five years (2017-2022), Berkeley has experienced economic growth and pandemic impacts comparable with that of the greater Bay Area region. By a variety of indicators, the acute phase of the pandemic has receded and Berkeley's economy is on track for continued healthy performance. With a labor force of 62,400, Berkeley's 2.7% unemployment rate is very low; in fact, it is 0.2% lower than that of Alameda County (2.9%). For context, the "full employment" rate is generally considered to be between 94% and 96%, meaning an unemployment rate from 4-6% is "low"; a rate below 4% is very low.[1]

While traditionally strong Berkeley economic sectors like performing arts, hospitality, and retail experienced job losses during the pandemic and still earn revenues below pre-pandemic levels, others, including healthcare, biotechnology and other R&D industries, continue to see new investment, employment gains, and opportunities for growth. While remaining lower than in neighboring cities, office vacancy rates in Berkeley have increased; currently the average citywide ground floor commercial vacancy rate averages 8.4%, just above the level associated with normal market churn[2].

Other indicators show recovery from the COVID-19 pandemic as well; for example, the City of Berkeley's Q3 2022 sales tax increased by 5.1% from the same quarter in 2021 and was up 11.8% since the beginning of 2022. And, lastly, housing costs in Berkeley remain high for both buyers and renters, consistent with the Bay Area region overall. Berkeley's median home sale price of ($1.32M) observed in November 2022 was higher than most other incorporated East Bay communities in Alameda and Contra Costa counties, save for Piedmont ($2.78M) and Alameda ($1.35M).[3]

Berkeley's Innovation Ecosystem

The West Berkeley Industry section of the City's General Plan includes the recommended action to "publicize the economic, social, and environmental benefits of industry, emphasizing the health of Berkeley manufacturing, the 'high-tech' dimensions of industry in Berkeley and the United States, manufacturing's comparatively high 'multiplier' effect on the economy, and the community value of well-paying, high-benefit, low-bar-of-entry industrial employment".[4] This section describes how the "'high-tech' dimensions of industry in Berkeley", which the City of Berkeley's Office of Economic Development (OED) often refers to as Berkeley's "innovation sector", bring jobs, wealth, and other economic, social, and environmental benefits to our community, with a special focus West Berkeley.

In 2022, the City of Berkeley was home to more than 400 innovation sector businesses in software, life sciences, clean technology, food tech, and other science, technology, engineering and math (STEM)

[1] Per the Bureau of Labor Statistics (BLS), 'full employment' is defined as an economy in which the unemployment rate equals the nonaccelerating inflation rate of unemployment, no cyclical unemployment exists, and GDP (Gross Domestic Product) is at its potential.
[2] For commercial districts or areas, ground floor vacancy rates between 4%-8% are typical and considered normal.
[3] City of Berkeley, Office of Economic Development, *Economic Dashboard*, March 2022, page 14, online: https://berkeleyca.gov/doing-business/economic-development/economic-dashboards-and-reports.
[4] *City of Berkeley General Plan*, West Berkeley Industry Section, Economic Development Policy ED-2, Section A: *Continue to implement the West Berkeley Plan, with its central emphasis on protecting and strengthening the city's manufacturing sector.* (Also see Land Use Policies LU-33 and LU-34.) Online: https://berkeleyca.gov/your-government/our-work/adopted-plans/west-berkeley-plan (1993) or https://berkeleyca.gov/your-government/our-work/adopted-plans/general-plan (2002).

industries.[5] Many of these companies undertake significant research & development (R&D) in Berkeley and, as such, can also be considered part of the "R&D industry". Thus, one considering this topic must recognize that "R&D" refers not only to a *land use* defined in the City's zoning code but also to an *industry* and set of *activities* that companies undertake to create innovative, commercially-viable products and services.

Specifically, Berkeley's R&D industry is comprised of companies in the following sectors:

- Software (35%)
- Life Sciences, including biotechnology and healthcare (31%)
- Hardware (14%)
- Cleantech (12%)
- Food & Beverage (5%)[6].

More than four-fifths (83%) of Berkeley's innovation companies are relatively early stage (defined as a company uniquely focused on product development, building a customer base, and establishing a strong cash flow) and take advantage of the city's coworking spaces, accelerators, and incubators to engage in their work. The other companies that are part of the local innovation ecosystem are either:

- established, e.g. publicly traded or others operating profitably in the STEM industry (10%),
- consultants without explicit goals to scale up (4%),
- subsidiary companies who are now part of a larger parent company (2%), or
- incubators or coworking facilities, like Bonneville Labs or Cell Valley Labs, at 626 Bancroft Way and 2865 Seventh St, respectively (1%).

Of these innovation sector companies, one third are located in West Berkeley[7].

Employment

Objective 1 of the Economic Development Element of the City's General Plan reads, "Provide a variety of jobs with varied skill levels for residents of Berkeley."[8] In order to provide more information about the types of jobs in Berkeley, especially in West Berkeley, the Office of Economic Development (OED) researched economic data from a variety of sources:

- The State of California Employment Development Department (EDD) data, which uses the North American Industry Classification System (NAICS) for industry categorization and records employment data[9] by month and quarterly payroll based on state Unemployment Insurance records;
- Research assembled by trade groups representing local industries, e.g. Biocom for the life science industry; and
- Direct meetings with businesses and industry professionals, including real estate brokers and market analysts.

[5] Innovation industry data is collected throughout the year by OED and draws on a variety of sources including PitchBook, OED's business license database (maintained with information from the City's Open Data Portal), LinkedIn, Crunchbase, OED's firsthand knowledge from personal communications with local firms, and more.
[6] These numbers add up to more than 100% because companies can be classified in more than one category, e.g. a software service with a human health application, or a food product developed using biotechnology.
[7] For this analysis, West Berkeley was defined as having a business address with the zip code 94710.
[8] There are 9 stated objectives in the Economic Development Element of Berkeley's *General Plan* (adopted 2002), online: https://berkeleyca.gov/your-government/our-work/adopted-plans/general-plan.
[9] Information is drawn from Quarterly Census of Employment and Wage (QCEW) data as maintained by the EDD.

While there are minor discrepancies between classifications in these data sources and in the way that businesses classify themselves (based on criteria that don't always match land use classifications), OED defines Berkeley's "R&D-intensive industries" as those labeled with the NAICS code for "Scientific Research and Development Services"[10] *and* those with a NAICS code for a Manufacturing industry with a significant R&D component (shown in Figure 1 below as "R&D-Intensive Manufacturing").[11] These R&D-intensive industries currently provide more than 3,600 jobs in the City of Berkeley, or close to 8% of the approximately 45,000 total private sector jobs in Berkeley. Of these, 72% (more than 2,600 jobs) can be found in West Berkeley.[12] See Appendices 1 and 2 for the detailed breakdown of job types.

OED's data analysis also provides a glimpse into the job creation potential (jobs per firm or "Jobs/Firm") offered by R&D-intensive industries, using the definitions by NAICS codes explained above.

Figure 1: Jobs Creation Potential in Manufacturing + R&D Industries

	TRADITIONAL MANUFACTURING	R&D-INTENSIVE MANUFACTURING	LIFE SCIENCES**	R&D-INTENSIVE INDUSTRIES (combined)	R&D
Jobs/Firm*	11	15	16	16	17

*Jobs/firm numbers exclude Bayer as it has a significantly larger number of employees than any other company in this analysis.
**includes firms in NAICS 541713-15 (Research and Development in the Physical, Engineering, and Life Sciences) and NAICS 325411-12 - (Pharmaceutical and Medicine Manufacturing)

Source: State of California Employment Development Department (EDD) data, Q1 2022

As compared to the job creation rate of 11 jobs per firm in Berkeley for "traditional manufacturers"[13] in Q1 2022, the rate for R&D-Intensive industries overall was 16 jobs per firm, with even more – an average of 17 jobs per firm – in NAICS-defined "Scientific Research and Development Services" industries (labeled as "R&D" in Figure 1).[14] In fact, more than three fifths (62%) of overall manufacturing jobs in West Berkeley (represented by 1,638 jobs in Q1 2022) are from *R&D-intensive* manufacturing sectors and the vast majority (85%) of R&D-intensive manufacturing citywide happens in West Berkeley. Not including pharmaceutical manufacturer Bayer, Berkeley's largest private sector employer, "Life Sciences" jobs comprise 50% of the total.[15]

[10] NAICS codes for Scientific Research and Development Services start with the 4-digits 5417.
[11] "R&D-Intensive Manufacturing" industries with a significant R&D component were determined to be: NAICS 325 (chemicals), NAICS 326 (plastics and rubber products), NAICS 327 (nonmetallic mineral products), NAICS 333 (machinery), NAICS 334 (Computer and Electronic Products), NAICS 335 (Electrical Equipment, Appliance, and Component), and NAICS 336 (Transportation Equipment).
[12] For this analysis, "West Berkeley" businesses were defined as those with the zip code 94710.
[13] For the purpose of this analysis, "traditional manufacturers" are the subset of firms classified under NAICS manufacturing codes starting the 2-digits 31-33 that didn't fall in the R&D-Intensive industries definition described above. More than half (56%) of traditional manufacturers in Berkeley are comprised of Food & Beverage manufacturers.
[14] Jobs/firm numbers exclude Bayer as the company's 1000+ employees skew the analysis.
[15] "Life Sciences" is defined using the following NAICS: 325411-Medicinal and Botanical Manufacturing, 325412-Pharmaceutical Preparation Manufacturing, and the 541713-15 codes that fall under 54171 - Research and

Thus, OED's analysis shows that the R&D activity that takes place in West Berkeley has tremendous potential to create jobs, and elicit powerful multiplier impacts which is consistent with the trends being reported by life science industry analysts and real estate brokerage firms:

- "Life sciences now a leading source of US employment growth" and "Biotechnology R&D jobs are growing at their fastest pace on record" (*CBRE Research, Q4 2021*)
- "year-over-year growth in the Biotech R&D sector remained high at 11%" (*CBRE Research, Q3 2022*)
- In Alameda County, every 1 direct job in the life science industry creates 3.18 jobs overall. (*Biocom California Life Science Economic Impact Report 2022*)

Wages

OED's data analysis showed that the average wages found in R&D-intensive industries are higher than in many other industries. Berkeley's R&D intensive industries overall contributed more than 14% of *all* private sector payroll in Berkeley in the first quarter of 2022.[16] Further, almost 30% of the overall West Berkeley quarterly payroll (Q1 2022) came from R&D-intensive industries.

In the first quarter of 2022, average quarterly payroll per employee translated into nearly $139,000 average annual wages in R&D-intensive industries and more than $140,000 annually specifically for companies labeled as "Scientific Research and Development Services" (NAICS 5417). For context, these annual salaries are more than 2.2 times the $62,000 average annual wages reported for traditional manufacturing industries. Overall, in the Bay Area, life science jobs in 2022 paid an average of $148,167 and $142,316 in Alameda County.[17] Figure 2 below shows a 2020 snapshot of countywide wages in the biotechnology industry by sub-sector.

Figure 2: Alameda County biotech industry annual wages by sub-sector, 2020

Subsector Average Wage (Wages by Sector & County)

	BIORENEWABLES	BIOPHARMACEUTICAL MANUFACTURING	MEDICAL DEVICES & DIAGNOSTIC EQUIP	LIFE SCIENCE WHOLESALE	RESEARCH & LAB SERVICES	ALL LIFE SCIENCES
Alameda	$94,936	$178,266	$168,290	$98,985	$106,139	$127,173

Source: Biocom 2020 California Economic Impact Report – East Bay

Worker Demographics

Then there is the question of *who* fills these jobs[18]. Though it is challenging to obtain demographic information about *all* Berkeley R&D firms' employees, we can use the demographic makeup of the Bay Area life sciences industry as a proxy, since the life science industry comprises more than a third of Berkeley's total innovation sector. From Biocom California's *2021 California Economic Impact Report*, which includes life science wages by occupational title statewide, we see that the industry provides "various career paths to advance upward" including positions not only for chemists, biologists, and

Development in the Physical, Engineering, and Life Sciences Biotechnology. If firms fit in these codes but were clearly not Life Sciences, their job totals were eliminated from the analysis.

[16] See Appendix 1: Berkeley Jobs & Wage Analysis.

[17] Biocom California *Life Science Economic Impact Report 2022 - Bay Area*, online: https://www.biocom.org/news/eir/economic-impact-report-fact-sheets/.

[18] City of Berkeley, *General Plan,* Economic Development Element, Goal 5: "*Promote revitalization in neighborhoods and communities that have historically higher-than-average rates of unemployment*."

other scientists with advanced degrees, but also for many types of technicians who have an associate's or community college degree.[19] Meanwhile, Biocom's 2022 *Bay Area Economic Impact Report* shows that 9.8% of workers in the life science industry in Alameda County have no high school education, 16.1% only have a high school degree, and 22.9% either have attended some college without obtaining a degree or have an associate's degree, meaning almost half of Life Science employees countywide don't have a bachelor's degree or higher – see Figure 3 below for the full breakdown. In fact, at Bayer (800 Dwight Way), which is one of Berkeley's largest private sector employers, the firm does both drug development & manufacturing in Berkeley, and only about one-fifth of their employees have an advanced degree.[20]

Figure 3: Educational Attainment in CA & Alameda County Life Sciences Industry, 2022

Region	No High School	High School Graduate	Some College No Degree	Associate Degree	Bachelor's Degree	Postgraduate Degree
California	15.2%	20.4%	21.0%	8.0%	22.6%	12.9%
Alameda County	9.8%	16.1%	16.5%	6.4%	30.0%	21.2%

Source: Biocom California, 2022- Bay Area Life Science Economic Impact Report

In terms of racial composition, Bayer also provides a point for comparison. The company reported in 2021 that they employed a workforce that was "less than one third 'white'." Meanwhile, as of November 2021, 56% of employees at Caribou Biosciences (2929 Seventh St) identified as female and 46% as non-white. These statistics, while not comprehensive, show the industry has the potential to achieve the West Berkeley Plan's purpose to "maintain the ethnic and economic diversity of West Berkeley's resident population."[21]

Wealth Creation

Several elements in Berkeley's local economy have tremendous wealth creation potential. UC Berkeley, the state's first land-grant university and the founding campus of the University of California system, ranks globally as the number-one public university in the world overall for undergraduate programs that produce entrepreneurs who go on to obtain venture funding (and is the second-best overall among both public and private universities), according to PitchBook's 2022 university rankings.[22]

In 2022 alone, 100 Berkeley innovation-focused companies raised nearly $2.1 billion in capital (from venture investment, convertible securities, government and philanthropic R&D grants, and debt financing). Of this, almost $5.9 million came from government-funded grants for R&D in 2022.

Current economic reports demonstrate robust fundraising opportunities in this sector, with a Q4 2022 report by real estate brokerage firm, JLL, reporting:

> "The Bay Area captured 32.4% of national life sciences VC funding during 2022, upholding its status as the leading region in private life sciences funding."[23]

[19] Biocom California's *2021 California Economic Impact Report,* page 11.
[20] Data provided to City of Berkeley staff by staff at the Bayer Campus, 2021.
[21] City of Berkeley, *West Berkeley Plan*, Purpose 2, 1993.
[22] PitchBook University Rankings, Oct. 31, 2022 https://pitchbook.com/news/articles/pitchbook-university-rankings
[23] JLL, *Life Sciences Industry Insight*, Bay Area Q4 2022.

Meanwhile, brokerage CBRE reported in Q3 2022 that the National Institutes of Health (NIH) had granted more than $2.1 billion in funding to San Francisco Bay Area institutions in 2022, with UC Berkeley alone accounting for $144,272,440 (7%).[24] Overall, according to Biocom California, 40% of NIH funding in California comes to the Bay Area.[25] Correspondingly, companies of all stages of growth in this industry are motivated to locate in Berkeley, as it is situated precisely at the confluence of these lucrative streams.

Social & Environmental Impact

In addition to providing jobs and fueling economic development locally, innovation companies develop solutions to some of the world's greatest social and environmental challenges, such as those related to human health and the fight against climate change.[26] In fact, Berkeley is the only city in the Bay Area with a federally-funded national lab and a top-tier research university that has employed 70 faculty and staff who have been awarded 71 Nobel Prizes.[27]

The following examples of local companies show the breadth of health and environmental innovation happening in Berkeley today*:*

- **Caribou Biosciences, Inc.**, co-founded by Dr. Rachel Haurwitz, who worked in Nobel prize winner Dr. Jennifer Doudna's CRISPR gene editing lab on the UC Berkeley campus, has a mission to develop innovative, transformative therapies for patients with devastating diseases. The company's lead off-the-shelf cell therapy for blood cancer has demonstrated promising clinical data and a second cell therapy is entering the clinic. Headquartered in West Berkeley, the company occupies approximately 60,000 square feet and employs approximately 130 people. In 2021, Caribou raised approximately $495 million, including a successful $350 million initial public offering, to advance the company's pipeline and technologies. In addition to advancing a pipeline of cell therapies, Caribou gives back to the local community through volunteering for Bay Area clean ups and fundraising for the Women's Cancer Resource Center in Berkeley and the Alameda food bank.
- **UPSIDE Foods**, who grows meat, poultry and seafood directly from animal cells without the need to raise and slaughter billions of animals, became the first company in the world to receive a "No Questions" letter from the U.S. Food and Drug Administration (FDA) for cultivated meat, poultry, or seafood in November 2022. Part of a fast growing "alt meat" component of the Bay Area's food manufacturing industry, the company, which started in 2015 with 5 employees and 36 square feet of shared lab and office space, now leases over 70,000 sq. ft. of property in Berkeley and employs over 200 people in Berkeley.
- **Squishy Robotics** designs, tests, and builds tensegrity robots that provide situational awareness in HazMat emergencies and at bomb sites. The company, which began and operated out of the Berkeley SkyDeck startup accelerator in Downtown Berkeley, now leases a two-room office plus shared space in the Wareham Development building at 2600 Tenth Street. Squishy Robotics employs seven people and currently has six interns. The company helps protect the lives of first responders and new contracts will expand robot use cases in early wildfire detection and in the discovery and reduction of methane leaks.

[24] CBRE, *Figures U.S. Life Sciences*, Q3 2022.
[25] Biocom Bay Area*, Bay Area Life Science Economic Impact Report,* 2022.
[26] These efforts are connected to and supportive of the City of Berkeley General Plan, Economic Development Element, *Objective 4: Encourage Environmentally Sustainable Business,* adopted 2002.
[27] UC Berkeley, https://light.berkeley.edu/nobels/ (multi-years) and Nobel Prize https://www.nobelprize.org/prizes/facts/lists/affiliations.php (2022).

- **Twelve**, named for the carbon isotope that makes up the vast majority of carbon on earth, started at the Berkeley Lab's Activate program on Cyclotron Road in 2015 with a team of 3 co-founders. Today, they occupy a 20,000 sq.ft. facility in West Berkeley and employ nearly 250 people. Their technology, which splits carbon dioxide and water into syngas, provides an environmentally friendly way to produce fuels, plastics, and other materials. After raising $130M series B & other funding in 2022 and continuing to secure partnerships with big brands like Alaska Airlines, Microsoft, Virgin Voyages, and P&G, Twelve is looking for 130,000 sq.ft. where they can continue to design, test, and manufacture their carbon transformation technology for use in a range of applications, from chemicals and fuels to products.

Innovation companies – Location Decisions

One of the most critical decisions that an R&D or innovation firm can make is regarding its location. Location decisions are usually not stand-alone choices of a firm, but are part of a broader set of company decisions and are often related to their ability to access target markets, transportation networks, technology, and talent. Sound location decisions can significantly boost a company's long-term performance; poor ones can sacrifice large amounts of productivity and capital.

Berkeley Innovation Hubs

Berkeley is lucky to be the home of two strong innovation hubs - the areas surrounding the UC Berkeley campus and West Berkeley. Innovation companies often spin out of UC Berkeley and the Lawrence Berkeley National Lab (the Berkeley Lab), fueled by campus-based accelerators like Berkeley SkyDeck, Bakar Labs, and CITRIS Foundry or the Berkeley Lab's science-based entrepreneur mentorship program, Activate – Berkeley (also known as Cyclotron Road). Companies who have grown out of these institutions, or whose businesses rely on the talent, intellectual property, or equipment they provide, seek to build their enterprises in Berkeley.

Historically, the vast majority of life science and R&D activity in Berkeley has been geographically concentrated in West Berkeley, where R&D is specifically allowed in the *MM – Mixed Manufacturing* and *MU-LI – Mixed Use Light Industrial* zoning districts, or on and around the UC Berkeley campus. The majority of the city's R&D companies that require a workshop or lab, primarily in life sciences or biotechnology, and also other hardware, electronics, medical devices, clean energy and "advanced manufacturing" industries can be found in West Berkeley.

In Downtown Berkeley and the commercial districts close to campus, only software companies and companies that perform R&D in an office (rather than industrial setting or lab) are currently permitted. Key hubs in Downtown Berkeley that offer co-working or innovation space include Berkeley Sky Deck (2150 Shattuck Ave), Berkeley WeWork (2120 University Ave) and east of campus the Bakar BioEngunity Hub (2630 Bancroft), though other on-campus labs and accelerators like the CITRIS Foundry also house early-stage R&D companies.

Unfortunately, in recent years, Berkeley has lost innovation firms simply because the city did not have enough space to accommodate their uses. Between 2018 and 2021, Berkeley lost more than 70 companies to its closest neighbors (Emeryville, Alameda and Oakland)—including many innovative companies in life sciences, medical devices, plant-based foods, renewable energy (including batteries), robotics, and other food, beverage, and women's health products. [28] A local broker from commercial

[28] Firms that have left Berkeley in recent years (with the city they departed for shown in **BOLD**) include: **Emeryville:** Agenus West (life sciences), Cuberg (battery R&D), Fauna Bio (life sciences), SuitX (medical devices),

brokerage CBRE lamented in 2021, "They [commercial tenants, innovation companies] all want to be in Berkeley. But they can't find move-in ready spaces with any assurance."[29] Ari Rokeach, a real estate broker at Newmark, another commercial brokerage working in the East Bay, estimates that the Berkeley-Emeryville corridor has "lost over a half million to a million square feet" in recent years due to limited supply of these move-in ready spaces, of which roughly half went to Alameda.[30]

In addition to not being able to nurture startups to stay in Berkeley as they grow, the City has a hard time attracting companies due to the city's reputation as a place that isn't friendly to startups and that has hard-to-navigate land use policies. For example, a Bay Area real estate developer stated, "It's so complicated if you are coming in as a tenant! People look at the time required [to locate in Berkeley] and don't want to touch it; people want cookie cutter space they can move in to without risk. They find that elsewhere."[31]

Innovation Firms - Building and Space Needs

The commercial real estate demands of R&D companies depend largely on the stage of the company's growth, the type of equipment they use, the number of people they employ (or expect to employ), and whether they will have ancillary sales, marketing, manufacturing, warehousing & shipping, or other office or quality control functions on site. For example, the many early stage companies that spin out from UC Berkeley and the Berkeley Lab, or attend local accelerator programs, often seek move-in ready spaces that are larger and more private than they can get in a shared facility like Bonneville Labs or Bakar Labs, but smaller than 15,000 sq. ft. Ideally, the space should permit a combination of office and R&D uses and include high ceilings that can accommodate large scientific equipment, good power[32], ductwork for safe ventilation, highly reinforced floors, and easy-to-access loading facilities for shipping and deliveries. As R&D companies grow locally or companies relocate to Berkeley from elsewhere, they often require these same things, only with significantly more square footage (i.e. 30,000+ sq. ft.).

The one area of Berkeley that has the most land and largest parcels available to accommodate these innovation activities is West Berkeley. As mentioned, the vast majority of life science and R&D activity in Berkeley has been geographically concentrated in West Berkeley, where R&D is an allowed use in the *MM – Mixed Manufacturing* and the *MU-LI – Mixed Use Light Industrial* zoning districts. In Berkeley, as of this writing, there are approx. 63 acres of land zoned *MM*, and approximately 187 acres of land zoned *MU-LI*. For context, together these acres represent about 5.3% of all zoned land in Berkeley (4,700 total acres of land). [33]

West Berkeley - Area Overview

West Berkeley includes all the commercial corridors on San Pablo Avenue and west, including 4th Street, International Marketplace (near the intersection of San Pablo & University), the Gilman District, Wareham Development's Aquatic Park Center campus, and the new R&D facilities being developed by

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Xoma (life sciences), **Alameda**: Checkerspot (materials), Iota Biosciences (life sciences), Kyverna Therapeutics (life sciences), Scribe Therapeutics (life sciences), NAMUH (life sciences) **Oakland**: Eko Devices (medical devices), Berkeley Brewing Science (food tech), Eclipse Foods (food tech), Lioness (women's health products).

[29] CBRE, Mike Raffeto, Senior Vice President, Personal communication, 2021.

[30] Newmark, Ari Rokeach, Managing Director, Personal communication, Jan. 2023.

[31] Wareham Development, Chris Barlow, Partner, Personal communication, 2021.

[32] 400-600 amps is considered the bare minimum for power supply; Cushman & Wakefield brokers report that today's occupiers often look for 2,000 amps or more when evaluating potential sites. (Personal communication, January 2023).

[33] City of Berkeley, Open Data Portal, Land Parcels, accessed January 7, 2023, online: https://data.cityofberkeley.info/City-Government/Parcels/bhxd-e6up.

Steelwave ("theLAB"), Lane Partners ("Berkeley Commons"), and Oxford Properties Group ("Foundry 31").

The West Berkeley area includes a number of major, large-floor-plate retailers, a dense cluster of home supplies and construction businesses, non-retail commercial businesses including manufacturers and warehouses – as well as significant biotech and R&D activity. West Berkeley also has a number of vacant or under-utilized manufacturing and warehouse buildings that can provide occasions for graffiti, illegal dumping, abandoned vehicles, and trash to accumulate, particularly along the railroad tracks (3rd Street).

Historically, the greatest share of the R&D and innovation activity has taken place west of San Pablo between Bancroft and Ashby Ave, in facilities owned by Wareham Development, such as their Aquatic Park Center campus, or in Bonneville Labs' coworking lab space.

Industrial real estate – inventory, costs and trends

Inventory

According to the CoStar multiple listing service that most real estate brokers use, there is a total of more than 10.5 million sq. ft. of Rentable Building Area (RBA) across "Industrial", "Office" and "Flex" space in West Berkeley, of which "Industrial" properties comprise 50- 60%.[34]. "Flex" spaces, which enable clients to undertake "Light Distribution", "Light Manufacturing" and "R&D" activities comprise a third of the total, with the latter accounting for less than a quarter of the RBA in West Berkeley (just over 2.5 million square feet).

In reality, companies undertaking R&D in Berkeley occupy more commercial real estate than properties categorized as "Flex-R&D" by CoStar. For example, companies doing R&D in areas as broad-reaching as air quality monitoring, cultivated meat, electric vehicle battery design, and drug development are occupying spaces categorized as "Industrial-Warehouse", "Office" and other "Flex" sub-categories, like "Light Distribution".

Additionally, more R&D facilities will be available in the period ahead. In the last five years (since 2017), the City of Berkeley has permitted more than 800,000 square feet (sq. ft.); these are either under construction, entitled, or under review, and include properties such as Foundry 31, theLab Berkeley, Berkeley Commons, and 742 Grayson.[35] Of the owners of R&D facilities citywide, Wareham Development has historically been the largest player, with a portfolio of 775,000 sq. ft. in Berkeley (approximately 40% of the 2.5 million RBA of "flex" spaces available today), of which the vast majority is inhabited by R&D tenants.

Using their proprietary data collection method, real estate brokerage firm JLL reported just over 32 million sq. ft. of life science ("lab") inventory in Q4 2022 in the Bay Area overall, of which Berkeley's inventory comprised 2.7% (871,017 sq. ft.). Berkeley's nearly one million sq. ft. of life science inventory comprises approximately a tenth of the overall supply of commercial real estate in West Berkeley, not including retail spaces.

[34] See Appendix 3 for data on sq. ft. by property type in West Berkeley from CoStar, accessed January 2023. As a point of comparison, the real estate brokerage, Cushman & Wakefield, reported 6,344,936 sq. ft. of space in their *MarketBeat East Bay Oakland, Industrial* report for Q3 2022.

[35] See Appendix 5 for the City of Berkeley's *R&D Development Pipeline* as of January 10, 2023.

Of these facilities, JLL reported a 5.3% lab vacancy rate in Q4 2022 in Berkeley, which is lower than the 14.7% vacancy rate in neighboring Emeryville, 10.1% rate reported for the East Bay, and the 6.5% lab vacancy rate reported for the Bay Area overall.[36]

Meanwhile, the city's small size (and thus small overall inventory of industrial buildings) paired with its proximity to major innovation institutions, talent, and population centers also creates an imbalance between the demand for advanced manufacturing space and local supply. Real estate firm, Cushman & Wakefield, reported a 1.1% overall vacancy rate in Berkeley's industrial real estate market for Q3 2022, with several East Bay industrial brokers noting that the market for light manufacturing and warehouse space is very tight in Berkeley. The city has less building stock overall and clients often have an easier time finding affordable space for scaled production in East Bay cities such as San Leandro, Oakland, Fremont and Hayward.[37]

Prices

Costs per sq. ft. for West Berkeley commercial property vary dramatically based on whether they are based on *sale* or *rental* price and also based on the property age, quality, embedded operating systems, submarket location, and other included amenities or assets. Pricing range is also affected by total rented square footage, with smaller spaces (such as the type that are prevalent in West Berkeley) tending to drive a higher price per square foot.[38] See Figure 4 for a summary of the range of rents associated with different West Berkeley commercial property types.

Figure 4: Rent Range associated with commercial property types found in West Berkeley, January 2023

	Manufacturing	Warehousing (traditional)	Warehousing (Advanced Manufacturing / R&D)	Life Sciences/ Lab	Office	Retail
Rents per sq. ft. (monthly)	$0.78 - $1.88[39]	$0.90 - $2.00[40]	$1.49 - $2.25[41]	$2.75 - $7.44[42]	$2.50 - $3.25[43]	$3.00 - $3.25[44]

[36] See Appendix 4 for life sciences real estate statistics for Q4 2022 from brokerage firm JLL.
[37] Cushman & Wakefield, MarketBeat East Bay Oakland, Industrial Q3 2022; Communication with Ted Anderson and Andrew Schmieder, Cushman & Wakefield, Jan. 2023; Communication with Ari Rokeach, Newmark, Jan. 2023.
[38] Steve Smith, Norheim & Yost. Personal communication, January 18, 2023.
[39] According to CoStar, rent prices for "Manufacturing" properties were between $0.78 -$1.88 per sq. ft. per month in December 2022; Cushman & Wakefield reported asking rents in Q3 2022 as $1.49 per sq. ft. for "Manufacturing" space in Berkeley.
[40] According to CoStar, rent prices for "Warehousing" properties (which includes many R&D facilities) were between $0.90 -$3.41 per sq. ft. per month; Steve Smith of Norheim & Yost reports that basic warehouse spaces typically lease for less than $2 per sq. ft. In Q3 2022, Cushman & Wakefield reported *Warehouse and Distribution* space leasing for $2.83 per sq. ft. in Q3 2022.
[41] CoStar + conversations with real estate brokers from Cushman & Wakefield, Norheim & Yost, and JLL. Norheim & Yost reports that warehouse spaces with additional amenities or updates that make them suitable for R&D uses lease in the $2.75-$3.25 range; Cushman & Wakefield also provided a recent example from the Pyramid building (901 Gilman) where upgraded warehouse space is leasing for $1.75 per sq. ft. and says "ownership's willingness to improve the operating system of the building can drive rents to $2.25 NNN [triple net] for these types of facilities."
[42] CoStar + JLL Q4 2022 Life Sciences Market Insights Report & personal communication, Grant Yeatman, JLL.
[43] Norheim & Yost's estimate for leasing rates for "smaller creative office spaces in West Berkeley", January 2023; Colliers' *Oakland Office 2022 Q3* report shows Berkeley Class A office space (found citywide) leasing at an average of $4.45 per sq. ft.
[44] CoStar + conversation with Steve Smith, Norheim & Yost, Q1 2023.

By far, Life Sciences R&D facilities which include a combination of office, lab, and warehousing space plus amenities such as loading docks and reliable, high voltage power command the greatest price. In fact, nationally, CBRE reported that, for Q3 2022, "The average lab asking rent of the top 12 U.S. markets increased by 6.8% quarter-over-quarter to [$5.02] per sq. ft. NNN."[45] According to JLL, in Q4 2022, Berkeley's average "lab" rents were $7.44 per sq. ft. per month, above the $7.15 per sq. ft. average across the Bay Area and $7.06 per sq. ft. average in neighboring Emeryville.[46]

Trends

In terms of fundraising and new company formation, recent years (2020-2022) have been unprecedented for the life science industry, and this pace may not continue indefinitely, especially as investors and company leaders alike try to conserve capital in anticipation of an economic slowdown ahead. However, the market analysts and East Bay real estate brokers consulted for this report all agreed that Berkeley's market fundamentals were enduringly strong and projected that the demand for life sciences, climate technologies and other advanced manufacturing industries would continue in the years ahead.

In the Bay Area overall, real estate brokerage firm JLL reported that asking rents for life science facilities at the end of 2022 were 5.8% above 2021 levels, leasing volume continues to exceed pre-pandemic levels, and they expect more than 43 million square feet of life science facilities in the development pipeline (based on projects under development now from both ground-up building and conversions and short and long term proposed projects. Ari Rokeach, Managing Director of Newmark's Bay Area life science practice, affirms that even with the changing market conditions (including the recent increase in interest rates nationally and venture capital slowdown), there is still "more demand than supply of built-out lab spaces" and the market is "still very healthy from the perspective of there being more companies that want built-out lab space than is readily available today".[47]

Meanwhile, when asked about leasing trends from manufacturing companies, Steve Smith of Norheim & Yost, whose real estate firm has worked with industrial clients in Berkeley for many decades, reported in January 2023 that, "It's just dead right now; very few are looking for space and, according to CoStar, nationally sales are slow." However, he noted that this may be very specific to the current period, which is amidst the holiday season, rising interest rates, and people's fears of an economic slowdown ahead. Cushman & Wakefield brokers working in West Berkeley, while also noting that there are indicators of a coming economic softening (i.e. a significant reduction in property sales volume, tenants taking longer times to make decisions, requests for shorter lease commitment times, and more subleases becoming available), offered the positive outlook: "Leasing seems super stable with less tenant velocity". They also expect more industrial space will come on the market in 2023 (due to delayed delivery because of PG&E lag times related to establishing power connections) that will probably increase vacancy rates by "a point or so." Ultimately, the real estate brokers consulted for this report seemed to be in agreement that, given Berkeley's limited supply of developable land for R&D and advanced manufacturing uses, and its location within the Bay Area and near major innovation and entrepreneurship engines, Berkeley could only benefit from allowing land to accommodate R&D and advanced manufacturing uses and

[45] CBRE "Figures, Life Sciences, Q3 2022" https://www.cbre.com/insights/figures/q3-2022-us-life-sciences-figures; NNN = triple-net, or a lease agreement on a property whereby the tenant or lessee promises to pay all the expenses of the property, including real estate taxes, building insurance, and maintenance.

[46] See Appendix 4 for life sciences real estate statistics for Q4 2022 from brokerage firm JLL.

[47] Ari Rokeach, Managing Director, Newmark Group, Bay Area life science practice, personal communication, Jan. 2023.

users, even if short-term economic downturns and more supply coming online in the years ahead were to increase vacancy rates in these sectors beyond the current levels.

Benefits of the new zoning: M-RD

On April 20, 2021, Berkeley City Council approved a referral requesting that the Pacific Steel Casting property be rezoned from its current designation for Manufacturing (M) land uses to allow mixed-use light-industrial (MU-LI). Subsequently, the September 19, 2022 Council referral*, Keep Innovation in Berkeley,* requested the City to continue efforts to encourage the growth of R&D in Berkeley by allowing R&D uses in select commercial zones citywide. Both of these referrals speak to the importance of this rezoning opportunity, with the *Keep Innovation in Berkeley* referral acknowledging that, if the City's zoning regulations do not provide sufficient opportunities for emerging growth companies, those companies will leave Berkeley for nearby cities that accommodate them with eligible land, such as Oakland, Emeryville, San Leandro, and Alameda.[48] At present, Berkeley is fortunate to host two major catalyst institutions that produce R&D-intensive businesses seeking suitable real estate to accommodate their growth; *and* to have a number of contiguous underutilized parcels of land in West Berkeley that are well positioned to supply it.

This opportunity did not go unnoticed when the 8-acre Pacific Steel Casting site ceased operations in 2018 (due to bankruptcy) and left significant liabilities on the land to be sorted out by a receivership administered by the courts (including close to $24M in unpaid steel workers' pensions, and environmental clean-up costs that will likely exceed $9M). Though well-marketed as the *Gilman Gateway* as a strictly industrial opportunity by Cushman & Wakefield, since 2018, the site has sat vacant with few buyers expressing interest.[49]

In order to engender interest and opportunity in the area, Berkeley City Council passed two legislative items; the *Future of the Pacific Steel Casting (PSC) Site* referral (2018)[50] and the *Referral to the Planning Commission to Establish a Zoning Overlay at the Pacific Steel Casting Property* (2021).[51] The 2021 referral directed staff to consider a rezone due to "the unique issues of public concern associated with this property… [and to include] allowances to enable all MU-LI uses and override any existing constraints in the Berkeley Municipal Code for Zoning (Title 23)…for the PSC [Pacific Steel Casting] property." In the early spring of 2022, the neighboring Berkeley Forge and Tool site (1.17 acres, two parcels) announced that it would cease operations in December 2022; and the Berkeley City Council ranked the *Referral to the Planning Commission to Establish a Zoning Overlay at the Pacific Steel Casting Property* as its number one priority for implementation.[52]

On October 25, 2022, SPUR Capital, with the assistance of Rhoades Planning Group ("the applicant"), submitted a zoning map amendment application to the City of Berkeley Planning and Development Department encompassing the former Pacific Steel Casting and Berkeley Forge and Tool sites totaling 15 parcels and approximately 9.3 acres. The area is roughly bounded by Gilman Street to the north, the

[48] Berkeley City Council, *Referral: Keep Innovation in Berkeley,* adopted September 19, 2022.
[49] Cushman & Wakefield, Written Communication to District 1 Councilmember R. Kesarwani, *RE: Land Values West Berkeley & Approximate Amounts Needed to Clear All Creditors for the Pacific Steel Castings Buildings*, October 28, 2019. See Appendix 5.
[50] Berkeley City Council, *Future of the Pacific Steel Casting (PSC) Site,* Item 7, November 13, 2018.
[51] Berkeley City Council*, Referral to the Planning Commission to Establish a Zoning Overlay at the Pacific Steel Casting Property*, Item 35, April 20, 2021.
[52] Berkeley City Council, Special Meeting, *2022 City Council Referral Prioritization Process Using Re-Weighted Range Voting (RRV)*, Item 1, April 26, 2022.

Union Pacific Railroad right-of-way (3rd Street) to the east, Page Street to the south, and Eastshore Highway to the west, and includes three parcels that are not owned by the applicant. Currently zoned *M-Manufacturing,* the map amendment application seeks a new zoning designation in the M-series: *Manufacturing – Research Development* (M-RD) which would allow for a future development – entitled as Gilman Forge – consisting of R&D, laboratory, business and professional offices, and light manufacturing uses, in roughly 1,000,000 sq. ft. of gross floor area, and a building height up to 105 feet. The M-RD zoning designation would be applicable to the area described above, as well as to the additional three parcels in the zoning district boundary not owned by the applicant (1306 Third Street, 600 Gilman, and 1433 Eastshore Highway).

Allowing R&D uses as part of the proposed M-RD zoning creates more than 10 acres [53] of land and nearly 1M sq. ft. of building space to accommodate the needs of growing innovation companies within Berkeley and beyond, at all stages of growth. The project area is the largest set of contiguous parcels citywide that will be able to accommodate R&D uses (with the exception of the Bayer campus at 46 acres, and the UC Berkeley Campus, which is under the jurisdiction of the UC Regents, a statewide agency). For context, the next largest area dedicated to R&D life science uses in Berkeley is the former American Soils site (600 Addison St) at approximately 8 acres. Currently under development as the Berkeley Commons project, that site will offer 263,752 sq. ft. of R&D space within two buildings that are 470,986 sq. ft. in size by 2024, with the remainder of the space approved for light manufacturing.[54] All other M-prefixed zoned sites in Berkeley in the R&D pipeline are smaller by a considerable factor.

Establishing the M-RD zoning for one of the largest contiguous areas available in West Berkeley in 2023 will provide the conditions necessary to establish an active use on this site and proactively help the City to achieve its Strategic Plan goal of "fostering a dynamic, sustainable, and locally-based economy."[55]

Economic Impact of re-zone

Maintaining a diversified economy is essential to the economic development goals of the city. In fact, the Office of Economic Development strives to create an environment where businesses of all types can thrive, ranging from family-owned independent retailers to innovative startups creating disruptive technologies to basic and advanced manufacturing industries that create products (and jobs) at scale.

The dimensions of the positive economic impacts include: new direct and indirect jobs, improved neighborhood vitality for both commercial and residential neighbors; general benefits to the community including contributions to the city's public art, and affordable housing and affordable child care mitigation funds, environmental cleanup, and development of new infrastructure elements including improved bike, pedestrian, and open space facilities where none currently exist.

Direct & Indirect Jobs

This project can take advantage of local talent so that fewer jobs are exported to other Bay Area life science/ R&D hubs like South San Francisco, Alameda, and San Leandro. At project build out, the Gilman Forge project is estimated to create over 2,700 permanent life science related jobs on site, with an additional 15% of jobs (405) supporting and servicing employment, as well as several hundreds of

[53] Notice of Preparation (NOP) of a Draft EIR, *Gilman Gateway Rezone Project,* December 21, 2022, State Clearinghouse Number 2022120549, CEQA Net, online: https://ceqanet.opr.ca.gov/2022120549.
[54] See Appendix 5 for Berkeley's *R&D Facility Development Pipeline*, 2023.
[55] The City of Berkeley's Strategic Plan identifies the long-term goals and short-term priorities that the City government will focus on to benefit the Berkeley community. Online: https://berkeleyca.gov/your-government/our-work/strategic-plan.

temporary construction jobs during the development phase of 1M sq. ft. of built area which potentially could last through multiple years of phased construction.

The future M-RD zoning will also support the creation of a campus with potential job opportunities for Berkeley residents who currently commute to other places for these same jobs, thereby improving Berkeley's job/housing balance and reducing negative impacts associated with lengthy commute patterns. In addition, the project can offer educational opportunities and career pathways for Berkeley Unified School District, Berkeley City College, and UC Berkeley students engaged in STEAM curriculum (science, technology, engineering, the arts, and mathematics) activities.

In addition, local suppliers of cell cultures, lab glassware, and other materials or equipment needed for R&D activities will also stand to benefit economically from this development.

Neighborhood Vitality & Induced jobs

In addition to the direct and indirect jobs created by the development of this site are the *induced* jobs, or those that will be generated by local spending on goods and services by employees. For example, owners of the Trumer Pils brewery (on 4th & Camelia), retailers in the Fourth Street and South of University (SoU) districts along 4th and 5th Streets, and several artists, restauranteurs, and other Gilman District businesses were delighted to hear that the rezoning of these parcels could enliven the area and increase their proximity to several thousand new customers and patrons.

In this case, zoning changes that set the table for future development will allow the land to be transformed from vacant, contaminated space into an asset for the Berkeley innovation ecosystem and Berkeley's overall economy. Vacant properties provide no jobs for anyone, regardless of education or color. In addition to not being additive, vacant or underutilized properties also take away. In fact, West Berkeley's vacant sites have a direct impact on neighborhood vitality as *the lack of* regular on-site activity provides opportunities for crime, graffiti, violence and other street behaviors that impact nearby businesses both fiscally (i.e. damaged property) and emotionally (i.e. threats to patrons and employees).

Without active, engaged users, vacant properties in West Berkeley provide a ripe environment for long-term, unsanctioned parking, abandoned vehicles, trash buildup, and, in some cases, tent or camper van encampments sheltering individuals with mental health and substance abuse challenges. Included as Appendix 7 is the *After Action Report* on the 2nd Street & Page St encampment closure from November 2022 which details the removal of 5.75 tons (11,500 pounds) of debris from the project area. The Homeless Response Team (led by the Neighborhood Services/Code Enforcement division of the City Manager's Office) documented and repeatedly observed "numerous health and safety violations in the area, including loose and scattered syringes; live and dead rodents and rodent harborage conditions including accumulated trash and debris and open food sources; and debris and belongings, including tents, spilling into the lane of traffic."

Social, Environmental & Infrastructure Benefits

If the proposed M-RD zoning is adopted, future projects, including the conceptual Gilman Forge project, have the potential to spur the following direct environmental and infrastructure benefits:

- Careful environmental cleanup of a contaminated site,
- Making the former steelworkers whole with the funding of their pensions (from the land sale proceeds),
- Adaptive reuse of an existing 10,000 square-foot building at 1330 Second Street, which will feature a repurposing of the Pacific Steel catenary crane as design element, creating a central

gathering place for the community that will both celebrate Berkeley's industrial past and create a draw for future industry professionals to locate in Berkeley,

- A circulation network of sealed roads and improved railroad crossing gates where there currently aren't ones in place,
- New bicycle, pedestrian and open space amenities adjacent to the upgraded Gilman I-80 interchange that will improve the quality of life for commercial and residential neighbors,
- Fee payments (on the order of tens of millions of dollars[56]) to the city's affordable housing, affordable childcare, and public art funds. These payments may constitute some of the single biggest contributions to these funds since their establishments in 2014 and 1999 respectively.

Benefits associated with like catalytic developments in Berkeley

600 Addison/Berkeley Commons

The 470,986 sq. ft. of light manufacturing and R&D space located at 600 Addison Street (Berkeley Commons), which is being developed by Lane Partners and is currently under construction, provides an instructive example of what benefits can be anticipated from future development projects on the former Pacific Steel Casting site. The economic and public benefits realized at the 600 Addison project to date (January 2023) include: payment of the public art, affordable housing and childcare mitigation fees; over $30,000 in sales tax revenue accrued to the city on the steel purchased for the building frame[57]; significant upgrades to the project-adjacent Bolivar Drive including re-paving, and detailed curb and gutter work; and planned public art installations, including a sculpture garden and trail at the project-adjacent Aquatic Park.[58]

Gilman Gateway - Benefits Realized & Goals Supported

To date, the project sponsor has already committed approximately $20M in unfunded pensions/land cost, and $9M in environmental clean-up and infrastructure improvements, with the final amount to be determined by the Department of Toxics and Substance Control (anticipated 2023). Other benefits will include fees paid to the affordable housing and affordable child care mitigation funds for the creation of new commercial space, and fees paid to public art fund and associated city enterprise funds (i.e. stormwater mitigation, building and plan check fees etc.).

As per the economic implications discussed throughout this report, updated zoning for this parcel would also enable the achievement of a number of the goals articulated in the City's General and Strategic Plans. With one single zoning change, this project recasts Pacific Steel and its neighboring parcels into the next century of industrial activity and drives Berkeley's culture of innovation forward.

Adopting new zoning that allows for nearly *one million square feet of new production and R&D space in West Berkeley* will have an incredible cumulative positive economic impact to the city. Making more land permissible for essential R&D and advanced manufacturing industries, especially on an underutilized site, is not only in line with the City's General Plan Objectives, but is a tremendous opportunity for pandemic recovery and the future of the Berkeley economy.

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[56] Affordable housing mitigation fees cost $5.81 per sq. ft. of developed R&D space (2022 numbers); Affordable childcare mitigation fees cost $1.03 per sq. ft for R&D; the Public Art on Private Development ("Percent for Art") policy requires developers to pay 1.75% of construction costs to create on-site publicly accessible artwork or they can pay an in-lieu fee to the Private Percent Art Fund valued at 0.8% of construction costs.

[57] This does not include subsequent building materials purchased for this project (HVAC equipment etc.), though the slight uptick in "business to business" sales tax transactions in Q3 2022 may be attributable to additional materials purchased in service of this project's development.

[58] See the recently released, City of Berkeley, *Aquatic Park Call for Artists* ($350,000), Civic Arts Program, 2022.

APPENDIX

Appendix 1: Berkeley Jobs & Wage Analysis

Berkeley (Citywide)	
Employment	
Firms	5,398
Private sector Jobs	45,087
All manufacturing (NAICS 31-33) + R&D (NAICS 5417) Jobs	5,040
All manufacturing (NAICS 31-33) + R&D (NAICS 5417) Firms	281
Manufacturing Jobs (NAICS 31-33)	3,294
Manufacturing Firms (NAICS 31-33)	176
Jobs/Firm in Manufacturing (NAICS 31-33)	19
Traditional Manufacturing* Firms	121
Traditional Manufacturing* Jobs	1,369
Jobs/Firm (Traditional Manufacturing*)	11
R&D-Intensive Manufacturing Firms (NAICS 325-27; 333-336)	55
R&D-Intensive Manufacturing Jobs (NAICS 325-27; 333-336)	1,925
Jobs/Firm (R&D-Intensive Manufacturing Industries)	35
Jobs/Firm (R&D-Intensive Manufacturing Industries)- *w/out Bayer*	15
R&D Firms (NAICS 5417 only)	105
R&D Jobs (NAICS 5417 only)	1,746
Jobs/Firm in R&D (NAICS 5417)	17
R&D-Intensive Firms combined (325-27, 333-336, 5417)	160
R&D-Intensive Jobs combined (325-27, 333-336, 5417)	3,671
R&D-Intensive Jobs combined (325-27, 333-336, 5417) -*w/out Bayer*	2,591
Jobs/Firm (R&D-Intensive Industries combined)	23
Jobs/Firm (R&D-Intensive Industries combined)- *w/out Bayer*	16
Wages (citywide)	*Total*
Quarterly payroll	901,873,850
Quarterly payroll - All manufacturing (31-33) + R&D (NAICS 5417)	$ 148,707,572
Quarterly payroll - All manufacturing (31-33)	$ 87,547,731
Quarterly payroll - Traditional Manufacturing*	$ 21,304,416
Quarterly payroll - R&D Intensive Manufacturing*	$ 66,243,315
Quarterly payroll - R&D only (NAICS 5417)	$ 61,159,841
Quarterly payroll - R&D-Intensive combined (325-27, 333-336, 5417)	$ 127,403,156
avg annual salary R&D only (NAICS 5417)	$ 140,114
avg annual salary (combined R&D-intensive jobs)	$ 138,821
avg annual salary (all manufacturing NAICS)	$ 106,312
avg annual salary (traditional manufacturing)	$ 62,248

Source: State of CA Employment Development Department (EDD) Q1 2022, based on Unemployment Insurance; *see report text (pages 4-7) for discussion.

Appendix 2: West Berkeley Jobs & Wage Analysis

	State of CA Employment Development Department (EDD) Q1 2022, *based on Unemployment Insurance*
West Berkeley (zip code 94710)	
Employment	
Jobs in WB (zip code 94710)	14,493
Manufacturing Jobs (NAICS 31-33) in WB	2,637
% Manufacturing jobs in WB	80%
R&D-Intensive Manufacturing Jobs (NAICS 325-27; 333-336) in WB	1,638
% R&D-Intensive Manufacturing Jobs (325-27; 333-336) as % of MFG jobs in W	62%
% R&D-Intensive Manufacturing Jobs (325-27; 333-336) as % of citywide MFG j	85%
R&D Jobs (NAICS 5417) in WB	1,016
% R&D (NAICS 5417) jobs in WB	58%
R&D-Intensive jobs combined in WB (NAICS 325-27, 333-336, 5417)	2,654
R&D-Intensive Firms combined in WB (NAICS 325-27, 333-336, 5417)	71
% R&D-Intensive jobs in WB	72%
Wages (West Berkeley)	*Total*
Quarterly payroll	$ 331,500,363
Quarterly payroll - manufacturing (NAICS 31-33)	$ 87,547,731
Quarterly payroll - traditional manufacturing (NAICS 31-33)	$ 16,507,989
Quarterly payroll - R&D-Intensive combined (325-27, 333-336, 5417)	$ 98,329,151

Source: State of CA Employment Development Department (EDD) Q1 2022, based on Unemployment Insurance.

Appendix 3: Commercial properties in West Berkeley (by type & area)

Space Type	Rentable Building Area (RBA) (sq. ft)	% of RBA	Total Available Space (sq. ft)	% of Available Space
Flex	**3,486,823**	**32.9%**	**685,630**	**71.0%**
Light Distribution	131,303	1.2%		0.0%
Light Manufacturing	346,918	3.3%	4,571	0.5%
R&D	2,555,620	24.1%	645,700	66.8%
(Other)	452,982	4.3%	35,359	3.7%
Industrial	**5,239,638**	**49.5%**	**128,096**	**13.3%**
Distribution	277,315	2.6%		0.0%
Food Processing	177,563	1.7%	49,997	5.2%
Manufacturing	760,080	7.2%	2,780	0.3%
Service	125,303	1.2%		0.0%
Showroom	52,302	0.5%		0.0%
Truck Terminal	6,000	0.1%		0.0%
Warehouse	3,695,927	34.9%	36,934	3.8%
(Other)	145,148	1.4%	38,385	4.0%
Office	**1,867,963**	**17.6%**	**152,445**	**15.8%**
Loft/Creative Space	68,854	0.6%	4,400	0.5%
Medical	14,996	0.1%	360	0.0%
Office Building	621,627	5.9%	22,428	2.3%
Office Live/Work Unit	67,894	0.6%	1,000	0.1%
Office/Residential	10,804	0.1%		0.0%
(Other)	1,083,788	10.2%	124,257	12.9%
Grand Total	**10,594,424**	**100.0%**	**966,171**	**100.0%**

Source: Compiled from CoStar Multiple Listing Service for West Berkeley area (west of San Pablo Ave.), January 2023.

Appendix 4: JLL Bay Area Lab Statistics, Q4 2022

JLL Research Report

Lab Statistics

Bay Area | Q4 2022

	Inventory (s.f.)	Total net absorption (s.f.)	YTD total net absorption (s.f.)	YTD total net absorption (% of stock)	Direct vacancy (%)	Total vacancy (%)	Average direct asking rent ($ p.s.f.)	Completions (s.f.)	Under Development (s.f.)
Bay Area	**32,030,469**	**177,145**	**1,221,658**	**3.8%**	**4.1%**	**6.5%**	**$7.15**	**926,135**	**9,018,186**

East Bay | Q4 2022

	Inventory (s.f.)	Total net absorption (s.f.)	YTD total net absorption (s.f.)	YTD total net absorption (% of stock)	Direct vacancy (%)	Total vacancy (%)	Average direct asking rent ($ p.s.f.)	Completions (s.f.)	Under Development (s.f.)
Hayward	1,075,421	-24,437	22,048	2.1%	15.5%	25.7%	$3.85	0	0
880 Corridor	**1,075,421**	**-24,437**	**22,048**	**2.1%**	**15.5%**	**25.7%**	**$3.85**	**0**	**0**
Alameda-North	733,888	0	130,348	17.8%	8.2%	8.2%	$5.95	0	0
Alameda-South	1,456,556	118,345	409,677	28.1%	9.1%	9.1%	$5.14	0	48,850
Berkeley	871,017	0	-12,302	-1.4%	0.0%	5.3%	$7.44	0	560,869
Emeryville	2,486,418	-40,634	-95,793	-3.9%	10.4%	14.7%	$7.06	558,979	645,240
Oakland	115,000	0	0	0.0%	0.0%	0.0%	$0.00	0	0
Richmond	1,221,752	-6,955	33,511	2.7%	0.6%	0.6%	$3.00	0	0
Oakland Metro	**6,884,631**	**70,756**	**465,441**	**6.8%**	**6.7%**	**8.9%**	**$6.99**	**558,979**	**1,254,959**
Livermore	389,768	0	0	0.0%	0.0%	0.0%	$0.00	0	0
Pleasanton	618,829	-5,012	-19,236	-3.1%	3.9%	4.7%	$2.60	0	150,000
San Ramon	96,535	0	0	0.0%	0.0%	0.0%	$0.00	0	0
South 680 Corridor	**1,105,132**	**-5,012**	**-19,236**	**-1.7%**	**2.2%**	**2.6%**	**$2.60**	**0**	**150,000**
East Bay	**9,065,184**	**41,307**	**468,253**	**5.2%**	**7.2%**	**10.1%**	**$6.73**	**558,979**	**1,404,959**

Source: JLL, Q4 2022, *Life Sciences Industry Insight*

Appendix 5: Berkeley's R&D Facility Development Pipeline

Address	Entitlement Date/ Application Date	Square Footage	Status
3100 San Pablo	ZP2019-0055 Approved: 9/16/20	Add 69,800 sq. ft. of R&D space in an existing 402,742 sq.-ft. building.	Building Permit (BP) finaled 11/28/22
600 Addison	ZP2019-0215 Approved: 6/16/21	Construct 263,752 sq. ft. of R&D space within two buildings that are 470,986 sq. ft. in size.	Buildings A and B: Phase II BP issued 4/7/22 (under-slab utility, foundations and superstructure)
Bayer DA Amendment	Approved: 12/14/21	Construct 918,000 sq. ft. (minus 30,000 sq. ft. for parking), total 888,000 sq. ft. to include production, laboratories, maintenance, administration uses	30-year buildout horizon
TheLAB	ZP2021-0096 Approved: 7/20/22	Construct 124,539 sq. ft. of R&D space in 159,143 sq. ft. building at 787 (747) Bancroft	Demo permit issued 8/23/22; building permit currently under review
742 Grayson	ZP2021-0161 Approved: 10/5/22	177,923 square feet of R&D space in a new 213,279 square-foot building	No BP submitted
811 Carleton	ZP2021-0003 Submitted: 1/11/21	178,850 R&D 72,757 manufacturing	Incomplete zoning application as of 8/12/22
Total Constructed: 69,800 sq. ft. **Total Entitled, Not Constructed: 566,214 sq. ft.** **Total Under Review: 178,850 sq. ft.** ***Note: totals do not include Bayer DA, which is an integrated campus where floor area is not designated by separate uses.***			

Source: City of Berkeley Planning Department, retrieved January 10, 2023; includes projects for the last 5 years (since 2017).

Appendix 6: Approximate Dollar Amounts Required to Clear All Creditors from Existing Steel Casting site

CUSHMAN & WAKEFIELD

555 12th Street, Suite 1400 Oakland, CA 94607
D +1 510 465-8000

October 28, 2019

Councilmember Rashi Kesarwani
District 1, City of Berkeley
2180 Milvia Street
Berkeley, CA 94704

Dear Councilmember Resarwani,

Thank you again for your time meeting with the brokerage team and ownership of the Gilman Gateway project. As a follow up to our October 24, 2019 meeting, below is the requested information regarding land values in the various West Berkeley Zoning Districts. Also included are the approximate dollar amounts needed to clear all creditors for the Pacific Steel Casting buildings.

M – Manufacturing Uses:
https://www.codepublishing.com/CA/Berkeley/html/Berkeley23E/Berkeley23E72/Berkeley23E72030.html#23E.72.030
Land Value Ranges: $50 - $65/SF ($16,248,000. --$21,100,000.)*
Under the M – Manufacturing Zoning Districts, most of the approved uses would be classified as heavy, high-impact industrial uses. These uses typically have low employee counts and are rent-sensitive, which limit achievable lease rates ($0.90 - $1.00/SF rents). An example West Berkeley project would include the Flint Ink site, owned by ODI, at Fourth/Fifth Streets and Gilman/Camelia Streets.

MULI – Mixed Use Light Industrial Uses:
https://www.codepublishing.com/CA/Berkeley/html/Berkeley23E/Berkeley23E80/Berkeley23E80030.html#23E.80.030
Land Value Ranges: $70 - $85/SF ($22,750,000. -- $27,621,000.)*
Under the MULI – Mixed Use Light Industrial Zoning Districts, most of the approved used would be considered lighter impact Industrial, R&D and Lab type uses. These uses can have higher employee count and a greater office foot print, resulting in higher lease rates ($1.25 - $2.25/SF for Light Industrial/R&D and $4.00/SF for Lab). An example West Berkeley project would include the former Pyramid Alehouse property owned by Read Investments, at Seventh/Eighth Streets and Gilman/Harrison Streets.

C-W – West Berkeley Commercial Uses:
https://www.codepublishing.com/CA/Berkeley/html/Berkeley23E/Berkeley23E64/Berkeley23E64030.html#23E.64.030
Land Value Ranges: $90 – $150/SF ($29,250,000. -- $48,744,000.)*
Under the C-W – West Berkley Commercial Zoning Districts, most of the approved uses would be considered retail/office in nature with accessory industrial uses (warehouse, light-manufacturing). The office uses will have the highest employee counts, require more parking, and demand higher rents ($2.00/SF - $3.25/SF). An example West Berkeley project would include the former HJ Heinz/Berkeley Business Center at Ninth Street/San Pablo Ave and Heinz/Ashby Ave. Note that the example property has a split zoning designation between C-W and MULI.

It's worth calling attention to the fact that both the University Ave and Ashby corridors have C-W zoning districts that stretch down to I-80. The C-W district does not start until Ninth Street on the Gilman Street corridor.

** - Pricing above excludes the cost environmental remediation (to "Industrial" standards, MULI and C-W uses may have a different standard) , significant costs for Tenant Improvements (M zoned uses),*

CUSHMAN & WAKEFIELD

significant costs for demolition (some M uses and full demo. For MULI and C-W), Legal/Brokerage Fees, and Alameda County customary Closing Costs.

This above is an opinion of value and should not be considered an appraisal. Information provided represents an opinion only and is intended for informational purposes. Although all information furnished regarding property for sale is from sources deemed reliable, such information has not been verified, and no express representation is made nor is to be implied as to the accuracy thereof, and it is submitted subject to errors, omissions, change of price, or other conditions.

Estimated Dollar Amounts Needed to satisfy all Creditors with an interest in the Pacific Steel Property:

Closing Costs, Taxes, Legal, Commissions: $1MM
Loan on Property: $2MM
Pension Claim: $24.2MM
Unsecured Creditor's Claim: $13.4MM

Old Pacific Steel buildings approximate purchase price needed to clear all claims = $40.6MM

Sincerely,
CUSHMAN & WAKEFIELD, INC.

Andrew Schmieder Lic #01828740
Director

Theodor Anderson Lic #01332000
Managing Director

Ted Gallagher Lic # 01467047
Director

Mitch Hertz Lic #01161729
Executive Director – Tenant Advisory Group
Brokerage

cc: Matthew English (Arch + Beam), Howard Bailey (Arch + Beam), Brendan Cronin (Arch + Beam), Michael Lauter (Sheppard Mullin)

Appendix 7: 2nd Street Encampment Closure After Action Report (November 2022)

City Manager's Office

2nd Street & Page St Encampment Closure - After Action Report
11/30/22



2nd Between Page and Camelia - Before



2nd Between Page and Camelia - After

City Manager's Office



Page St - Before



Page St - After

On Tuesday, August 31, 2022 the Homeless Response Team (HRT) closed the vehicle and tent encampments along 2nd and Page Streets in West Berkeley. Beginning in September, this area has been undergoing major street and sidewalk construction as part of the Gilman/I-80 interchange project. Phase II of this construction project, which includes 2nd St from Camelia to Page and the north side of Page St from 2nd to Eastshore, is scheduled to begin on December 1. To meet this deadline, the scope of the present operation was to remove all tents and vehicles in the construction corridor. This report provides a brief after-action summary of the operation and its outcomes:

- Scope and Reason for the operation:
  - The target area for the operation was the north side of Page St between Eastshore Hwy to 2nd St, and 2nd St from Page St north to Camelia St. Beginning in September, the greater area has been undergoing major street and sidewalk construction as part of the Gilman/I-80 interchange project, with Phase II in the target area beginning on December 1. Neighborhood Services and Public Works have been coordinating closely with CalTrans on construction phasing and timing.
  - The target area was found to be in violation of the City's street and sidewalk policies (BMC sections 14.48.020 and 14.48.120).
  - Growing accumulation of debris, trash, and hazardous materials (syringes, rodent harborage conditions) in the public right of way.
- Brief Site Assessment
  - The Homeless Response Team has performed numerous assessments of the target area alongside outreach efforts. On both November 15 and Nov 12 (date of first and second rounds of written noticing, respectively), staff observed 6 residents and 4 trailers/RVs, and posted 10-12 written notices. On the day of the operation, staff encountered 6 residents and 3 trailers/RVs remaining in the construction area.

City Manager's Office

- The HRT repeatedly observed numerous health and safety violations in the area, including loose and scattered syringes; live and dead rodents and rodent harborage conditions including accumulated trash and debris and open food sources; and debris and belongings, including tents, spilling into the lane of traffic.

- Outreach/Assessment and Notification Efforts:
  - The HRT as well as the City's contracted homeless providers have provided regular outreach to this area for many months, including garbage service and the provision of a port-a-potty and wash station.
  - Beginning in August, once the HRT learned of the timeline for construction in the target area, Neighborhood Services convened a weekly case conference of numerous contracted homeless providers and outreach workers, including representatives from HHCS and Alameda County, to build a robust by-name list of everyone in the area, with the goal of (1) connecting them to as many services and housing opportunities as possible; (2) coordinating their care across multiple agencies; and (3) providing thorough and advance notification of the upcoming construction and City encampment interventions to prepare for it.
  - Two rounds of written notice of the operation were provided to residents in the area (on Nov 15 and 22), providing 2 weeks of formal notice. This was accompanied by outreach to explain the scope and purpose of the operation to residents in the area, along with the distribution of maps to clearly identify the construction zone to be vacated.
  - No Parking/Tow Away signage was posted on November 23, providing more than 72 hours' notice.
- Outcomes:
  - All residents, including those living in vehicles, voluntarily relocated by or before the morning of the operation. Shelter was not offered on the morning of the operation, as the population in the area had been previously offered shelter and had all declined. HRT will continue to collaborate with our nonprofit service providers to assist these residents into permanent housing wherever possible and as outreach resources allow.
  - No vehicles being used as residences were towed, but three passenger vehicles (all unattended and inoperative) were towed to impound, one after having received targeted treatment to abate rodents living in the vehicle.
  - 5.75 tons (11,500 pounds) of debris were removed from the area. As residents were given ample notice to vacate, as well as some time during the morning of the operation to remove a last round of wanted belongings, no storage for belongings was provided.
  - No arrests/citations were issued.

Planning and Development Department
Land Use Planning Division

DATE: March 1, 2023

TO: Members of the Planning Commission

FROM: Ashley James, Senior Planner

SUBJECT: Pacific Steel Casting / Gilman Forge Zoning and General Plan Amendments and Environmental Impact Report -- Project Update

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SUMMARY

In response to a City Council referral to create a zoning overlay at the former Pacific Steel Casting site and a request for a zoning map amendment submitted on behalf of the majority property owner (referred to as Gilman Forge), City staff are preparing Zoning Ordinance and Zoning Map amendments and associated General Plan amendments to re-zone an approximately 11-acre area within the West Berkeley Plan Area from M (Manufacturing) to a new district entitled M-RD (Manufacturing, Research and Development) that encompasses all of the properties on those blocks between Gilman and Camelia Streets west of the railroad (3rd Street). At their February 1, 2023 meeting, the Planning Commission received a presentation on proposed draft zoning amendments and conducted a public hearing on the scope and content of the Environmental Impact Report (EIR) being prepared for the amendments and an associated development concept plan. Based on the feedback received at that meeting, staff have revised the draft zoning standards and the Planning Commission is asked to receive a follow-up staff presentation and provide additional feedback to confirm project direction in order to advance the EIR.

BACKGROUND

At the February 1, 2023 Planning Commission meeting, staff presented draft proposed M-RD development standards for feedback, which included height, floor area ratio, setbacks and building separation, lot coverage, and vehicular and bicycle parking. The Commission was also requested to provide comment on whether an open space standard should be included to provide additional amenities for employees and visitors, and whether objective design standards should be developed to ensure high-quality site and building design. The Commission also received a presentation from the Zoning Map Amendment applicant regarding the Gilman Forge Concept Plan, and a presentation from the City's environmental consultant, LSA, regarding the environmental review

process. Commissioners and community members provided comments on the scope and content of the EIR.

Planning Commission supported allowing all MU-LI uses, and acknowledged some adjustments could be useful to ensure office space does not outcompete R&D space. The Commission did not support a 50% maximum lot coverage, but instead suggested adopting the MU-LI district standard (100%) in order to avoid creating non-conformities, or using 75% to reflect the needs of the Gilman Forge concept plan. The Commission did not support creating an open space standard, as it could have consequences for future development, and the project area is not likely to be a destination for residents. The Commission was interested in ensuring bicycle and pedestrian access to the site and increasing bicycle parking and car share facilities. The Commission did not support creating objective design standards, as the City's current design review process has produced projects with a high quality of design.

REVISED ZONING REGULATIONS

Based on Commission feedback at the February 1, 2023 meeting, staff have revised the draft M-RD zoning regulations, as summarized in Table 1 below.

Table 1. Summary of Revised M-RD Development Standards

Regulation	Existing M Standard	February 1, 2023 Proposed Standard	March 1, 2023 Proposed Standard
Maximum Height	45 feet	105 feet	105 feet *(No change)*
Maximum Floor Area Ratio (FAR)	2.0	2.0	2.0 *(No change)*
Minimum Setbacks, and Building Separation	Not regulated	Not regulated	Not regulated *(No change)*
Maximum Lot Coverage	Not regulated	50% maximum	80% maximum *(Increased)*
Minimum Off-Street Parking and Minimum Bicycle Parking	Vehicle: See BMC Table 23.322-4	Vehicle: Same as Table 23.322-4, with following changes: • All non-residential uses except uses listed below: 1 per 1,000 sq. ft. • Laboratories: 1 per 1,000 sq. ft.	Vehicle: Same as Table 23.322-4, with following changes: • All non-residential uses except uses listed below: 1 per 1,000 sq. ft. Laboratories: 1 per 1,000 sq. ft. *(No change)*
	Bicycle: 1 per 2,000 sq. ft	Bicycle: 1 per 2,000 sq. ft.	Bicycle: 1 per 2,000 sq. ft *(No change)*

Allowed Uses

The goal of the Council referral is to facilitate reinvention of the project site so that it contributes to the City's tax base and vitality of the local economy. The purpose of the current zoning designation – Manufacturing (M) – is to encourage heavy manufacturing uses, whereas development interest for this area is towards biotechnology laboratories, warehouse and commercial uses, and office space. Pension and environmental clean-up costs, which are unique to this site, require greater investment and thus return from a potential buyer than what is feasible under the current zoning.

Given these factors, the proposed zoning targets land uses that provide higher rents and wages, and greater job creation rates. As described in the report by the City's Office of Economic Development, research and development-intensive uses constitute a significant portion (over 60 percent) of overall manufacturing jobs in West Berkeley and the uses produce higher job creation rates and wages than heavy manufacturing industries, and command higher rents than traditional manufacturing.[1]

Therefore, staff recommends including allowed uses from the MU-LI district that focus on greater job creation, employment density, and target innovation industries in the M-RD district. Staff recommends that the following MU-LI uses be excluded from the M-RD district:

- **Vehicle Service and Sales use categories**: Large Vehicle Sales and Rental, Vehicle Service and Sales, Vehicle Repair and Service, Vehicle Wrecking.
- **Industrial and Heavy Commercial use category:** Bus/Cab/Truck/Public Utility Depot, Commercial Excavation, Contractors Yard, Dry Cleaning and Laundry Plant, Construction Products Manufacturing, Recycled Materials Processing, and Recycling Redemption Center.
- **Miscellaneous uses**: Live/Work.

It is anticipated that the project area would likely transform over time towards new development of in-demand uses described above. Under the M-RD zoning, current uses, including the vehicle rental use at 600 Gilman Street and recycled materials processing use at 1433 Eastshore Highway would become lawful non-conforming; the live/work use at 1306 Third Street would remain lawful non-conforming. The Berkeley Zoning Ordinance allows lawful non-conforming uses to remain occupied in their current condition as of right, and both changes to and substantial expansions of non-conforming uses are allowed by obtaining a Use Permit.[2] Also, portions of the project site and surrounding areas contain semi-vacant and vacant parcels that area conducive to temporary uses, such as contractor yards. The M-RD zoning would not prohibit a

[1] February 1, 2023 Planning Commission meeting, *Pacific Steel Casting Zoning and Plan Amendments and Draft EIR Scoping Session*, Attachment 4: City of Berkeley, Office of Economic Development. *The Innovation Ecosystem in West Berkeley: An Economic Snapshot*, January 2023. https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-02-01%20PC%20Agenda%20Packet_0.pdf

[2] Berkeley Municipal Code Section 23.324.040 – Nonconforming Uses.

temporary use from operating on any of these sites, as they are allowed at various permit levels depending on the nature of the use.[3]

Maximum Lot Coverage

As shown in the Gilman Forge Concept Plan presented to the Commission in February, it is not feasible to build a 3 to 6 story building at 100 percent lot coverage given a maximum FAR of 2.0 and 105-foot maximum height. Consistent with the Gilman Forge concept plan (75 percent coverage), staff recommends a maximum coverage of 80 percent to ensure reasonable open space for future projects in this zone. The EIR will study a 100 percent coverage option in response to comments from the Commission.

Minimum Off-Street Vehicle and Bicycle Parking

In all manufacturing districts, R&D and office uses must provide at least 2 spaces per 1,000 square feet of gross floor area, and laboratory uses must provide at least 1 space per 650 square feet. Based on these requirements, Fehr & Peers estimates that Vehicle Miles Traveled (VMT) induced by future development within the project site would be significant (in order words, above the City's threshold) by 5 percent, and transportation demand management strategies would be needed to reduce VMT.

Also, the current requirements create implementation challenges, as multiple uses may concurrently occupy one building, and the amount of floor area dedicated to a given use may change over time. Therefore, staff recommends lowering and standardizing the required minimum off-street parking for R&D, office, and laboratory uses, which may reduce potential VMT impacts, and provide flexibility for future development projects and tenants as needs change over time (**Table 1**).

In all manufacturing districts, new buildings or expansions of existing buildings must provide at least 1 bicycle parking space per 2,000 square feet of gross floor area for industrial, commercial, or non-residential uses. This requirement is in line with the Berkeley Bicycle Plan, adopted in 2017 (**Table 2**), and is higher than neighboring jurisdictions. For example, San Francisco requires a minimum ranging from 1 space per 12,000 square feet of industrial to 1 space per 5,000 square feet of office. In Oakland, 1 short-term space is required per 10,000 square feet, and 1 long-term space is required per 20,000 square feet of R&D. For these reasons, staff is recommending the minimum bicycle parking requirement in Table 2 above.

Table 2. Minimum Bike Parking Requirements, Berkeley Bicycle Plan

Use	Long-Term Spaces	Short-Term Spaces
Office	2, or 1 space per 2,500 square feet	2, or 1 pace per 10,000 square feet
Industrial, manufacturing and wholesale	1, or 1 space per 30,000 square feet	None required
Source: Berkeley Bicycle Plan, Appendix F, Facility Design Toolbox; Berkeley-Bicycle-Plan-2017_AppendixF_Facility Design Toolbox.pdf (berkeleyca.gov)		

[3] Berkeley Municipal Code Section 23.302.030, Temporary Uses and Structures.

Open Space and Objective Design Standards

At the February meeting, staff requested Commission feedback on whether an open space standard should be included. There was a consensus among the Commission that open space should not be regulated, as the project area is not likely to become a destination for residents and regulating it could have consequences for future development projects. Based on that feedback, staff is not proposing inclusion of an open space standard. Staff also requested feedback on whether objective design standards should be included and there was consensus among the Commission that the current Design Review process is sufficient in shaping high-quality building and site designs for industrial development; therefore, objective design standards are not proposed.

DISCUSSION

The purpose of this item is to report back and receive additional comments from the Planning Commission and the public on the revised M-RD zoning regulations to confirm project direction in order to advance the EIR.

NEXT STEPS

- Once the applicant has provided all of the required technical reports and they have been reviewed and deemed adequate by the City as the Lead Agency, the **Draft EIR** will be prepared over a time period of approximately 10 weeks.
- The Draft EIR will be circulated for the required **45-day public comment period**, during which the Planning Commission will hold a public hearing to provide comments.
- **Responses to comments** on the Draft EIR will be prepared and any necessary revisions will be made based on those comments.
- This **Final EIR** will be presented to the Planning Commission for recommendation to the City Council, who will make a final decision on the proposed changes and certify the EIR.
- The amended **Zoning Ordinance** would be effective 30 days after the second reading at Council. At the time the zoning is effective, the Zoning Adjustments Board would be able to act on any use permit application for development within the zoning district boundary.

ATTACHMENT 6

Planning and Development Department
Land Use Planning Division

PUBLIC HEARING
November 6, 2024

TO: Members of the Planning Commission

FROM: Ashley James, Planning and Development Department

SUBJECT: Public Hearing: Pacific Steel Casting Zoning (M-RD), General Plan, West Berkeley Plan Amendments and Draft Environmental Impact Report (Draft EIR)

RECOMMENDATION

Staff recommends the Planning Commission hold a public hearing; take public comment; discuss the proposed amendments to the Zoning Ordinance, Zoning Map, General Plan and West Berkeley Plan; and provide a recommendation to City Council to:

1. Adopt a Resolution to amend the:
    a. Zoning Ordinance and Zoning Map to establish a Manufacturing, Research and Development (M-RD) zoning district;
    b. West Berkeley Plan to include the M-RD zoning district text and map amendments; and
    c. General Plan to incorporate the M-RD zoning district into the existing Manufacturing (M) land use designation (***Attachment 1, Exhibits A-C***);
2. Take public testimony and provide comments on the Draft Environmental Impact Report (Draft EIR) which analyzes the potential impacts of the proposed Zoning Ordinance, General Plan, and West Berkley Plan amendments, as well as the Potential Berkeley Forge Development project (collectively known as “the proposed project”); and
3. Close the public hearing with respect to receipt of oral comments. Written comments on the Draft EIR will be accepted until 5:00pm on **Thursday, December 5, 2024**.

SUMMARY

In response to a 2021 City Council referral (***Attachment 2***) to create a zoning overlay at the former Pacific Steel Casting site (PSC) and a request for a zoning map amendment submitted on behalf of the majority property owner of the PSC property (***Attachment 3***)

in 2022, City staff are proposing amendments to the Zoning Ordinance, Zoning Map, West Berkeley Plan, and General Plan to: 1) establish a new zoning district Manufacturing, Research and Development (M-RD) that meets the goals of the City Council referral; 2) rezone an approximately 11-acre area within the West Berkeley Plan Area ("project site") to this new zoning district; and 3) amend the West Berkeley Plan and General Plan to add this new zoning district to the West Berkeley Plan Land Use Element and the General Plan Manufacturing land use designation. The full text of the Zoning Ordinance and West Berkeley and General Plan changes can be found in ***Attachment 1***. The proposed project consists of zoning and plan amendments and does not include specific development proposals. The Planning Commission provided comments in 2023 at its February 1, and March 1 meetings and now staff is requesting that the Planning Commission provide a recommendation to Council on the proposed zoning and West Berkeley and General Plan amendments only.

As required by the California Environmental Quality Act (CEQA), City staff has prepared a Draft EIR for the proposed project, referred to as the Gilman Gateway Rezone Project.[1] The Draft EIR analyzes the potential impacts of: 1) adoption and implementation of the proposed zoning and plan amendments; and 2) a conceptual development project (referred to as the Potential Berkeley Forge Development) submitted by the majority property owner of the PSC property with the Zoning Map amendment application in 2022 (***Attachment 3***), to the extent site planning details have been provided. The Planning Commission provided comments on the scope and content of the EIR at its February 1, 2023 meeting. The Landmarks Preservation Commission provided comments at its February 2, 2023 meeting. Staff is requesting that the Planning Commission take public testimony and provide comments to staff on the Draft EIR.

FISCAL IMPACTS OF RECOMMENDATION

As noted in the Council referral, the proposed Zoning Ordinance, Zoning Map, West Berkeley Plan and General Plan amendments are intended to support redevelopment of the site to contribute to the tax base and economic vitality in Berkeley. Therefore, the proposed amendments may result in an increase in employment, property tax, business license tax and sales tax revenues due to increased business activity.

CURRENT SITUATION AND ITS EFFECTS

As described in the April 20, 2021 Council referral (***Attachment 2***), the PSC property, located southeast of the intersection of Eastshore Highway and Gilman Street, is a former manufacturing site that at its peak of operations employed more than 650 people. The manufacturing operation declared bankruptcy in 2014 and permanently

[1] The Gilman Gateway Rezone Project refers collectively to the proposed M-RD Zoning Ordinance, General Plan, and West Berkley Plan amendments. The Potential Berkeley Forge Development project is referred to as the conceptual development project. Since 2021, the conceptual development and rezoning have been referred to interchangeably and under other names including "Gilman Gateway", "SPUR Capital", "Pacific Steel Redevelopment" and most recently, "Berkeley Forge."

closed in 2018. The site was described to have had a number of problems of public concern, including: (1) environmental contamination, (2) hundreds of former casting plant workers awaiting receipt of their employment pension benefits contingent upon future sale of the property by its receivership agent, and (3) neighborhood blight and safety concerns resulting from an eight-acre multi-block area of abandoned buildings and graffitied fencing around the property. Sale of the Pacific Steel Casting plant property from receivership to the current owner in late July 2023 addressed pension benefits of the former casting plant workers, but concerns that the current Manufacturing zoning designation on the site limits the potential uses of the site to heavy manufacturing remain. Establishing a new zoning district or overlay that enables all Mixed Use - Light Industrial (MU-LI) district uses and removes any existing constraints in Title 23 (Zoning) of the Berkeley Municipal Code for MU-LI uses would enable redevelopment of the site to again contribute to the employment and tax base and economic vitality in Berkeley as well as facilitate environmental remediation of the site.

BACKGROUND

On April 20, 2021, the City Council referred to the City Manager the creation of a zoning overlay at the former PSC property in West Berkeley, which is currently zoned M or “Manufacturing”, to re-designate it as MU-LI due to the unique issues of public concern associated with this property (described above). More specifically, the referral requested the PSC zoning overlay include allowances to enable all MU-LI uses and override any existing constraints on MU-LI uses in Title 23 for the PSC property, such as manufacturing floor area replacement requirements, in order to expedite environmental remediation of contaminated parcels and fund pension payment of PSC’s workers (***Attachment 2***).

In October of 2022, the Planning and Development Department received a zoning map amendment application from Rhoades Planning Group on behalf of SPUR Capital, pursuant to BMC Chapter 23.412 (Zoning Ordinance Amendments), to re-designate the zoning of the PSC, the Clearflow Valves site, and Berkeley Forge and Tool properties, together totaling 10.26 acres (***Attachment 5,*** Chapter 3 Project Description, Figure 3-3), from M to MU-LI, consistent with the Council referral. The application includes a description of a conceptual development project, herein referred to as the Potential Berkeley Forge Development. The Potential Berkeley Forge Development could result in the redevelopment of a 10.26-acre portion of the project site with approximately 900,000 square feet of light manufacturing, research and development (R&D), laboratory, and/or office uses. The proposed M-RD zoning amendments help to advance the Potential Berkeley Forge Development by ensuring the zoning ordinance would enable its entitlement. The City has not received an application for the Potential Berkeley Forge Development; however, submittal of a formal application is anticipated subsequent to adoption of the proposed zoning and plan amendments discussed in this report. It is therefore a reasonably foreseeable project and is evaluated in the Draft EIR at the project level, to the extent feasible, in order to help streamline the environmental review process for the Potential Berkeley Forge Development.

The Planning Commission received presentations on the approach to the proposed rezoning project at its February 1, 2023 and March 1, 2023 meetings for the purpose of finalizing a project description for analysis in the Draft EIR, and provided high-level policy direction to staff. For the February 1, 2023 Planning Commission meeting the City's Office of Economic Development (OED) prepared a report[2] that provides context for the economic conditions in West Berkeley to help inform the City's approach to addressing the Council referral. Specifically, the report describes the city's economy and the impact of the innovation sector in particular – advanced manufacturing, software, life sciences, clean technology, food tech, and other science, technology, engineering and math (STEM) industries – such as employment, wages, wealth creation, social impacts and location decisions. The report also discusses anticipated economic impacts of the proposed rezoning within West Berkeley (***Attachment 4*** to the February 1, 2023 Planning Commission staff report, pages 14-20).

The proposed M-RD zoning, West Berkeley Plan and General Plan amendments consistent with this background and direction from the Planning Commission in February and March of 2023 are summarized in this report and provided in ***Attachment 1, 1a, 1b, and 1c.***

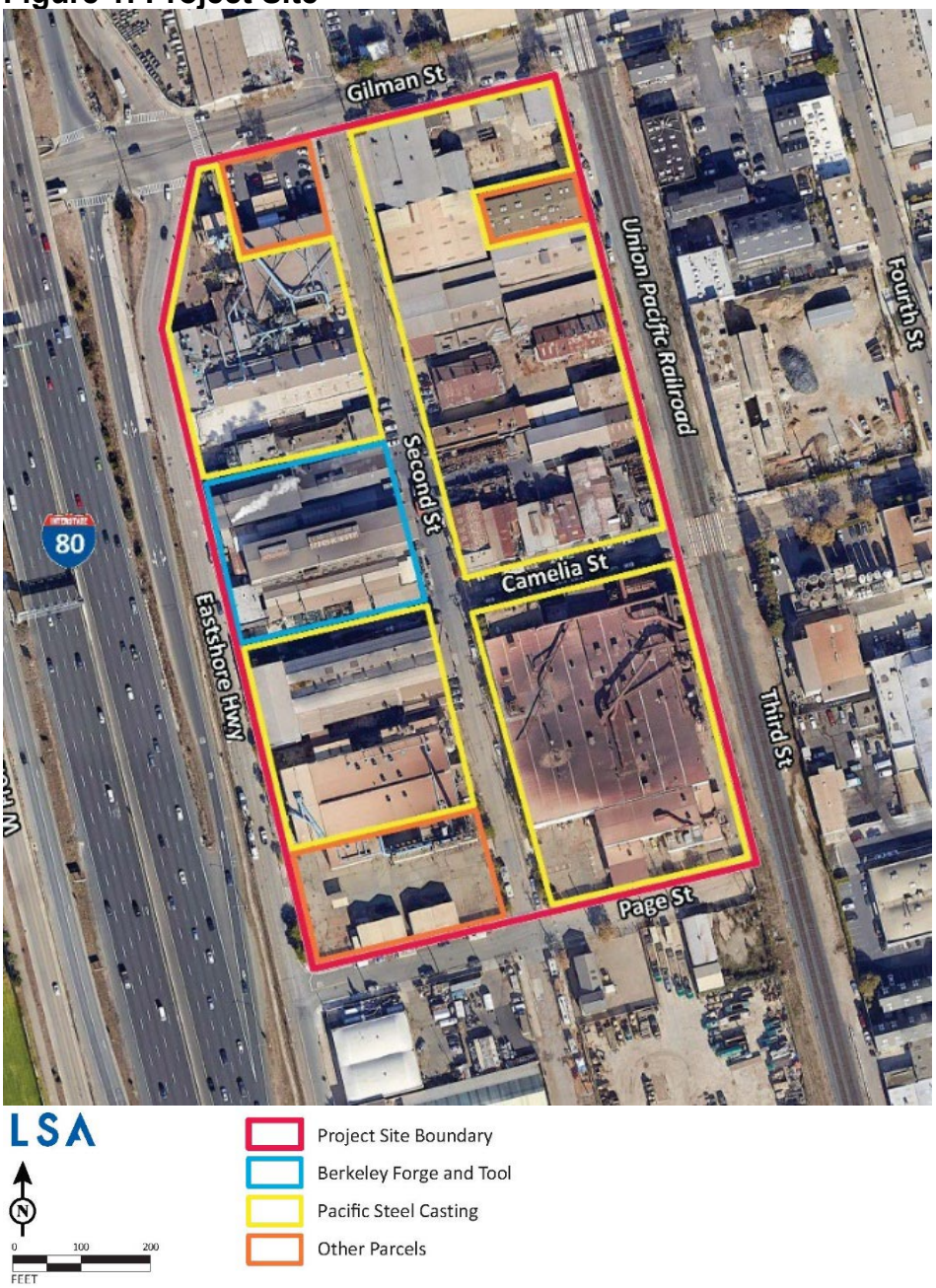
DISCUSSION

Staff are proposing the following Zoning Ordinance text and Zoning Map amendments to create a new zoning district (M-RD), as well as conforming amendments to the General Plan and West Berkeley Plan. As described in the February 1, 2023 Planning Commission report (***Attachment 4***), the project site is an 11.54-acre area located at Gilman Street and Eastshore Highway, containing the former PSC property, the Berkeley Forge and Tool property, and other parcels under various ownership (see Figure 1 and Table 3.A in ***Attachment 5***, Draft EIR Project Description, for ownership details). On February 1 and March 2, 2023, the Planning Commission held discussions on the Gilman Gateway Rezone Project[3], and provided feedback and policy direction. The staff reports for those meetings include background information and rationales for the proposed Zoning Ordinance and Plan amendments. Further discussion and rationale are discussed in this report for items that have been revised and/or drafted since those discussions.

2 *The Innovation Ecosystem in West Berkeley: An Economic Snapshot*, City of Berkeley, Office of Economic Development, February 1, 2023, Planning Commission, Item 12, Attachment 4.

3 Proposed M-RD Zoning Ordinance, Zoning Map, West Berkeley Plan and General Plan amendments in response to the Council referral to create a zoning overlay at the former PSC property. In addition, the February 1, 2023 Planning Commission meeting was also an EIR scoping meeting.

Figure 1: Project Site



Zoning District Boundary

The City of Berkeley Zoning Map would be amended to re-designate the site bounded by Gilman, Eastshore, Page Street and Third Street/ Union Pacific Railroad tracks from M to M-RD (see Figures 2 and 3 below). The proposed boundary of this new zoning district would be consistent with the 2021 Council referral and the 2022 Zoning Map amendment application, and would facilitate potential redevelopment of the site by providing a well-defined and uniform area. More detailed parcel information is found in Table 3.A in the Draft EIR Project Description (***Attachment 5***).

Figure 2: Existing Zoning Map

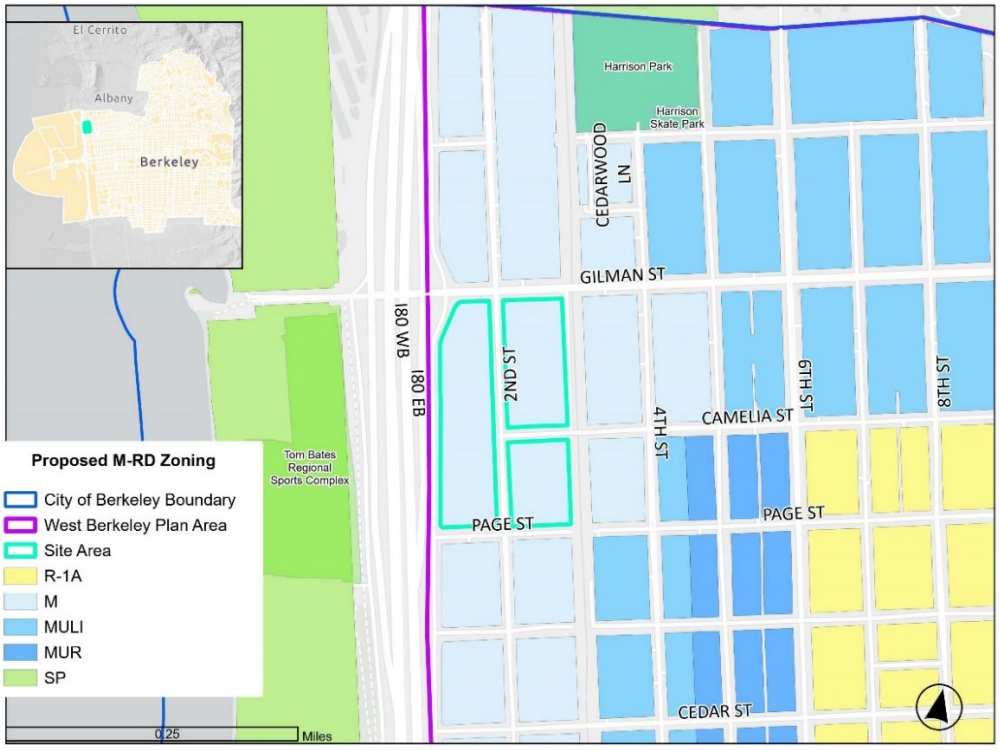
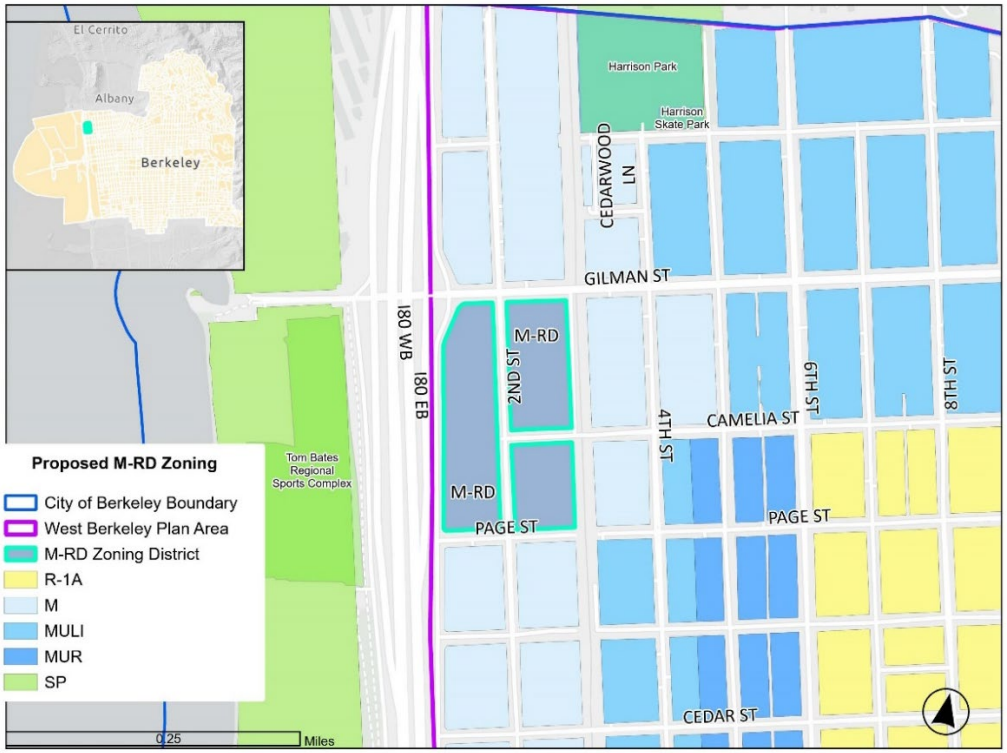


Figure 3: Proposed Zoning Map



Zoning District Purposes

At the February and March 2023 Planning Commission meetings, staff recommended draft purpose statements (***Attachment 4***, pages 5-6) consistent with the Manufacturing land use designation and West Berkeley Plan, as well as the objectives of the Council referral and the Potential Berkeley Forge Development. The Planning Commission expressed support for these purposes. Staff are proposing the following changes to the purposes to ensure compatibility with the General Plan and West Berkeley Plan, and to facilitate redevelopment and environmental remediation of large sites, consistent with the Council referral:

- Revise M-RD purpose statement #1 to better reflect the goal of supporting high-quality employment that adds to the City's tax base by providing for a wider range of allowed uses.
- Add a purpose statement to provide flexibility in the M-RD development standards to accommodate the Potential Berkeley Forge Development (See "Modification to Development Standards" section below for more details).
- Replace the word "visitors" with "customers" in purpose statement #3 to better reflect allowed uses.
- Consolidate the purpose statements regarding environmental quality and industrial uses to clarify that industrial uses are allowed subject to compliance with environmental protection standards.

Therefore, the following district purposes for the M-RD District are proposed:

1. Support a mix of industrial and heavy commercial uses, such as light manufacturing and R&D, particularly those which can provide high-quality employment for people at all educational levels and add significantly to the tax base;
2. Allow office and laboratory uses that support light industrial and research and development uses;
3. Provide flexibility to facilitate the development and reuse of large sites with an urban campus-like environment, demonstrating high-quality design and site planning that includes amenities for employees and customers; and
4. Support the development of industrial uses that would which satisfy performance standards that protect the environment.

These purposes are consistent with the General Plan Land Use Element as well as the goals and policies of the West Berkeley Plan. More specifically, the M-RD purpose statements were designed to provide for "a continued economic and land use mix" called for in the West Berkeley Plan[4], by incorporating manufacturing, industrial, retail and office/laboratory uses to benefit Berkeley residents and businesses economically, benefit the City government fiscally, and promote the varied and interesting character of the area.

[4] *West Berkeley Plan*. Chapter IV Land Use Element Goals and Policies, Goal 1, page 34. https://berkeleyca.gov/sites/default/files/2022-03/12_14_1993%3B%20CLK%20-%20Resolution%3B%20City%20Council%3B%2057301%3B%20West%20Berkeley%20Area%20Plan%3B.pdf

Allowed Uses and Permit Thresholds
Staff initially presented to the Planning Commission a recommendation to allow a narrower set of allowed uses in the M-RD district than those allowed in the MU-LI district in order to target a mix of light manufacturing, R&D, laboratory and office uses. At their February 1, 2023 and March 1, 2023 meetings, the Planning Commission expressed support for a wider range of allowed uses. Consistent with that feedback, as well as with input received from OED, staff are proposing a broader set of allowed uses that are similar to what is allowed in the MU-LI district, with a few exceptions noted in Table 1 below. Most notably, Laboratory, semiconductor manufacturing, and R&D uses would be permitted at lower thresholds than are currently allowed in the MU-LI district.

Table 1: Allowed Uses Comparison – MU-LI and M-RD Districts

USE	MU-LI	M-RD
Retail Uses		
Alcoholic Beverage Retail Sale	UP(PH)*[2]	NP
Industrial and Mining Products	AUP[4]	NP
Food & Alcohol Service, Lodging, Entertainment, and Assembly Uses		
Amusement Device Arcade	ZC	NP
Theater	UP(PH)*	NP
Vehicle Service and Sales Uses		
Vehicle Wrecking	AUP*[4]	NP
Industrial and Heavy Commercial Uses		
Commercial Excavation	UP(PH)	NP
Dry Cleaning and Laundry Plant	ZC[1]	NP
Laboratory: Commercial Physical or Biological	UP(PH)*	AUP[4]
Laboratory: Cannabis Testing	UP(PH)	AUP[4]
Manufacturing: Semiconductors	NP	UP(PH)
Research and Development	ZC[12]	ZC[13]
Notes: [1] Requires an AUP for uses 20,000 sq. ft. to 30,000 square feet. Requires a Use Permit for uses more than 30,000 sq. ft. [2] Not permitted 20,000 sq. ft. or more. [4] Requires a Use Permit for uses more than 20,000 sq. ft. [6] Not permitted over 3,000 sq. ft. [12] Requires an AUP for uses more than 20,000 sq. ft. [13] Requires an AUP for uses 60,000 sq. ft. to 100,000 sq. ft. Requires a Use Permit for uses 100,000 sq. ft. or more. * Use-Specific Standards Apply		

Floor Area and Tenant Space Reconfiguration Permit Thresholds
Consistent with the objectives of the 2021 Council referral, the proposed permit thresholds allow flexibility for future users of the area to adapt to changing building needs over time. The proposed permit thresholds in Table 2 below for construction of

new floor area and tenant space reconfiguration are intended to establish a streamlined and cost-effective process to encourage flexible business growth over time.

Table 2: New Floor Area Permit Comparison – M-RD and MU-LI Districts

Permit Type	M-RD	MU-LI
ZC	Less than 60,000 sq. ft.	Less than 10,000 sq. ft.
AUP	60,000 to less than 100,000 sq. ft.	10,000 to less than 20,000 sq. ft.
UP(PH)	100,000 sq. ft. or more	20,000 sq. ft. or more

In addition, the proposed Zoning Ordinance amendment requires the same permit thresholds for reconfiguring a tenant space in the M-RD district as the existing districts in the West Berkeley Plan Area. The M-RD will require the same findings to approve a permit for a tenant reconfiguration project as are required in the MM (Mixed Manufacturing) district, more specifically that a proposed conversion of tenant space is necessary to implement the purpose of the district. This language aligns with the Zoning Map amendment application, which described that life science businesses in the area tend to occupy smaller tenant spaces and scale up over time, and therefore may require a property owner to subdivide a building over its lifespan to accommodate new small businesses or accommodate expanding businesses.

Development Standards

Staff presented to the Planning Commission general development standards for the proposed M-RD district to prepare a project description for analysis in the Draft EIR at their February 1, 2023 meeting, and a revised set of standards at their March 1, 2023 meeting based on Commission feedback (***Attachment 4***). Consistent with feedback received, as well as with recent, similar development projects in West Berkeley, staff are proposing the following set of development standards to facilitate redevelopment of the area[5] with in-demand industrial and heavy commercial uses. Table 3 below provides a summary of the proposed development standards along with the existing M and MU-LI district standards, and the standards proposed at the March 1, 2023 Planning Commission meeting. The standards for maximum height and minimum off-street loading have been revised since the March 1, 2023 Planning Commission meeting. Each regulation is discussed in further detail below.

[5] Inclusive of the proposed M-RD district area, see Figure 3 above.

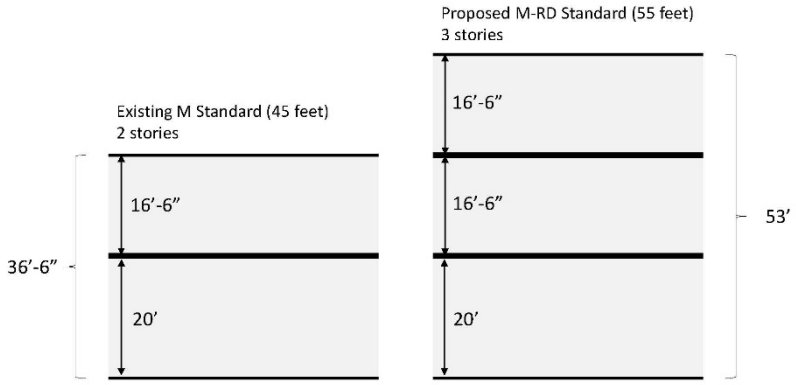
Table 3: Summary of Existing and Proposed Development Standards

Regulation	M & MU-LI Districts (Existing)	March 1, 2023 Planning Commission Meeting Proposed Standard	Current M-RD Proposal
Maximum Height	45 feet	105 feet	55 feet* *See Modification of Development Standards section (*105 feet is allowed if conditions are met)*
Maximum Floor Area Ratio (FAR)	2.0	2.0	2.0
Minimum Setbacks, and Building Separation	Not regulated	Not regulated	Not regulated
Maximum Lot Coverage	Not regulated	80 percent	80 percent
Minimum Off-Street Parking and Minimum Bicycle Parking	Vehicle: See BMC Table 23.322-4	Vehicle: Table 23.322-4, with following changes: • All non-residential uses except uses listed below: 1 per 1,000 sq.ft. • Laboratories: 1 per 1,000 sq.ft.	Vehicle: Table 23.322-4, with following changes: • All non-residential uses except uses listed below: 1 per 1,000 sq.ft. • Laboratories: 1 per 1,000 sq.ft.
	Bicycle: 1 per 2,000 sq.ft.	Bicycle: Same requirements as existing for non-residential uses	Bicycle: Same requirements as existing for non-residential uses
Minimum Off-Street Loading Spaces	For commercial and manufacturing uses 10,000 sq.ft. or more: 1 space for the first 10,000 sq. ft. plus 1 additional space for each additional 25,000 sq. ft.	No changes proposed	• R&D uses 25,000 sq. ft. or more: 1 space (25,000 – 100,000 sq. ft.); 2 spaces (more than 100,000 to 200,000 sq. ft.; 1 space (each additional 100,000 sq. ft. • All other commercial and manufacturing uses 10,000 sq. ft. or more: 1 space for the first 10,000 sq. ft. plus 1 additional space for each additional 25,000 sq. ft.

Maximum Building Height

The current height limit in the MU-LI district is 45 feet. The Zoning Map application includes a request to increase the maximum building height to 105 feet to support the unique building needs of R&D and laboratory uses, which require taller ceiling heights and reinforced floors (see February 1, 2023 staff report, ***Attachment 4***). Planning Commission expressed support for this maximum. In order to maintain consistency with the West Berkeley Plan, which recommended maximum heights of three stories across the manufacturing districts,[6] staff are proposing a maximum building height of 55 feet. This maximum would allow a 3-story building, assuming 20-foot ground-floor heights and 16.5-foot upper story heights, measured floor to floor, typical of R&D and laboratory user needs[7] (see Figure 4 below). However, projects in the M-RD district consisting of at least nine acres could be constructed with a maximum building height of 105 feet (see Modifications to Development Standards section below) if the Zoning Adjustments Board makes certain findings (described further below).

Figure 4: Existing and Proposed Maximum Building Height



Maximum FAR

Consistent with the 2021 Council referral, and 2022 Zoning Map amendment application, and 2023 feedback from the Planning Commission, no changes are proposed to the existing maximum FAR of 2.0 currently allowed in the M district. As the total area of the proposed M-RD district is approximately 463,549 square feet, the maximum buildout of approximately 927,098 square feet of gross floor area is consistent with what was previously evaluated in the General Plan and West Berkeley Plan and the associated EIRs. In other words, development within this district would not exceed the amount of development already anticipated in the West Berkeley Plan area and would be consistent with adopted plans.

Setbacks, Building Separation, and Lot Coverage

[6] Table 1-5, page 153

[7] Attachment 3, Zoning Map Application, pages 7-8.

Lot coverage is not currently regulated in Berkeley's Manufacturing districts. Consistent with Planning Commission feedback at their February 1, 2023 and March 1, 2023 meeting, staff proposes a maximum of 80 percent lot coverage to both facilitate redevelopment and help ensure that open space and amenities for employees are provided for future projects in this district. Some Planning Commissioners expressed support for a maximum of 100 percent. However, staff evaluated the feasibility of development at 100 percent lot coverage and found that due to required infrastructure, building entries, loading spaces, and design characteristics of recent projects in the West Berkeley Plan Area, and given the desire to maximize the allowable FAR which includes additional building height (Attachment 3, pages 7-9), 100 percent lot coverage would not be likely to occur. Further, an 80 percent maximum would help ensure that the future redevelopment of the area furthers the proposed purpose to provide high-quality design and site planning, including amenities for employees and customers, such as landscaped areas and outdoor gathering spaces. No changes are proposed to minimum building setbacks or minimum building separation, which are not regulated in the Manufacturing districts.

Minimum Off-Street Vehicular Parking and Bicycle Parking
Staff presented to the Planning Commission recommendations to revise minimum off-street parking for laboratories and other uses not otherwise listed in BMC Table 23.322-4, which include R&D and office. At their February 1 and March 1, 2023 meetings, the Planning Commission expressed support for these changes, which are included in the proposed zoning amendments. No changes are proposed to the existing off-street bicycle parking requirement.

Minimum Off-Street Loading Spaces
Amendments are proposed to the off-street loading space requirement for R&D uses in the M-RD district to better support the unique loading needs of this use. The proposed changes are to:

- Increase the threshold for which the loading space requirement applies from 10,000 square feet to 25,000 square feet; and
- Simplify the formula to determine the number of spaces required as follows: 1 space required for buildings between 25,000 and 100,000 square feet; 2 spaces required for buildings more than 100,000 to 200,000 square feet; and 1 space for each additional 100,000 square feet.

For example, a 125,000 square foot building containing an R&D use would currently be required to provide 5 loading spaces in all Manufacturing districts (M, MM, MU-LI), while 2 spaces would be required in the M-RD district with the proposed changes.

Unlike vehicle parking space requirements, there is no published generation rate for demand of loading spaces. Staff reviewed requirements in nearby jurisdictions with R&D development activity. The cities of Emeryville and Richmond provide different loading requirements for R&D use than other industrial uses, with R&D uses requiring fewer loading spaces than other types of industrial uses. Oakland, South San Francisco

and Hercules require loading spaces for buildings of at least 50,000 to 100,000 square feet in size. A review of recent R&D redevelopment projects in West Berkeley found that oftentimes, these applications include permit requests to reduce the number of off-street loading spaces required.[8] The proposed changes are consistent with requirements in nearby jurisdictions with R&D development, and would streamline future development in the M-RD district by providing an objective standard for off-street loading spaces.

Modifications to Development Standards
Recognizing the need to address the issues of public concern associated with the site (i.e., environmental contamination and blight), staff are proposing to provide flexibility in the M-RD development standards to facilitate redevelopment with high-quality design and site planning. The proposed Modification to Development Standards section of the Zoning Ordinance amendment would allow flexibility in the FAR, height and coverage standards for projects of at least nine acres, which may comprise multiple parcels and blocks. An eligible project would be subject to a maximum building height of 105 feet, and would be allowed to comply with the maximum FAR and coverage standards on a project-wide basis rather than on a parcel by parcel basis, as long as the FAR and/or coverage on an individual parcel does not exceed the maximum allowed by more than 20 percent and the eligible project as a whole complies with the maximum FAR (2.0) and lot coverage (80 percent) allowed in M-RD. This flexibility is intended to create visual interest from both the Gilman Street entry corridor and from pedestrian level within the site, allow for open space, and maintain views.

This section would require the Zoning Adjustments Board (ZAB) to issue a use permit upon finding that the modification would result in a better overall design than that which could be achieved by strict application of the development standards alone and does not unduly burden the implementation of subsequent development. This section would also grant ZAB the authority to impose any reasonable conditions to ensure that the required findings can be made, such as a reimbursement agreement between the City and the developer, surety/bond/letter of credit, or private maintenance agreement.

In order to provide assurances that a complete project over 9 acres would be delivered, the Modification to Development Standards section would require an applicant to submit a development plan as part of their zoning permit application that includes 1) a phasing plan; and 2) a development comparison demonstrating how the site-wide changes in development standards maximize amenities for employees and customers. A deed restriction would be required to ensure compliance with Conditions of Approval for the zoning permit in perpetuity.

Properties located within the West Berkeley Plan Area may be eligible for two specific zoning permits in Title 23 – a Master Use Permit (Section 23.406.060) and a

[8] BMC Section 23.322.100(C)(5) Modified Requirements. In all Manufacturing and Commercial Districts other than the C-T district, the Zoning Officer in consultation with the City Traffic Engineer may approve an AUP to modify the on-site loading spaces standards in this section.

Modification of Development Standards in the West Berkeley Plan Area (Section 23.406.080). Since the proposed set of allowed modifications to the M-RD development standards are to address the unique issues of public concern associated with the project site, projects in the M-RD district would not be eligible for a Master Use Permit nor a Modification to Development Standards in the West Berkeley Plan Area permit.

General Plan and West Berkeley Plan Amendments
The proposed Zoning Ordinance and Zoning Map amendments require associated amendments to the West Berkeley Plan and General Plan to ensure consistency between the Zoning Ordinance and the General Plan.[9] The proposed West Berkeley Plan amendments would incorporate the new zoning district into the Land Use Element by creating a new policy, updating the Land Use Map, and adding a description of the district to the districting concept (see ***Attachment 1, Exhibit B***). The General Plan would be amended to add the new zoning district to the existing Manufacturing land use classification (see ***Attachment 1, Exhibit C***). Pursuant to BMC Chapter 22.04, staff is requesting the Planning Commission consider these proposed amendments.

ENVIRONMENTAL REVIEW

The City has prepared a Draft Environmental Impact Report (EIR) for the proposed project that evaluates the potential environmental effects of: 1) adoption and implementation of the proposed M-RD zoning and associated Plan amendments; and 2) the Potential Berkeley Forge Development, as it would be facilitated by adoption and implementation of the proposed M-RD zoning, to the extent site planning details have been provided.[10] Recognizing there are various ways in which the project site could be redeveloped under the proposed M-RD zoning, evaluation of the Potential Berkeley Forge Development is not intended to illustrate nor limit the subsequent development proposal that the applicant may submit at a future date. The Draft EIR is a programmatic evaluation, meaning that it evaluates the potential impacts of the application of regulations, in this case, adoption of zoning and plan amendments. In addition, the Draft EIR evaluates the potential impacts of development of the Potential Berkeley Forge Development, to the extent site planning details have been provided.

The City is the Lead Agency for the proposed project and is represented by the Planning and Development Department. Under the California Environmental Quality Act (CEQA), a Lead Agency may proceed directly with EIR preparation, without an Initial Study, if it is clear that an EIR will be required. As the City has made such a determination for this project, no Initial Study has been prepared. A Notice of Availability (NOA) of a Draft EIR was published on **October 21, 2024** (***Attachment 6***). The Draft

[9] The West Berkeley Plan is an amendment to Berkeley's General Plan, providing policies to guide development in West Berkeley.

[10] Because the California Environmental Quality Act requires analysis of alternatives that would reduce environmental impacts compared to the Gilman Gateway Rezone Project, the Draft EIR also analyzes 3) a reduced development alternative in which the zoning and plan amendments would cover a smaller area, 4) a "no action" alternative in which development would occur consistent with current land use and zoning designations, and 5) a "no action" alternative in which neither rezoning nor development occurs.

EIR was posted to the City's website on that date. The public comment period for the Draft EIR ends on **December 5, 2024.**

In accordance with CEQA Guidelines, a Notice of Preparation (NOP) of a Draft EIR was circulated to potentially interested parties and agencies on December 27, 2022 (***Attachment 7***). The City received written responses to the NOP regarding the scope and content of the EIR. The City also held an EIR scoping meeting as part of the regularly scheduled Planning Commission meeting on February 1, 2023. Approximately 38 people attended the hearing and eight verbal or written comments on the scope and content of the EIR were received.

The following environmental topics are addressed in detail in the Draft EIR (Chapter 4: Setting, Impacts and Mitigation Measures, Sections 4.1 through 4.11):

- 4.1 Land Use and Planning
- 4.2 Cultural Resources
- 4.3 Tribal Cultural Resources
- 4.4 Transportation
- 4.5 Air Quality
- 4.6 Greenhouse Gas Emissions
- 4.7 Energy
- 4.8 Noise
- 4.9 Hazards and Hazardous Materials
- 4.10 Hydrology and Water Quality
- 4.11 Biological Resources

The Draft EIR identified five significant and unavoidable environmental impacts in Sections 4.2, 4.5 and 4.6 related to Cultural Resources, Air Quality, and Greenhouse Gas Emissions. All other environmental effects of the proposed project can be reduced to less than significant levels through implementation of Standard Condition(s) of Approval and/or recommended mitigation measures.

The Draft EIR also briefly discusses any possible significant effects that were determined not to be significant or less than significant with implementation of applicable standard conditions and regulatory compliance measures related to the following environmental topics: Aesthetics, Agricultural Resources, Geology and Soils, Mineral Resources, Population and Housing, Public Services, Recreation, Utilities and Service Systems, and Wildfire.

Project Objectives
Section 15124 of the CEQA Guidelines requires an EIR to include a statement of the objectives sought by the proposed project. These Project Objectives helped the City develop a reasonable range of alternatives to evaluate in the EIR and prepare any necessary findings or statements of overriding consideration. The Project Objectives of the proposed project are to:

- Reinvent the former PSC site and adjacent parcels from an underutilized, heavy manufacturing campus into a vibrant urban campus-like environment with in-demand industrial and heavy commercial uses consistent with the intent of the Manufacturing land use designation that adds significantly to the City's economic base and facilitates job creation.
- Establish an M-RD zoning district with land use and development standards that are consistent with the General Plan Manufacturing land use designation and policies of the West Berkeley Plan to retain a diversity of dense, high-quality employment opportunities in West Berkeley for people at all educational levels by allowing for a mix of industrial and heavy commercial uses, such as light manufacturing, R&D, laboratory, and office.
- Facilitate future development by adopting zoning standards that permit construction of buildings that accommodate allowable uses.
- Improve mobility at an entry corridor to West Berkeley by encouraging and supporting current and future transit use and transportation demand management strategies that reduce vehicle miles traveled, while providing sufficient parking to meet the needs of employment-generating uses.
- Clean up environmentally contaminated soils that have contributed impacts to air quality and water quality in the neighborhood.

Project Description in the Draft EIR

The proposed project, referred to as the Gilman Gateway Rezone Project, would aim to facilitate the future development of up to 1,005,266 square feet of non-residential space and a minimum of 1,300 off-street automobile parking spaces on the approximately 11.54-acre project site, with adoption and implementation of:

1. A newly established zoning district – M-RD in BMC Chapter 23.206, which would permit development of light manufacturing, R&D, laboratory, and/or office uses.
2. Rezoning the project site from the M district to the M-RD zoning district.
3. Amendments to the Berkeley General Plan and West Berkeley Plan to add the M-RD zoning district to the Manufacturing land use designation, which would also include development standards for the project site.

Adoption and implementation of the Gilman Gateway Rezone Project would facilitate the development of a conceptual project referred to as the Potential Berkeley Forge Development. The City anticipates the submittal of a formal application for the conceptual development project at the project site, and it is therefore evaluated in the EIR as a reasonably foreseeable project. The Potential Berkeley Forge Development would include the construction and operation of up to 900,000 square feet of R&D, office, laboratory, and light manufacturing uses and 1,900 automobile parking spaces on a 10.26-acre portion of the project site spanning 15 parcels.

The EIR evaluates the impacts of the most intensive future uses that could occur with implementation of the proposed zoning and plan amendments, while the impacts of the conceptual development project are evaluated to the extent project details are available. All future development of the project site, including the Potential Berkeley Forge

Development, would be subject to further environmental review to determine if the future development fits within the development assumptions and conclusions identified in this EIR, or if additional environmental review is needed.

Buildout Projections
For the purposes of environmental review of the Gilman Gateway Rezone Project, the Draft EIR includes development projections to provide a physical project the environmental effects of which can be analyzed. The EIR evaluates the maximum reasonable development scenario, which includes demolition of the existing buildings, construction of up to 1,005,266 square feet of nonresidential space at a maximum building height of 105 feet, and a minimum of 1,300 off-street automobile parking spaces on the 11.54-acre site. The EIR also evaluates the conceptual Berkeley Forge Development, which would include the construction and operation of up to 900,000 square feet of R&D, office, laboratory, and light manufacturing uses and 1,900 automobile parking spaces on a 10.26-acre portion of the project site. The buildout of the Potential Berkeley Forge Development is assumed to be consistent with the development standards of the proposed M-RD zoning district. Any future application would be evaluated to ensure consistency with the M-RD standards.

Potentially Significant Impacts Identified in the Draft EIR
All environmental impacts and mitigation measures are summarized in the Executive Summary (Table 2.A) in the Draft EIR. Table 2.A also identifies the level of significance of the impact after application of the applicable mitigation. Other than the impacts discussed below, all of the environmental effects of the proposed project can be reduced to less than significant levels through implementation of Condition(s) of Approval and/or recommended mitigation measures.

The Draft EIR identifies potential impacts stemming from: 1) the proposed project (zoning and plan amendments); and 2) the Potential Berkeley Forge Development (conceptual development project). Impact titles that include a lower case ‘a’ pertain to the proposed project, while impact titles that include a lower case ‘b’ pertain to the Potential Berkeley Forge Development. The Draft EIR identifies the following significant and unavoidable environmental impacts:

- **Impact CUL-1a (Historic Architectural Resources).** The proposed project would cause a substantial adverse change in the significance of a historic resource as defined in CEQA Guidelines section 15064.5, because implementation of the proposed project would facilitate the demolition of the existing building at 1306 Third Street, which is eligible for listing as a City of Berkeley landmark.
- **Impact AIR-3a2 (Project Construction Air Quality Emissions).** Construction associated with full buildout of the project site (per the proposed rezoning project) would not exceed BAAQMD thresholds and would not expose nearby sensitive receptors to substantial pollutant concentrations with implementation of identified mitigation measures. However, construction associated with any future development projects facilitated by the proposed project that would not include

the demolition of the structure located at 1306 Third Street, including the conceptual development project, would exceed the BAAQMD cancer risk significance thresholds and would therefore expose sensitive receptors in the building to substantial pollutant concentrations.

- **Impact AIR-3b** (**Project Operation Air Quality Emissions)**. Operation of future development projects facilitated by the proposed project, including the conceptual development project, may expose nearby sensitive receptors to substantial pollutant concentrations and could result in potential Toxic Air Contaminants health risks that would cumulatively contribute to elevated health risks in the city.
- **Impact GHG-1a (Project Operation Greenhouse Gas Emissions).** If future development under the proposed project includes natural gas, the proposed project would not meet the project design thresholds recommended by the BAAQMD and would therefore generate GHG emissions, either directly or indirectly, that would have a significant effect on the environment.
- **Impact GHG-2a** (**Inconsistency with Plans, Policies or Regulations Adopted for the Purpose of Reducing Greenhouse Gas Emissions).** If future development at the project site includes natural gas, the proposed project would not meet the project design thresholds recommended by the BAAQMD and would be considered inconsistent with the long-term State GHG reduction goals and emission targets in Assembly Bill 32, Senate Bill 32, Executive Order B-30-15, Executive Order B-48-18, and Assembly Bill 1279. Accordingly, the proposed project would conflict with applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions.

Tribal Consultation (AB 52 and SB18)

Pursuant to the requirements of Assembly Bill 52 (2014, Gatto)[11] and Senate Bill 18 (2004, Burton)[12], City staff consulted with the Confederated Villages of Lisjan Nation (Lisjan Nation) regarding the proposed project. The goal of tribal consultation is to avoid significant effects on tribal cultural resources or to develop mutually agreed upon mitigation measures or. As part of the consultation process, City staff sent a formal memorandum to the Lisjan Nation to disclose potential impact determinations identified in the Draft EIR for the Gilman Gateway Rezoning project, proposed conditions of approval (COAs), and proposed mitigation measures. On May 30, 2024, the Lisjan Nation provided written edits to the proposed COAs and mitigation measures. The City subsequently revised the COAs and mitigation measures to incorporate the majority of the edits provided to the City by the Lisjan Nation, with one exception.

[11] Requires public agencies to consult with Native American tribes during the California Environmental Quality Act (CEQA) process. The legislation aims to protect tribal cultural heritage and provide a formal structure for tribes to provide input on proposed projects.
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB52&search_keywords=

[12] Requires public agencies to consult with Native American tribes when an amendment to a local jurisdictions' General Plan, any Specific Plan, or a designation of open space, is proposed. The legislation aims to protect tribal cultural heritage and provide a formal structure for tribes to provide input on the proposed amendment.
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200320040SB18

The Lisjan Nation requested to incorporate a mitigation measure that requires the City to enter into consultation based on the specifics of a proposed development, even when an EIR is not required, or when only an addendum to an EIR is required. The goal of this proposed consultation would be to reduce the potential for any future project to unearth tribal cultural resources that would result in a potential impact to the significance of the resource (Impact TCR-1, Chapter 4, Section 4.3 Tribal Cultural Resources). Under AB 52, consultation must be initiated by the City for all projects that require environmental review under CEQA. However, this request would require the City to initiate consultation for projects that do not require environmental review. This requirement could potentially establish a precedent for future projects, and would therefore constitute a policy decision that falls outside of the bounds of the authority vested to staff. Therefore, the proposed language is provided below for consideration by the Planning Commission and the City Council:

> **Potential Mitigation Measure TCR-1a:** Given the very high potential for disturbing Tribal Cultural Resources in this highly sensitive area, including ancestral human remains, Confederated Villages of Lisjan Nation will be allowed a 30-day comment period to provide requests for additional mitigation measures based on any specific development plans proposed by a project proponent even when a supplemental EIR is not required or where only an addendum may be required.

Alternatives in the Draft EIR
As required by Section 15126.6 of the CEQA Guidelines, an EIR must examine a range of reasonable alternatives to the proposed project that would feasibly obtain most of the CEQA Project Objectives and avoid or substantially lessen many of the project's significant environmental impacts. The following alternatives are evaluated in the Draft EIR:

- **Alternative 1: No Action Alternative.** This alternative is a version of the "no project" alternative (*CEQA Guidelines* Section 15126.6(e)) that assumes no construction on the site would occur. The existing buildings would not be demolished and would instead remain in place, unchanged from existing conditions. The existing Manufacturing land use and zoning designations would remain, and in the City of Berkeley General Plan and West Berkeley Area Plan would not be amended.
- **Alternative 2: General Plan Compliant Alternative.** This alternative is a version of the "no project" alternative (*State CEQA Guidelines* Section 15126.6(e)) that assumes the project site would be redeveloped pursuant to the current land use and zoning designations. Implementation of the General Plan Compliant Alternative would allow for the development of approximately 1,005,365 square feet of manufacturing and industrial uses on the 11.54-acre project site. Under this alternative, the maximum height would be limited to 45 feet.

- **Alternative 3: Reduced Development Alternative.** This alternative assumes the project site would be limited to the PSC site, consistent with the City Council referral. The Pacific Steel Casting overlay zoning boundary would include nine parcels totaling 354,317 square feet. These parcels are currently developed with 250,606 square feet of industrial uses (see Table 3.A in the Draft EIR for details). This alternative would also require a minimum 100-foot buffer between any existing residential use and proposed new non-residential use, including surface parking lots or structures. Accordingly, future development on the project site would need to be set back from the existing building at 1306 Third Street. Focusing development on the Pacific Steel Casting site with a required buffer would reduce the overall buildout potential of the project site by approximately 50 percent, resulting in up to 566,300 square feet of non-residential space and a minimum of 566 off-street automobile parking spaces.

- **Environmentally Superior Alternative.** CEQA requires the identification of the environmentally superior alternative among the options studied, which is the alternative among those studied that has the fewest significant environmental impacts. Table 5.A in the Draft EIR indicates whether each alternative's environmental impact is greater, lesser, or similar to that of the proposed project.

  As described in Section 5.8 of the Draft EIR, the No Action Alternative would result in the fewest impacts and would be environmentally superior to the proposed project. However, if the No Action Alternative is the environmentally superior alternative, the EIR must identify an environmentally superior alternative from among the other alternatives.[13] None of the other alternatives would avoid the significant and unavoidable impacts to air quality or GHG emissions, due to the lack of construction details and the usage of natural gas. Of the development alternatives, Alternative 2 the "General Plan Compliant Alternative" would avoid the significant and unavoidable air quality impacts associated with construction risk, but would not avoid or reduce the significant and unavoidable historic resource impact associated with 1306 Third Street. Alternative 3 the "Reduced Development Alternative" would avoid the significant and unavoidable historic resource impact associated with 1306 Third Street, and would lower the significant and unavoidable construction health risk impacts at 1306 Third Street because the development potential would be reduced by 50 percent.

  Because Alternative 3 would avoid the proposed project's significant and unavoidable impacts on built historic resources and would have lower impacts than the proposed project as they relate to the significant and unavoidable impact to air quality, and it would meet most of the project objectives, it is considered as the Environmentally Superior Alternative.

[13] *State CEQA Guidelines* Section 15126.6(e)(2).

Publication and Distribution of the Draft EIR

The Draft EIR was made available for public review on **October 21, 2024**. The Notice of Availability (NOA) for the Draft EIR was distributed to State and local planning agencies (***Attachment 6***). The NOA was posted in the office of the County Clerk and notices of the public hearing were published in the Berkeley Voice. Copies of the Draft EIR are available for review and distribution at 1947 Center Street, 2nd Floor, Berkeley CA, 94704. Additional copies are available for review at the additional locations listed below and on the City's website: https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx, under Zoning Application Permit Number "PLN2022-0079".

- City of Berkeley at 1947 Center Street, 2nd Floor;
- Central (Downtown) Library, 2090 Kittredge Street;
- Tarea Hall Pittman South Branch Library, 1901 Russell Street; and
- West Branch Library, 1125 University Avenue.

The Planning Commission is also being asked to take public testimony on the Draft EIR and provide comments to staff on the Draft EIR. Comments on the Draft EIR should focus on whether the Draft EIR is sufficient in discussing possible impacts to the physical environment, ways in which the potential adverse effects may be avoided or minimized through mitigation measures, and alternatives to the proposed project in light of the Draft EIR's purpose to provide useful and accurate information about such factors.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

In accordance with CEQA and the *CEQA Guidelines*, the City of Berkeley Planning and Development Department has prepared a Draft EIR for the proposed project that evaluates the potential environmental effects of adoption and implementation of the proposed zoning, General Plan, and West Berkeley Plan amendments, as well as the Potential Berkeley Forge Development to the extent site planning details have been provided. The City is the Lead Agency for the proposed project and is represented by the Planning and Development Department. An NOA of a Draft EIR was published on **October 21, 2024** and the Draft EIR was posted to the City's website on that date. The public comment period for the Draft EIR ends on **December 5, 2024.**

NEXT STEPS

The Planning Commission recommendation will be forwarded to the City Council. The Council will consider comments from the Planning Commission and the public on these documents, and will consider taking action to:

- Adopt the M-RD zoning, West Berkeley Plan and General Plan amendments; and
- Certify a Final EIR (which will include responses to CEQA-related comments on the Draft EIR submitted during the public comment period (October 21, 2024 to December 5, 2024).

Should the proposed zoning and General Plan amendments be approved and the environmental document certified by City Council, it is anticipated that an application to redevelop the area, similar to the Potential Berkeley Forge Development referred to in this report and in the Draft EIR, would be submitted to the Planning and Development Department for review and action through the typical permitting process. These subsequent permit application(s) would set forth specific development parameters, configuration, allocation and mix of uses proposed, and related site planning details. The permit application(s) would also need to comply with the relevant and applicable requirements, standards, guidelines and policies of the Zoning Ordinance and General Plan, as amended, and be reviewed and acted on by the relevant City Boards and Commissions.

CONTACT PERSON

Ashley James, Senior Planner, Planning and Development Department, 510-981-7458

ATTACHMENTS

1. Planning Commission Resolution 2024-03
    a. Exhibit A: Proposed Zoning Ordinance Amendments
    b. Exhibit B: Proposed West Berkeley Plan Amendments
    c. Exhibit C: Proposed General Plan Amendments
2. City Council Referral to the Planning Commission to Establish a Zoning Overlay at the Pacific Steel Casting Property, April 20, 2021
3. Zoning Map Amendment Application (PLN2022-0079), October 25, 2022
4. Planning Commission Staff Reports, February 1, 2023 and March 1, 2023
5. Gilman Gateway Draft EIR
6. Notice of Availability
7. Notice of Preparation
8. Public Hearing Notice

ATTACHMENT 7

NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL
CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT AND ADOPTION OF RELATED CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS, A STATEMENT OF OVERRIDING CONSIDERATIONS, MITIGATION MEASURES, AND A MITIGATION MONITORING AND REPORTING PROGRAM; AND APPROVAL AND ADOPTION OF ZONING ORDINANCE AMENDMENTS TO ESTABLISH THE MANUFACTURING, RESEARCH AND DEVELOPMENT DISTRICT, AND ASSOCIATED WEST BERKELEY PLAN AND GENERAL PLAN AMENDMENTS

The public may participate in this hearing by remote video or in-person.

The Department of Planning and Development is proposing that the City Council:

1. Adopt a first reading of an Ordinance amending Title 23 of the Berkeley Municipal Code and the Zoning Map to establish the Manufacturing, Research & Development (M-RD) zoning district to encourage redevelopment of the former Pacific Steel Casting (PSC) site.

2. Adopt a resolution to:
    A. Certify the Environmental Impact Report and Adopt related California Environmental Quality Act (CEQA) findings, a statement of overriding considerations, mitigation measures, and a mitigation monitoring and reporting program; and
    B. Approve and adopt West Berkeley Plan and General Plan amendments to be consistent with the associated Ordinance amendments.

The proposed zoning ordinance amendments would add the M-RD district to the list of zoning districts (BMC 23.108.020), add the permit thresholds for uses in the M-RD district to the allowed land use table in manufacturing districts (23.206.020(A)), add new floor area permit requirements within the M-RD district (23.206.030), add tenant space reconfiguration requirements within the M-RD district (23.206.030), revise use-specific regulations to include requirements for uses in the M-RD district (23.206.040), revise use-specific regulations in the MU-LI district (23.206.080(B)), revise the permit findings in manufacturing districts (23.206.100), add a new section – Manufacturing, Research and Development district – including purposes and development standards (23.206.100), revise the permit findings in manufacturing districts (23.206.110), add regulations for outdoor uses in the M-RD district (23.302.020(E), revise permit findings for food service establishments in the M-RD district (23.302.070(E)(4), add regulations for parking lots/structures in the M-RD district (23.302.070(G), add regulations for off-street parking in the M-RD district (23.322.030(C), add regulations for off-street loading spaces in the M-RD district (23.322.100(A) and (B).

The proposed zoning ordinance amendments would apply to all parcels bordered by Gilman Street to the north, the Union Pacific Railroad (UPRR) and Amtrak heavy rail corridor to the east, Page Street to the south, and Interstate 80 [I-80]/Interstate 580 [I-580]) to the west, currently zoned Manufacturing (M). The zoning map is available online:
https://berkeley.maps.arcgis.com/apps/webappviewer/index.html?id=2c7dfafbb1f64e159f4fdf28a52f51c6&showLayers=Berkeley%20Parcels;Base%20Data;Planning%20and%20Building
Each affected APN and address are listed below:

APN	Address
59-2344-1-2	1305 Eastshore Highway
59-2341-4	1401 Eastshore Highway
59-2340-8-2	1421 Second Street
59-2341-5	1420 Second Street
59-2344-4-1	1320 Second Street
59-2344-3-1	1314 Second Street
59-2345-9	1333 Second Street
59-2345-2-2	1310 Third Street
59-2345-1	1311 Second Street; 630 Gilman Street; 640 Gilman Street
59-2344-7	1331 Eastshore Highway
59-2344-5-1	1330 Second Street
59-2345-8-1	1337 Second Street
59-2345-6-1	635 Camelia Street
59-2345-4	643 Camelia Street
58-2345-2-1	1306 Third Street
59-2344-2-1	600 Gilman Street
59-2341-3-2	1433 Eastshore Highway
59-2345-7	631 Camelia Street 625 Camelia Street

The hearing will be held on **March 25, 2025** at **6:00 pm** in the School District Board Room, located at 1231 Addison Street, Berkeley CA 94702.

A copy of the agenda material for this hearing will be available on the City's website at https://berkeleyca.gov/ as of March 13, 2025. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

For further information, please contact Ashley James, Senior Planner, Department of Planning and Development at 510-981-7458.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@berkeleyca.gov in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at (510) 981-6900 or clerk@berkeleyca.gov for further information.

Published: March 14, 2025 – The Berkeley Voice

Public Hearing required by BMC 23.412.050, 22.040.020(A) and Govt Code 65853, 65355; notice provided according to Govt Code 65090 and BMC 23.404.040.

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I hereby certify that the Notice for this Public Hearing 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 **March 13, 2025**.

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Mark Numainville, City Clerk
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09

Office of the City Manager

PUBLIC HEARING
March 25, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

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

Subject: ZAB Appeal: 3000 Shattuck Avenue, Use Permit #ZP2022-0046

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve a Use Permit to demolish a gas station, and construct a 10-story (114 feet) mixed-use building utilizing a State Density Bonus request, with 166 dwellings, including 17 Very Low-Income units, and 1,000 square-feet of commercial space, and dismiss the appeals.

SUMMARY

On May 11, 2023 ZAB approved the Use Permit for 3000 Shattuck Avenue authorizing construction of the mixed-use multifamily building. The ZAB approval was appealed to the City Council by three parties: a law firm representing Laborers International Union of North America, Local Union 304; 34 people who own or lease property within 300 feet of the project site; and a law firm representing East Bay Residents for Responsible Development. The appellants have identified alleged issues with the environmental review of the project. The City's responses to appellants' contentions are set forth below.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

A Use Permit application was submitted for this site in 2015 (ZP2015-0229). An Initial Study-Negative Declaration (IS-ND) was prepared for a five-story project with 44 dwelling units, 17 off-street parking spaces, and 6,000 square feet of commercial space. The project was revised by ZAB to 23 units, 6 parking spaces, and 3,522 square feet of commercial space. The revised project was approved by Council, and the IS-ND was adopted by Council on November 27, 2018. The project was not pursued.

On December 14, 2021, Isaiah Stackhouse submitted a complete Preliminary Application to vest development rights for the proposed project at 3000 Shattuck Avenue pursuant to Senate Bill (SB) 330, the Housing Crisis Act of 2019 (Government Code Sections 65941.1 and 66300), for a housing development project.

On March 29, 2022, Isaiah Stackhouse submitted an application for a Use Permit (ZP2022-0046) to construct a ten-story, mixed-use building with 166 dwelling units, 1,043 square feet of ground floor commercial space, and no off-street car parking spaces, using a State Density Bonus.

On July 8, 2022, the applicant submitted a letter from their attorney requesting an Addendum to the previous IS-ND for the five-story project, per *CEQA Guidelines* Sections 15162 and 15164. On July 29, 2022 staff agreed to move forward with an Addendum because the new project is not substantially different from the previous project.

On August 3, 2022, the use permit application was deemed complete.

On January 27, 2023, an Addendum to the 2018 IS-ND was published.

On April 27, 2023, staff posted the public hearing notice of the ZAB hearing at the site and six nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area.

On May 5, 2023, the applicant submitted a second Preliminary Application to vest development rights for the proposed project at 3000 Shattuck Avenue pursuant to Senate Bill (SB) 330, the Housing Crisis Act of 2019 (Government Code Sections 65941.1 and 66300), for a housing development project, superseding the previous preliminary application.

On May 11, 2023, ZAB conducted a public hearing for the Use Permit. After receiving public comment, ZAB approved the Use Permit by a vote of 8-0-0-1 (Yes: Duffy, Gaffney, Lunaparra, O'Keefe, Sanderson, Thompson, Tregub, Yung; No: None; Abstain: None; Absent: Kahn).

On May 18, 2023, staff issued the ZAB Notice of Decision. The City Clerk received three separate appeals on May 25, May 31, and June 1, 2023. The City Clerk scheduled the appeal hearing for September 26, 2023. Appellants were informed of the hearing date by letter on June 15, 2023.

In August 2023, the appeal hearing was delayed so that the City's CEQA consultant could revise the Addendum. On January 10, 2025, the City Clerk notified the appellants of the new Council hearing, March 25, 2025.

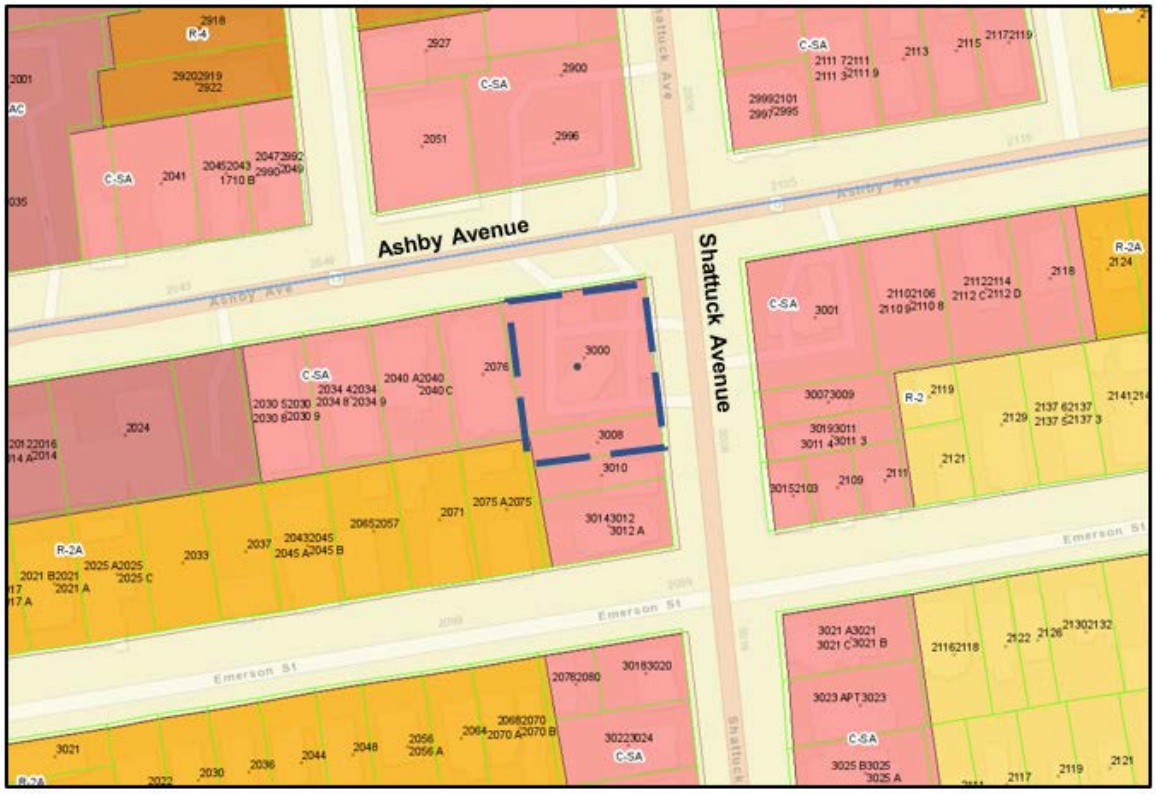
On or before March 11, 2025, staff posted the public hearing notice of the Council hearing at the site and six nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, to all registered neighborhood groups that cover this area, interested parties who requested notice, and the appellants. The Council must conduct a public hearing to resolve the appeals.

BACKGROUND

The project site is located on the southwest corner of Ashby Avenue and Shattuck Avenue. The surrounding area consists of a mix of commercial and residential development ranging from one to three stories in height. The Ashby BART station is 0.3 miles to the west. In addition, bus service is available via AC Transit routes 18 and 800.

The 14,000-square-foot project site comprises two parcels (Figure 1), and is currently developed with a gas station that includes a mini-market with an office, car repair services, smog test center, two gas station canopies with pump islands, and surface parking for 11 automobiles (Figure 2). Site access to is provided from both Ashby and Shattuck Avenues.

Figure 1: Zoning Map



Legend

Site Boundary

Zoning

C-SA:	South Area Commercial
R-2:	Restricted Two-Family Residential
R-2A:	Restricted Multiple-Family Residential
R-4:	Multi-Family Residential

Figure 2: Current conditions, facing southwest (Google Street View, 2024)



The proposed project would demolish the existing commercial buildings, remove the existing paving and the curb cuts, and construct a new 10-story mixed-use building with:

- 166 dwelling units (all studio units) for a total of 166 bedrooms;
- Commercial space: 1,043 square feet in area, for one tenant on the ground floor at the northwest corner of the property;
- Two bicycle storage rooms on the ground floor with storage for 62 bicycles, and five short-term bicycle parking spaces along Shattuck Avenue and Ashby Avenue;
- Residential access from Shattuck Avenue;
- New street trees along Shattuck Avenue and Ashby Avenue;
- Useable open space totaling 8,516 square feet consisting of ground level space and a roof deck.

The project is eligible for a Density Bonus under Government Code Section 65915, by providing 17 Very Low-Income units (15 percent of the base project) on site, and qualifies for a 50 percent density bonus, or 56 bonus units, of which 55 are utilized, resulting in a 166-unit density bonus project, with waivers to:

1) **FAR.** Exceed the Floor Area Ratio (FAR) limit from 4.0 to 6.0
2) **Height.** Exceed the building height limit from 36 feet and 3 stories to 113 feet 10 inches and 10 stories
3) **Front Setback.** Reduce the required front setback from 15 feet to 2 feet 6 inches
4) **Rear Setback.** Reduce the required rear setback from 15 feet to 11 feet 3 inches
5) **Side Setback (street).** Reduce the required street side (left side) setback from 6 feet to 15 feet (varies by story) to zero feet
6) **Side Setback (interior)** Reduce the required interior side (right side) setback from 4 feet to 12 feet (varies by story) to 5 feet 7 inches
7) **Lot Coverage.** Exceed the lot coverage limit from 40 percent to 62 percent

On May 5, 2023, the applicant submitted a new SB 330 preliminary development project application, superseding the preliminary housing development project application submitted in December 2021. Submittal of all the information listed in the pre-application form and payment of the permit processing fee froze development standards and fee rates as of May 5, 2023, unless exceptions per Government Code § 65889.5(o) are triggered. The May 5, 2023 vesting date affects the Affordable Housing Mitigation Fee and inclusionary housing requirements. The affordable housing conditions were revised to require compliance with all applicable provisions of Berkeley Municipal Code (BMC) Chapter 23.328, Inclusionary Housing, and Council Resolution 70,698-N.S., rather than BMC Section 22.20.065, Affordable Housing Mitigation Fee, in effect in December 2021. The new vesting date did not change the Use Permit project.

In 2015, a different Use Permit was submitted for the site, ZP2015-0229. An IS-ND was prepared for that project in 2017, and adopted by Council in 2018. The IS-ND was prepared for a five-story project with 44 dwelling units, 17 off-street parking spaces, and 6,000 square feet of commercial space.

In May 2022, staff informed the applicant that a new IS was required for the current project since the site is on a list pursuant to Section 15300.2(e) of the *CEQA Guidelines*. The applicant submitted a letter from their attorney requesting an Addendum to the previous IS-ND for the five-story project, per *CEQA Guidelines* Sections 15162 and 15164. The conditions in *CEQA Guidelines* Section 15162(3)(A) and (D) requiring preparation of a subsequent Environmental Impact Report (EIR) were not met.

Staff agreed to move forward with an Addendum because the new project is not substantially different from the previous project. The new project is taller and denser, and contains no off-street car parking, and less commercial space, but the proposed land uses would remain the same, and the project would continue to comply with the BMC and General Plan. See Table 1 for a comparison of the current project and the project analyzed in the 2018 IS-ND.

Table 1: Comparison of the Current Project and the Project in the 2018 IS-ND

Project Characteristic	Previously Approved Project	Updated Project
Total Floor Area	**38,828 sf**	**89,846 sf**
Lot Coverage	83%	68%
Residential[1]	32,603 sf	80,235 sf
Retail	6,225 sf	1,095 sf
Building Height	56 feet and 11 inches; 5 stories	113 feet and 10 inches; 10 stories
Total Residential Units	**44 units[1]**	**166 units[2]**
Affordable Units	4 units	17 units
Open Space		
Roof Deck	N/A	4,473 sf
Ground Level Open Space	N/A	4,043 sf
Usable Open Space	2,092 sf	8,516 sf
Parking		
Automobile	17 spaces	0 spaces
Bicycle	62 spaces	62 spaces[3]
Construction		
Length	18 months	18 months

[1]Includes 4 studios (430 sf on average), 31 1-bedrooms (616 sf on average), and 8 2-bedrooms (902 sf on average).

[2]All units would be studios.

[3]Includes 55 long-term residential spaces, 5 short-term residential spaces, and 2 short-term commercial spaces

sf = square feet

In January 2023 an Addendum to the 2018 IS-ND was published. The Addendum found that potential impacts associated with the modified project are consistent with potential impacts characterized and mitigated for in the 2018 IS-ND. Substantive revisions to the 2018 Final IS-ND were not necessary because no new significant impacts or significant impacts of substantially greater severity were identified.

After the Addendum was published, the applicant modified the plans to reduce the size of the commercial area by 52 square feet, increased upper floor residential floors by 33 square feet each, and reduced setbacks slightly to accommodate the floor area change.

On May 5, 2023 the City's CEQA consultant provided a memorandum to analyze whether the modifications affect the analysis or conclusions of the Addendum. The consultant found that the changes would not result in new or substantially increased impacts compared to the project studied in the original IS-ND, and the changes did not warrant changes to the Addendum.

On May 11, 2023 the CEQA consultant submitted a second memorandum in response to a letter submitted to ZAB by the law firm of Adams Broadwell Joseph and Cardozo,

on behalf of East Bay Residents for Responsible Development ("East Bay RRD"). The memorandum addressed potential errors in the California Emissions Estimator Model (CalEEMod) emissions modeling used as a basis for the air quality analysis. The consultant revised the modeling, including revising the construction duration to be consistent with the applicant-provided 18-month construction schedule, and adding a demolition phase with estimated air pollutant emissions from truck trips to remove on-site structures and asphalt. The modified project's impacts would be below the Bay Area Air Quality Management District (BAAQMD) thresholds of significance. Therefore, the modified project's air quality impacts would be less than significant, consistent with the conclusions of the Addendum.

The Addendum's conclusions were not affected by the additional analysis provided in the corrections. ZAB found the project to be compliant with all applicable, objective general plan and zoning standards, and without specific adverse impacts to public health or safety, and approved it on May 11, 2023 without reductions to the project's density, pursuant to the State Housing Accountability Act (HAA), Government Code Section 65589.5(j).[1] ZAB also adopted an Addendum to the Initial Study-Negative Declaration, with revisions to the air quality modeling (memorandum dated May 11, 2023), revised the affordable housing conditions to comply with the new ordinance, and added conditions to require the applicant to meet with concerned neighbors, to update the floor plans to conform with the renderings, and to provide native plantings as part of the project landscape plans. For additional project background, please see Attachment 6, the May 11, 2023 ZAB staff report for this project.

In response to the appeal letters received after ZAB approval, the City's consultant revised the Addendum (Attachment 1, Exhibit C), and provided a Response to Appeal Comments (Attachment 5) where they highlight revisions to the Addendum. The conclusion of the revised Addendum is the same as the 2023 Addendum: no further evaluation of environmental impacts is required for the modified project, no subsequent EIR is necessary pursuant to *CEQA Guidelines* Section 15162, and the Addendum is the appropriate level of environmental analysis and documentation for the modified project pursuant to *CEQA Guidelines* Section 15164.

RATIONALE FOR RECOMMENDATION

The issues raised in the appellants' letters and staff's responses follow. There are three appeal letters to consider for this hearing and the appeal points are presented in the order that the letters were received. For the sake of brevity, the appeal issues are not

[1] The Housing Accountability Act (HAA), Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that the development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

re-stated in their entirety. Please refer to the attached appeal letters for the full text; Attachments 2 through 4 of this report.

Appeal Letter 1 was submitted by the law firm of Lozeau Drury LLP on behalf of Laborers International Union of North America, Local Union 304 ("LiUNA")

LiUNA Appeal - Issue 1: California Environmental Quality Act (CEQA) compliance. The Appellant asserts that the Addendum to the 2018 Initial Study-Negative Declaration (IS-ND) was not appropriate for this review because new evidence has been submitted and the IS-ND failed to consider it. (Appeal Letter 1, Attachment 2, pages 1-2).

Response: CEQA Guidelines Section 15162 "Subsequent EIRs and Negative Declarations" identifies three criteria that would require an updated document to be prepared.

1. *Substantial changes are proposed which will require major revisions of the previous negative declaration due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects.*

Project components such as the height and density for the project have changed, but existing conditions at the site are the same (differences between the previous project and the current project are discussed in Table 1 above, in the Addendum, and in the ZAB staff report). Increasing the height and number of units does not change the environmental impacts of this mixed-use residential project. For example, in terms of air quality, operational emissions would remain below BAAQMD thresholds, and the project does not include new facilities that would emit substantial quantities of toxic air contaminants. As discussed in the Addendum, the modified project would not introduce new, significant environmental impacts beyond those that have already been identified and characterized in the 2018 Final IS-ND.

2. *Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous negative declaration due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects.*

The modified project, like the original project described in the 2018 Final IS-ND, is a proposed mixed-use development in Berkeley, and is on the same project site as the original project. The circumstances under which the project is undertaken have not changed. The project is still a mixed-use residential development by a private entity. Most of the environmental conditions described in the 2018 Final IS-ND are substantially unchanged. Several new buildings in the vicinity of the project site have either been constructed, are approved, or are pending approval, and those changes are expected in an urban area. As discussed in the Addendum, there are no substantial changes in the project or circumstances.

3. *New information of substantial importance, which was not known or could not have been known when the ND was adopted, shows any of the following:*
    A. *The project will have one or more significant effects not discussed in the ND.*
    B. *Significant effects will be substantially more severe.*
    C. *Mitigation measures previously found not feasible would be feasible, but the project proponents decline to adopt the mitigation measures.*
    D. *Mitigation measures which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measures.*

An EIR was not required for the previous project, so many of the conditions identified in the appeal point above do not apply. The Addendum discussed the impacts of the proposed project in terms of the twenty environmental issue areas suggested by the *CEQA Guidelines* and found that potential impacts associated with the modified project are consistent with potential impacts characterized in the IS-ND. As discussed in the Addendum, impacts of the modified project would be less than significant, and thus A. and B. above do not apply. C. and D. do not apply because there were no mitigation measures attached to the previous project.

Staff prepared an Addendum, with the help of an environmental consultant, because the project site has not changed since the IS-ND was prepared. The Addendum evaluated the changes under the modified project in comparison to the original project, against *CEQA Guidelines* Section 15162, and found the potential impacts associated with the modified project to be consistent with the potential impacts discussed and mitigated for in the 2018 IS-ND. Conditions requiring preparation of an EIR or subsequent ND were not met.

LiUNA Appeal - Issue 2: Air quality and CEQA. The appellant states that composite wood materials in the interior of the new building will off-gas carcinogens, the project may result in significant Reactive Organic Gas (ROG) emissions which exceed BAAQMD thresholds, the Addendum underestimates the Project's emissions by altering the estimated construction length and not including demolition, and the Addendum and IS-ND do not analyze air quality impacts that will result from trucking modular units to the project site. These are all significant impacts under CEQA (Appeal Letter 1, Attachment 2, page 2).

Response 2: The issue of Air Quality is stated several times in the appeal related to indoor air quality, Reactive Organic Gas emissions, and vehicle emissions.

Indoor Air Quality. Natural and mechanical ventilation is required for new buildings under the California Buildings Standard Code, and during plan check review City staff

will verify that the project meets all requirements of the code. Volatile Organic Compounds may affect people living in new buildings, but they will not affect people who live and work in the area surrounding the project site. Section 4.3, *Air Quality*, of the Addendum has been revised to include a discussion of indoor air emissions of formaldehyde, to address this appeal point. The analysis concludes that the modified project would have less than significant impacts on formaldehyde.

Reactive Organic Gas (ROG) Emissions. The appellant states that the modified project may result in potentially significant ROG emissions which would exceed Bay Area Air Quality Management District (BAAQMD) thresholds. In response to this comment, Section 4.3, *Air Quality*, of the Addendum has been revised to include a discussion of air quality emissions modeling (CalEEMod) methodology and ROG emissions (Attachment 1 Exhibit C and Attachment 5). Per the data provided in the 2023 Addendum, and the 2025 Addendum, the project would not exceed BAAQMD thresholds for ROG emissions.

Construction and Demolition Emissions. The City's consultant, Rincon Consultants, revised the emission modeling in May 2023 to change the construction duration to be consistent with the applicant-provided 18-month construction schedule and added a demolition phase. The revised modeling found the project's impacts to still be below BAAQMD thresholds of significance. Rincon prepared a memo which discussed the revised modeling results, which was provided to ZAB as a supplemental item before the May 11, 2023 ZAB meeting.

Emissions from Trucking Modular Units. As stated in the Addendum, the building may be built using modular construction. In modular construction, standardized components are built off-site, and then assembled into a building on-site. The Addendum has been revised to include a discussion of air quality impacts resulting from the trucking of modular units to the project site, to address this appeal point. The analysis concludes that site preparation and air quality would still be substantially the same as for traditional construction.

LiUNA Appeal - Issue 3: Hazardous materials and CEQA. Appellants assert that since the site is in the State Water Resources Control Board's Geotracker database, the site will need to be studied to determine if it is safe for residential development, and "this is a previously undisclosed significant impact which must be addressed" by a Mitigated Negative Declaration or an EIR (Appeal Letter 1, Attachment 2, page 2).

Response 3: The project site is in the State Water Resources Control Board's Geotracker database, is listed as a LUST (Leaking Underground Storage Tank) Cleanup Site, and was marked as "case closed" in 2013 and 2014. Phase I and Phase II Environmental Site Assessments were conducted in 2022, and soil and groundwater conditions related to hazardous materials have remained unchanged since the IS-ND

was prepared, and the Addendum did not identify any increased or new significant impact as a result. The proposed project is required to comply with standard Conditions of Approval (COAs) for remediation or removal of toxic materials in preparation for residential development, which include a requirement for a soil and groundwater management plan (Attachment 1, Exhibit A, COA 26) in accordance with Berkeley Municipal Code Section 15.12.100, the stormwater pollution prevention requirements of the San Francisco Bay Regional Water Quality Control Board's Order No. R2-2009-0074, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66260 et seq.), and the East Bay Municipal Utility District's Ordinance 311.

LiUNA Appeal - Issue 4: Air quality and detriment. Appellants assert that the project may be detrimental because the Addendum does not mitigate the project's detrimental impacts to air quality (Appeal Letter 1, Attachment 2, page 3).

Response 4: As outlined in Section 4.3, *Air Quality*, of the Addendum, the modified project's estimated air pollutant emissions would not exceed BAAQMD's thresholds and impacts related to criteria air pollutants or contribution to a cumulative air quality impact would be less than significant. In addition, compliance with the City's standard condition of approval, *Air Quality – Diesel Particulate Matter Controls During Construction*, as well as proximity to alternative transportation would ensure that impacts related to construction and operational toxic air contaminants (TACs) are less than significant. Therefore, no significant new or substantially increased air quality impacts would result from the modified project.

BMC Section 23.406.040(E) discusses the *Findings for Approval* required for all Use Permits, and addresses *detriment*. These findings are colloquially referred to as "non-detriment findings." The BMC requires findings of non-detriment for approval of discretionary permits. However, non-detriment findings are not objective standards, and cannot provide a basis for denial of (or reduction in density for) a housing project, due to the HAA. The City cannot deny or reduce the density of a housing development that is compliant with objective standards, unless it can meet the strict finding of specific adverse impact[2] on public health or safety – a level of impact which the State Department of Housing and Community Development considers to be rare.[3] ZAB approved the project in accordance with SB 330 and HAA.

[2] Per Government Code Section 65589.5(d)(2), a "specific, adverse impact" means "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete."
[3] Housing Accountability Act Technical Assistance Advisory (Government Code Section 65589.5), page 20; State Department of Housing and Community Development.

Appeal Letter 2 was submitted by Larisa Cummings, Paul Dillingham, Dave Auerbach, Lynn Cooper, and Les Shipnuck, and signed by 29 others who own or lease property within 300 feet of the project site, for a total of 34 signatories.

Appeal by 34 Signatories - Issue 1: The City failed to perform cumulative impact analysis, and an Initial Study rather than an Addendum is required for the modified project (Appeal Letter 2, Attachment 3, pages 1-3).

Response 1: Section 4.15, *Changes in the Environmental Setting and Cumulative Impacts*, has been added to the revised Addendum to address this appeal point, and includes an analysis of cumulative impacts that may result from the project. Eight cumulative development projects within two miles of the modified project were analyzed. The revised Addendum concludes that the modified project would not result in cumulatively considerable impacts for any issue area and impacts would be less than significant.

An Initial Study was prepared for the original project in 2018. As discussed in Section 3 of the Addendum, *Decision Not to Prepare Subsequent Negative Declaration or EIR*, pursuant to Section 15164 of the *CEQA Guidelines* a lead agency shall prepare an Addendum to a previously certified negative declaration if some changes or additions are necessary. However, none of the conditions described in *CEQA Guidelines* Section 15162 that call for preparation of a subsequent EIR or negative declaration have occurred. See the response to the LiUNA Appeal - Issue 1.

Appeal by 34 Signatories - Issue 2: The City did not consider input from the public when it determined whether to prepare an EIR, which is inconsistent with *CEQA Guidelines* Section 15064(c) (Appeal Letter 2, Attachment 3, page 2).

Response 2: *CEQA Guidelines* Section 15064(c) reads:

> In determining whether an effect will be adverse or beneficial, the lead agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency. Before requiring the preparation of an EIR, the lead agency must still determine whether environmental change itself might be substantial.

An Initial Study was prepared for the original project in 2018. Opportunities for public review and input for the IS-ND occurred during the public circulation period (30 days) for the IS-ND in 2017, and at the ZAB hearing in 2018. The Addendum for the modified project was released publicly for review three months prior to the ZAB hearing on May 11, 2023. As discussed in Section 3 of the Addendum, *Decision Not to Prepare Subsequent Negative Declaration or EIR*, pursuant to Section 15164 of the *CEQA Guidelines* a lead agency shall prepare an Addendum to a previously certified negative declaration if some changes or additions are necessary. However, none of the

conditions described in *CEQA Guidelines* Section 15162 that call for preparation of a subsequent EIR or negative declaration have occurred.

Appeal by 34 Signatories - Issue 3: Appellants are concerned about traffic in the Russell-Shattuck-Ashby area because five projects are proposed, and one project is under construction. None of these projects will provide on-site loading zones, or right-of-way improvements to facilitate loading. Cumulative traffic impacts of the proposed project, other recently entitled projects, and future entitled projects must be considered (Appeal Letter 2, Attachment 3, pages 3-5, 8-9).

Response 3: Section 4.15, *Changes in the Environmental Setting and Cumulative Impacts*, added to the revised Addendum in response to the appeal point, analyzes the cumulative construction-related and operational transportation impact from eight development projects that are within two miles of the modified project. As discussed therein, the modified project would not result in considerable contributions to significant cumulative impacts and impacts would be less than significant. Section 4.13 of the revised Addendum, *Transportation*, includes a discussion of construction traffic impacts in response to the appeal point. The modified project would be required to comply with the City's Standard Condition of Approval, *Transportation Construction Plan*, which would require preparation of a Transportation Construction Plan for all phases of construction in order to minimize impacts related to construction traffic.

Traffic impact analysis is not required for projects located within a quarter mile of a "high-quality transit corridor[4]" or a half mile from a "major transit stop[5]." Because this site is within a third of a mile from a major transit stop (Ashby BART station), no traffic impact analysis is required for the City's review and consideration. Off-street parking for the residential and commercial uses is not required for this site per BMC Section 23.322.030(B)(1) and Assembly Bill 2097. On-site loading spaces are not required because the commercial use is less than 10,000 square-feet.

Land Use Planning does not regulate on-street loading spaces. The applicant has been informed that CalTrans would not support a loading zone along the Ashby Avenue portion of the project. A loading zone on the Shattuck Avenue side of the project would not be feasible because AC Transit plans to move the bus stop at the northwest corner of Shattuck and Ashby to the southwest corner of the intersection along the project frontage. The City's Transportation staff has indicated that they would not support adding an on-street loading space if it would require removing on-street parking.

[4] Defined in Public Resources Code 21155 as corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.
[5] Defined in CEQA Section 21064.3 as a site containing a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

This project, like other projects adding ten or more dwelling units, is required to comply with the City's Transportation Demand Management (TDM) requirements. COA 61 in Attachment 1 Exhibit A describes the TDM requirements for this project.

Appeal by 34 Signatories - Issue 4: Changes to the previously approved project. Appellants assert that the current project is different from the previously proposed project, and thus the construction duration and foundation work should not be the same or similar, and lead the appellants to doubt data in the Addendum (Appeal Letter 2, Attachment 3, pages 3, 10).

Response 4: As discussed under Issue 1 of the LiUNA Appeal, although project components have changed, the modified project would not introduce new, significant environmental impacts beyond those that have already been identified and characterized in the 2018 Final IS-ND. Information on the construction duration and foundation work is from the applicant, and they have consulted their general contractor.

Appeal by 34 Signatories - Issue 5: ZAB rushed approval of the project (Appeal Letter 2, Attachment 3, page 5).

Response 5: The appellants state that a vote on the project was not required at the May 11, 2023 ZAB meeting because it was only the second meeting on the project after it was deemed complete. Per Government Code Section 65905.5(a) if a proposed housing development project complies with the applicable, objective general plan and zoning standards in affect at the time an application is deemed complete, then the city shall not conduct more than five hearings in connection with the approval of that housing development project. This includes all public hearings in connection with the approval of the housing development project and any continuances of such public hearings. The city must consider and either approve or disapprove the project at any of the five hearings consistent with applicable timelines under the Permit Streamlining Act. An appeal to City Council is included in the five-meeting count.

After hearing all public comments, and considering all of the evidence on the record at the May 11, 2023 hearing, ZAB determined that the project meets all applicable objective planning standards pursuant to SB 330, the HAA, and the *CEQA Guidelines*, and approved the project. ZAB did not move to continue the hearing to another meeting for additional discussion.

Appeal Letter 3 was submitted by the law firm of Adams Broadwell Joseph and Cardozo, on behalf of East Bay Residents for Responsible Development ("East Bay RRD"). The appeal points that follow are largely based on summaries of points within the appeal letter, and not on specific numbers used in the appeal letter.

East Bay RRD Appeal - Issue 1: CEQA compliance. The Addendum did not accurately disclose the project's potentially significant impacts to air quality,

public health, hazardous contamination, land use, and cumulative impacts (Appeal Letter 3, Attachment 4, page 3).

Response 1: See previous responses to LiUNA Appeal Issue 1 for why an Addendum is appropriate for the modified project; LiUNA Appeal Issues 2 and 4 for Air Quality and public health; LiUNA Appeal Issue 3 for Hazardous Materials; and 34 Signatories, Issue 1 for Cumulative Impacts.

As discussed in Section 4.8 of the Addendum, *Land Use and Planning*, the modified project would not alter the land uses proposed in the original project and would be consistent with the Avenue Commercial designation, which is characterized by "pedestrian-oriented commercial development and multifamily residential structures" and General Plan policies. The modified project would comply with State Density Bonus requirements and therefore qualifies for waivers for height, setbacks, and FAR. It also complies with all other development standards, and would comply with the City's Inclusionary Housing Ordinance. Therefore, the modified project would be consistent with land use regulations such as General Plan policies and the BMC.

East Bay RRD Appeal - Issue 2: The site is contaminated with benzene and the Addendum does not contain a new analysis of existing contamination levels and does not include mitigation requiring the site to be cleaned so that it is safe for residential use (Appeal Letter 3, Attachment 4, page 3).

Response 2: See response to Issue 3 of the LiUNA Appeal regarding impacts related to Hazardous Materials.

East Bay RRD Appeal - Issue 3: Air quality. The proposed project will exceed ROG emission thresholds (Appeal Letter 3, Attachment 4, page 3).

Response 3: See response to Issue 2 of the LiUNA Appeal for Air Quality.

East Bay RRD Appeal - Issue 4: Impacts associated with the construction and operation of the project and recent development in the vicinity constitute cumulative impacts, and the Addendum did not analyze these cumulative impacts (Appeal Letter 3, Attachment 4, page 3).

Response 4: See response to Issue 1 of the Appeal by 34 Signatories for Cumulative Impacts.

East Bay RRD Appeal - Issue 5: The appellant asserts that an EIR is required because the project has substantially changed from the 2018 project, with more dwellings and square footage, which will lead more severe construction and operational impacts, and there is new evidence that emissions may be significant (Appeal Letter 3, Attachment 4, pages 4, 9).

Response 5: See responses to Issue 1 and Issue 2 of the LiUNA Appeal, why an Addendum is appropriate for the modified project, and Air Quality.

East Bay RRD Appeal - Issue 6: Environmental impacts and detriment. The appellant states that the public health and safety impacts of the current project may be detrimental (Appeal Letter 3, Attachment 4, pages 20-21).

Response 6: The ZAB determined that the project is compliant with all vested and applicable objective General Plan and C-SA Zoning District standards. See the responses to Issue 1, why an Addendum is appropriate for the modified project, and Issue 4 of the LiUNA Appeal, Air Quality, and Issue 1 of the Appeal by 34 Signatories, Cumulative Impacts.

East Bay RRD Appeal - Issue 7: Labor and detriment. The appellants assert that the project may be detrimental because the applicant has not committed to building with a local, "skilled and trained workforce," and will not provide apprenticeship training opportunities, healthcare, or other workforce benefits for City of Berkeley or East Bay residents (Appeal Letter 3, Attachment 4, pages 20-21). The applicant should comply with the HARD HATS ordinance (Appeal Letter 3, Attachment 4, page 25).

Response 7: See the response to Issue 4 of the LiUNA Appeal for a discussion of *detriment*.

This appeal point appears to request application of the City's HARD HATS ordinance, BMC Chapter 13.107. However, this Use Permit application is not subject to the ordinance because the SB 330 vesting date was May 5, 2023, and thus the zoning, design, subdivision, and fee requirements in effect as of May 5, 2023 will remain in effect for the remainder of the entitlement and permitting process, unless exceptions per Government Code § 65889.5(o) are triggered. The HARD HATS Ordinance became effective on January 1, 2024, after the vesting date of the project. Since the HARD HATS Ordinance does not apply to the Project, compliance with provisions contained in the ordinance would be voluntary.

East Bay RRD Appeal - Issue 8: The project is inconsistent with General Plan economic development and employment policies because there is no commitment to provide construction jobs to Berkeley or East Bay residents, and no commitment to contribute to an apprenticeship or construction job training program (Appeal Letter 3, Attachment 4, pages 20, 25-27).

Response 8: General Plan goals and policies are not objective standards, and cannot provide a basis for denial of (or reduction in density for) a housing project, due to the HAA (see the response to Issue 4 of the LiUNA Appeal, *detriment*).

East Bay RRD Appeal - Issue 9: The project is inconsistent with the Housing Element because less than 20 percent of units will be affordable (Appeal Letter 3, Attachment 4, page 27-29).

Response 9: Since the applicant submitted a preliminary housing development project in May 2023, superseding the previous preliminary application submitted in December 2021, the project is required to comply with BMC Chapter 23.328, Inclusionary Housing. Chapter 23.328 allows developers to pay an in-lieu fee, or a partial in-lieu fee, for providing less than 20 percent of units for rent or sale at affordable rents or prices. The building permit for the project cannot be issued until the final Affordable Housing Compliance Plan is approved, and a Regulator Agreement and Declaration of Restrictive Covenants is executed (BMC Section 32.328.050). The project will provide 17 units on-site which are affordable to Very-Low Income households.

East Bay RRD Appeal - Issue 10: ZAB rushed approval of the project (Appeal Letter 3, Attachment 4, page 5).

Response 10: See the response to Issue 5 of the Appeal by 34 Signatories, ZAB approval.

ENVIRONMENTAL SUSTAINABILITY
The project approved by the ZAB is found to be in compliance with all applicable State and local environmental requirements, would be located in a transit-rich area, and would be built and operated according to current codes for energy conservation, waste reduction, low toxicity, and other factors.

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

Action Deadline:
Pursuant to BMC Section 23.410.040(I), if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council (not including Council recess), then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

CONTACT PERSONS
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Attachments:

1. Draft Resolution
    - Exhibit A: Findings and Conditions
    - Exhibit B: Project Plans, received May 2, 2023
    - Exhibit C: Revised Addendum to the Initial Study-Negative Declaration, February 2025
2. Appeal Letter 1, received May 25, 2023
3. Appeal Letter 2, received May 31, 2023
4. Appeal Letter 3, received June 1, 2023
5. Response to Appeal Comments, February 2025
6. May 11, 2023 ZAB Hearing Staff Report
7. 2018 Initial Study-Negative Declaration
8. Index to Administrative Record
9. Administrative Record
10. Public Hearing Notice

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

AFFIRMING THE ZONING ADJUSTMENTS BOARD APPROVAL OF USE PERMIT #ZP2022-0046 TO DEMOLISH A GAS STATION, AND CONSTRUCT A 10-STORY (114 FEET) MIXED-USE BUILDING UTILIZING A DENSITY BONUS, WITH 166 DWELLINGS, INCLUDING 17 VERY LOW-INCOME UNITS, AND 1,043 SQUARE-FEET OF COMMERCIAL SPACE, AND DISMISS THE APPEALS

WHEREAS, a Use Permit application was submitted for this site in 2015 (ZP2015-0229). An Initial Study-Negative Declaration (IS-ND) was prepared for a five-story project with 44 dwelling units, 17 off-street parking spaces, and 6,000 square feet of commercial space. The project was revised by ZAB to 23 units, 6 parking spaces, and 3,522 square feet of commercial space. The revised project was approved by Council, and the IS-ND was adopted by Council on November 27, 2018. The project was not pursued; and

WHEREAS, on December 14, 2021, Isaiah Stackhouse submitted a complete Preliminary Application to vest rights pursuant to Senate Bill (SB) 330, the Housing Crisis Act of 2019 (Government Code Sections 65941.1 and 66300), for a housing development project; and

WHEREAS, on March 29, 2022 Isaiah Stackhouse submitted an application for a Use Permit (ZP2022-0046) to construct a ten-story, mixed-use building with 166 dwelling units, 1,043 square feet of commercial space, and no off-street car parking spaces, using a State Density Bonus; and

WHEREAS, on July 8, 2022, the applicant submitted a letter from their attorney requesting an Addendum to the previous IS-ND for the five-story project, per *CEQA Guidelines* Sections 15162 and 15164. On July 29, 2022 staff agreed to move forward with an Addendum because the new project is not substantially different from the previous project; and

WHEREAS, on August 3, 2022, the use permit application was deemed complete; and

WHEREAS, on January 27, 2023 an Addendum to the 2018 IS-ND was published; and

WHEREAS, on April 27, 2023, staff posted the public hearing notice of the ZAB hearing at the site and six nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area; and

WHEREAS, on May 5, 2023, the applicant submitted a second Preliminary Application to vest development rights for the proposed project at 3000 Shattuck Avenue pursuant to Senate Bill (SB) 330, the Housing Crisis Act of 2019 (Government Code Sections 65941.1 and 66300), for a housing development project, superseding the previous preliminary application; and

WHEREAS, on May 11, 2023, the ZAB conducted a public hearing for the Use Permit. After receiving public comment, ZAB approved the Use Permit by a vote of 8-0-0-1 (Yes: Duffy, Gaffney, Lunaparra, O'Keefe, Sanderson, Thompson, Tregub, Yung; No: None; Abstain: None; Absent: Kahn); and

WHEREAS, on May 18, 2023, staff issued the ZAB Notice of Decision. The City Clerk received three separate appeals on May 25, May 31, and June 1, 2023. The City Clerk scheduled the appeal hearing for September 26, 2023. Appellants were informed of the hearing date by letter on June 15, 2023; and

WHEREAS, in August of 2023, the appeal hearing was delayed so that the City's CEQA consultant could revise the Addendum. On January 10, 2025, the City Clerk notified the appellants of the new Council hearing, March 25, 2025; and

WHEREAS, on or before March 11, 2025, staff posted the public hearing notice of the Council hearing at the site and six nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, to all registered neighborhood groups that cover this area, interested parties who requested notice, and the appellants; and

WHEREAS, on March 25, 2025, the Council held a public hearing to consider the ZAB's decision, and in the opinion of this Council, the facts stated in, or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Council hereby adopts the findings made by the ZAB in Exhibit A to affirm the decision of the ZAB to approve Use Permit #ZP2022-0046, adopts the conditions of approval in Exhibit A, adopts the project plans in Exhibit B, adopts the IS-ND Addendum in Exhibit C, and dismisses the appeals.

Exhibits
A: Findings and Conditions
B: Project Plans, received May 2, 2023
C: Addendum to the Initial Study-Negative Declaration

EXHIBIT A

FINDINGS AND CONDITIONS

MAY 11, 2023

3000 Shattuck Avenue

Use Permit #ZP2022-0046 to demolish the existing gas station, and construct a 10-story (114 feet) mixed-use building utilizing a Density Bonus, with 166 dwellings, including 17 Very Low-Income units, and 1,043 square-feet of commercial space.

PERMITS REQUIRED

- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.326.070(A) to demolish a non-residential main building
- Use Permit pursuant to BMC Section 23.204.100(B)(4)(b) to construct a mixed-use development of more than 5,000 square-feet
- Use Permit pursuant to BMC Section 23.204.020 to add multi-family dwellings.
- Use Permit pursuant to BMC Section 23.204.100(D)(2) to modify the height and stories, setbacks, and lot coverage.
- Administrative Use Permit pursuant to BMC Section 23.304.050(A) to allow architectural features over the maximum height limit.

CONCESSIONS/WAIVERS UNDER GOVERNMENT CODE SECTION 65915-65918

- Waiver of BMC Section 23.204.100(D)(1) to exceed the Floor Area Ratio (FAR) limit – to be 6, where 4 is the maximum
- Waiver of BMC Section 23.204.100(D)(1) to exceed building height limits – to be 113 feet 10 inches and 10 stories, where 36 feet and 3 stories is the limit
- Waiver of BMC Section 23.204.100(D)(1) to reduce the required front setback from 15 feet to 2 feet 6 inches
- Waiver of BMC Section 23.204.100(D)(1) to reduce the required rear setback from 15 feet to 11 feet 3 inches
- Waiver of BMC Section 23.204.100(D)(1) to reduce the required street side (left side) setback from 6 feet to 15 feet (varies by story) to 0 to 6 feet 9 inches
- Waiver of BMC Section 23.204.100(D)(1) to reduce the required interior side (right side) setback from 4 feet to 12 feet (varies by story) to 5 feet 7 inches
- Waiver of BMC Section 23.204.100(D)(1) to exceed the lot coverage limit – to be 62 percent, where 40 percent is the maximum.

I. CEQA FINDINGS

1. Pursuant to the California Environmental Quality Act (CEQA), the City prepared an Addendum to the 3000 Shattuck Initial Study-Negative Declaration for this project.

A. Initial Study-Negative Declaration Addendum: An Addendum to the 3000 Shattuck Initial Study-Negative Declaration, which was adopted in November 2018, was prepared to evaluate the potentially significant environmental impacts of the proposed project, pursuant to CEQA. The Addendum considered the initial study and negative declaration, and

evaluated the modified project. Although the addendum includes an analysis of energy and wildfire, which were not included in the negative declaration, no significant impacts were found to occur regarding these resource areas. Substantive revisions to the negative declaration are not necessary because no new significant impacts will occur.

B. The Zoning Adjustment Board has considered the Addendum, and finds, on the basis of the whole record before it, that: (1) no potentially significant effects were identified that could not be reduced to less than significant levels by implementation of the City's standard conditions of approval, (2) there is no substantial evidence the project will have a significant effect on the environment, and (3) the Addendum reflects the lead agency's independent judgment and analysis. The record of proceedings upon which this decision is based is located at the Land Use Division of the Planning Department, 1947 Center Street, 2nd Floor, Berkeley, California 94704.

II. DENSITY BONUS FINDINGS

1. Pursuant to Government Code Section 65915, the Zoning Adjustments Board finds that:
   A. Under the City's methodology for implementing density bonuses, the "base project" consists of 111 units;
   B. The project will provide at least 17 Very Low Income qualifying units in the 111-unit "base project", as more fully set forth in Conditions of Approval 24 to 32;
   C. The project is entitled to a density increase of 50 percent over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element, under the requirements of Government Code Section 65915(b) and (f), plus three concessions or incentives, and an unlimited number of waivers. This equates to a density bonus of 56 units (55 taken) above the Base Project, for a total of 166-units.

2. In accordance with Government Code Section 65915(e) the Zoning Adjustments Board hereby grants the following waivers:
   A. Exceed the Floor Area Ratio (FAR) limit from 4.0 to 6.0
   B. Exceed the building height limit from 36 feet and 3 stories to 113 feet 10 inches and 10 stories
   C. Reduce the required front setback from 15 feet to 2 feet 6 inches
   D. Reduce the required rear setback from 15 feet to 11 feet 3 inches
   E. Reduce the required street side (left side) setback from 6 feet to 15 feet (varies by story) to 0 feet
   F. Reduce the required interior side (right side) setback from 4 feet to 12 feet (varies by story) to 5 feet 7 inches
   G. Exceed the lot coverage limit from 40 percent to 62 percent

   These waivers are required because state law requires the City to modify development standards as necessary to accommodate these density bonus units, and because the Zoning Adjustments Board hereby finds that the density bonus units can best be accommodated by granting these waivers.

3. In accordance with Government Code Section 65915(e), in order to allow construction of the proposed project with the density permitted under State law, the Zoning Adjustments Board finds approval of waivers is required 1) to construct the proposed project at the density permitted under State law; 2) approval of requested waivers would not have a specific

adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) approval of the requested waivers would not be contrary to State or Federal law.

III. HOUSING ACCOUNTABILITY ACT FINDINGS

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

B. Because the project complies with applicable, objective general plan and zoning standards, §65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified. The project includes construction of a mixed-use building with 166 dwelling units.

IV. FINDINGS FOR APPROVAL

4. As required by Section 23.406.040(E)(1) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

A. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements as well as any other project specific conditions. These standard conditions will ensure the project will not be detrimental to adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.

B. Shadow studies submitted by the applicant document the addition's projected shadow angles and lengths at three times throughout the day during the summer and winter solstice. New shadows would affect dwellings at the following locations:

- Newbury Street, northwest of the site, casting new shadows on the winter solstice two hours after sunrise.
- The northeast intersection of Ashby Avenue and Shattuck Avenue, casting new shadows on the winter solstice two hours before sunset.
- Ashby Avenue, west of the project site, casting new shadows on the summer solstice two hours after sunrise.
- Shattuck Avenue, southeast of the project site, casting new shadows on the summer solstice two hours before sunset.
- Because the impacts to neighboring properties will occur on limited areas, and will only partially shade neighboring buildings for a limited time during the year, and only for a few hours of the day, the project will not result in a significant loss of direct sunlight on abutting dwellings, and these shading impacts are not deemed detrimental.

C. The project is consistent with all applicable C-SA District standards and qualifies for waivers and concessions for the listed district standards granted pursuant to State Density Bonuses, Government Code, Section 65915.

V. OTHER FINDINGS FOR APPROVAL

5. As required by Section 23.326.070 of the BMC, the Zoning Adjustments Board finds that the proposed demolition of the non-residential buildings is permissible because:

A. At a duly noticed hearing on May 5, 2016, the Landmarks Preservation Commission (LPC) reviewed a demolition referral for the existing structures and took no action to initiate a local historic designation.

B. The demolition of the gas station is not materially detrimental to the commercial and public interest of any affected neighborhood in the City. The new mixed-use building will replace the existing gas station with a new 81,522 square-foot building, with 166 dwelling units (studios), and 1,043 square-feet of commercial space.

C. Overall, demolition of the building will allow redevelopment of the project site which will complement and be compatible with surrounding uses.

D. Demolition is necessary to allow construction of the proposed building given the inclusion of a condition of approval that allows demolition of the existing buildings only after complete construction plans are submitted to the City for the replacement building (COA #21).

6. As required by Section 23.204.100(E) of the BMC, the Zoning Adjustments Board finds that the proposed use or structure:

A. Is compatible with the purposes of the district: The project is a higher-density development in proximity to regional transit, shops, and amenities, that is compatible with the purposes of the zoning district and the surrounding uses and buildings. The project site is located within the South Area Commercial District (C-SA) and is designated Avenue Commercial in the City's General Plan. It will create 166 new studio dwelling units. Seventeen of the units will be deed restricted as affordable housing units for very-low-income residents.

The proposal also includes 1,043 square feet of commercial space and a total of 62 secure bicycle parking spaces (short-term and long-term) on the ground floor. The project site is well served by public transportation, including a BART station less than half-mile to the southwest. The surrounding commercial area includes retail sales, restaurants, personal services, and multi-family residential uses; the project will add to these commercial and residential uses and add population to support these uses.

B. Is compatible in design and character with the district and the adjacent residential neighborhoods: The project site currently includes automotive uses. The proposed project will change uses on the site to ground-floor commercial, with residential uses on all floors. The project will not introduce new land uses that do not already exist in the area. The design will be residential mixed-use, and will be consistent with the character of the commercial corridors of Shattuck Avenue and Ashby Avenue.

C. Will not result in the domination of one type of commercial/retail use in any one area of the district: The project includes 1,043 square feet of ground floor commercial space, and will

not result in the domination of one type of commercial use in this portion of the C-SA District.

7. As required by Section 23.204.100(D)(2) of the BMC, the Zoning Adjustments Board finds that the request to modify development standards in the C-SA District for mixed-use projects, including height and stories, setbacks, and lot coverage is permissible because the following findings can be made:

A. The proposed project is served by multiple bus lines (local and Transbay), is 0.3 miles from the Ashby BART Station, and the Bike Boulevard on Milvia Street is within 0.3 miles. Car parking is not required and will not be provided, but secure bike parking will be provided.

B. The reduction in the setbacks is greatest along the Shattuck and Ashby frontages, where it will have less of an impact on nearby dwelling units, and minimal street side and front setbacks are typical for commercial corridors.

C. The modification of height and stories, setbacks, and lot coverage supports the location of on-site affordable housing.

8. As required by Section 23.304.050(A) of the BMC, the Zoning Adjustments Board finds that the request to permit building features such as mechanical penthouses that project about the height limit is permissible because:

A. With a gross floor area of 81,522 square feet, the average floor area for ten floors is 8,152 square feet, and 15 percent of the average floor area is 1,223 square feet. The proposed features occupy 1,020 square feet, which complies with the 15 percent limit.

VI. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

The following conditions, as well as all other applicable provisions of the Zoning 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 Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Compliance Required (BMC Section 23.102.050)

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)

A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)

A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)
Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)
No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

8. Permit Revocation (BMC Section 23.404.080)
The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. Pay Transparency Acknowledgement (BMC Section 13.104.030)
Prior to the issuance of a building permit for any Project subject to this Chapter:

A. A Responsible Representative of the Permittee shall certify under penalty of perjury that: (1) the Permittee has reviewed Chapter 13.104 of the Berkeley Municipal Code; and (2) the Permittee will be responsible for demonstrating compliance with this Chapter.
B. The Permittee shall provide to the City a Contractor Pay Transparency Acknowledgment on a form approved by the City for this purpose. A Responsible Representative of the Permittee shall certify under penalty of perjury that the Contractor and all Qualifying Subcontractors performing work on the Project will comply with Chapter 13.104 of the Berkeley Municipal Code and with Labor Code sections 226(a) and 2810.5 for each employee who works on the Project.

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

11. Posting of Ordinance (BMC Section 13.104.050)
Each day work is performed on the Project, each Permittee shall post, and keep posted in a conspicuous location where it may be easily read by employees during the hours of the workday, a notice that: (A) contains the text of Chapter 13.104 of the Berkeley Municipal Code; (B) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the

Labor Commissioner of the State of California; and (C) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California.

12. Conditions of Approval (BMC Section 13.104.060)
The requirements of Sections 13.104.030 through 13.104.050 shall be included as conditions of approval of any Use Permit or Zoning Certificate for any Project that is subject to this Chapter. Failure to comply with the requirements of any provision of this Chapter shall be grounds for issuance of an administrative citation under Chapter 1.28 and/or the revocation or modification of any Use Permit issued for the Project under Chapter 23B.60.

13. 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.

VII. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

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

See conditions of approval # 15, 16, 17, 27, and 62 – below.

Prior to Submittal of Any Building Permit:

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

☐ **Project Liaison** _____
Name Phone #

15. Meeting with Neighbors. The applicant shall meet with concerned neighbors and provide evidence that a meeting took place.

16. Consistency Between Floor Plans and Renderings. The floor plans shall be updated to conform with the project renderings (e.g. windows in the rendering shall be in the floor plan). A narrative describing any changes to the floor plans shall accompany the plans submitted for a building permit.

17. Native Plants Required. Eighty percent of plantings at the project site shall be native to the Bay Area. Confirmation of compliance with this condition shall be indicated in the plans submitted for the building permit.

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

19. Address Assignment. The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City's database prior to the applicant's submittal of a building permit application.

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

A. Construction equipment should be well maintained and used judiciously to be as quiet as practical.
B. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
C. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
D. Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
E. Prohibit unnecessary idling of internal combustion engines.
F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
G. Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
H. Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.

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

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

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

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

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

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

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

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

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

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

A. Environmental Site Assessments:
   1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
      - All new commercial, industrial and mixed use developments and all large improvement projects.
      - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
      - EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
   2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
   3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan:
   1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
   2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing

odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.

3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at http://cers.calepa.ca.gov/ within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at http://ci.berkeley.ca.us/hmr/

Affordable Housing Requirements

27. Project shall comply with BMC Chapter 23.328 Inclusionary Housing, effective April 1, 2023 and Resolution 70,698-N.S. Adopting Regulations for Voucher Program and Establishing an In-Lieu Fee to Support the Provision of Affordable Housing Pursuant to Berkeley Municipal Code 23.328 and Rescinding Resolution 70,668-N.S.

Prior to Issuance of Any Building (Construction) Permit

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

29. Percent for Public Art: Consistent with BMC §23.316, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.

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

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

32. Solar Photovoltaic (Solar PV). Solar Photovoltaic (Solar PV) and Battery Energy Storage Systems (ESS). A solar PV system shall be installed, subject to specific limited exceptions, as specified by the Berkeley Energy Code (BMC Chapter 19.36). Energy storage system (ESS) readiness (new single-family, duplex, and townhouse homes) or ESS installation (new multifamily and most nonresidential buildings) shall be completed as specified by BMC Chapter 19.36. Location of the solar PV system and the ESS, if applicable, shall be noted on the construction plans.

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

34. Prohibition of Natural Gas Infrastructure in New Buildings. The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80).

35. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).

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

37. Required Parking Spaces for Persons with Disabilities. Per BMC Section 23.322.040.H of the Zoning Ordinance, "If the number of required off-street parking spaces in a non-residential district is reduced as allowed by this chapter, the number of required parking spaces for persons with disabilities shall be calculated as if there had been no reduction in required spaces."

Prior to Demolition or Start of Construction:

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

During Construction:

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

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

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

- Contact information (i.e. “hotline” phone number, and email address) for the project construction manager
- Calendar and schedule of daily/weekly/monthly construction activities
- The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.

42. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:

A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer‘s specifications. All equipment shall be checked by a certified visible emissions evaluator.
H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action

within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

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

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

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

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

- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
- A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

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

45. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.

46. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:

- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
- Storage of building materials, dumpsters, debris anywhere in the public ROW;
- Provision of exclusive contractor parking on-street; or
- Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

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

48. 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.

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

50. 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.

51. 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.

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

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

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

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

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

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

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

G. All private or public projects that create and/or replace 10,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological).

H. All on-site storm drain inlets must be labeled “No Dumping – Drains to Bay” or equivalent using methods approved by the City.
I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
J. All loading areas must be designated to minimize “run-on” or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.
K. Restaurants, where deemed appropriate, must be designed with a contained area for cleaning mats, equipment and containers. This contained wash area shall be covered or designed to prevent run-on or run-off from the area. The area shall not discharge to the storm drains; wash waters should drain to the sanitary sewer, or collected for ultimate disposal to the sanitary sewer. Employees shall be instructed and signs posted indicating that all washing activities shall be conducted in this area. Sanitary connections are subject to the review, approval and conditions of the waste water treatment plant receiving the discharge.
L. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
M. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.

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

54. Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

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

56. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The

applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

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

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

Prior to Final Inspection or Issuance of Occupancy Permit:

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

60. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings received May 2, 2023, except as modified by conditions of approval.

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

A. Consistent with Section 23.334.030(B), at least one of the following transit benefits shall be offered, at no cost to the resident, for a period of ten years after the issuance of a Certificate of Occupancy. A notice describing these transportation benefits shall be posted in a location or locations visible to all employees.
   1. One monthly pass for unlimited local bus transit service for every bedroom in each dwelling unit.
   2. Subject to the review and approval of the Zoning Officer in consultation with the Transportation Division Manager, a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited adult monthly pass for unlimited local bus transit service monthly local bus pass.

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

At All Times:

62. Native Plants Required. Eighty percent of plantings at the project site shall be native to the Bay Area.

63. Transportation Demand Management Compliance. The property owner shall submit to the Planning Department periodic TDM Compliance Reports in accordance with Administrative Regulations, subject to the review and oversight of the Zoning Officer. Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).

64. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

65. Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood. This shall include noise created by employees working on the premises before or after patrons arrive.

66. Rooftop Projections. No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.

67. Design Review. Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review Committee approval.

68. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

69. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.

70. Loading. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.

71. Residential Permit Parking. No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The project planner shall notify the Finance Department, Customer Service Center, to add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.

72. Bike Parking. Secure and on-site bike parking for at least 61 bicycles shall be provided for the life of the building.

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

74. Periodic Review and Reporting. The City may require periodic review of this approved project to verify compliance with permit requirements and conditions of approval. The permit holder or property owner is responsible for complying with any periodic reporting, monitoring, or assessments requirement. This permit is subject to the provisions of BMC Section 23.404.080 (Permit Revocation) if violations of the permit requirements are found by the Zoning Officer.



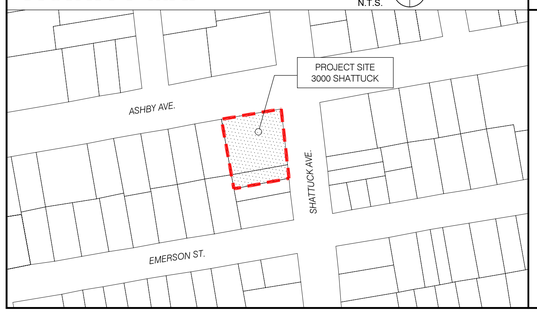
PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

SIGNATURE

May 11, 2023
DATE

* Findings and Conditions Attached

VICINITY MAP



PROJECT DIRECTORY

PROJECT SPONSOR:
3000 Shattuck Avenue, LLC
NX Ventures, LLC
1958A University Ave
Berkeley, CA 94704

ARCHITECT:
Isaiah Stackhouse, Principal
TRACHTENBERG ARCHITECTS
2421 Fourth Street
Berkeley, CA 94710
510.649.1414
www.trachtenbergarch.com

LANDSCAPE ARCHITECT:
Penn Phillips
INSIDEOUT DESIGN
6000 Harwood Avenue
Oakland CA 94618
510.655.7674
www.aboutinsideout.com

PROJECT DESCRIPTION

PROJECT ADDRESS: 3000 Shattuck
Berkeley, CA 94705 (APN: 053 159200100)

SCOPE OF WORK:
REMOVAL OF EXISTING 1 STORY COMMERCIAL STRUCTURE & CONSTRUCTION OF A NEW 9-STORY MIXED-USE BUILDING WITH 156-DWELLING UNITS, GROUND LEVEL LOBBIES AND COMMERCIAL SPACE WITH STATE OF CALIFORNIA DENSITY BONUS.

ZONING CODE SUMMARY

(BASED ON THE BERKELEY MUNICIPAL ZONING CODE)

ZONING: C-SA

SEE SHEET A0.1 FOR COMPLETE ZONING DATA

DRAWING LIST

A0.0	GENERAL INFORMATION	A3.6	PHOTO CONTEXT VIEWS	I1.1	ROOF DECK IRRIGATION PLAN
A0.1	ZONING INFORMATION & DIAGRAMS	A3.7	PHOTO CONTEXT VIEWS	I1.2	IRRIGATION NOTES AND LEGENDS
A0.3A	DENSITY BONUS DIAGRAMS	A3.8	PERSPECTIVE VIEWS	I1.3	IRRIGATION DETAILS
A0.3B	DENSITY BONUS CALCULATIONS	A3.9	PERSPECTIVE VIEWS	I1.4	IRRIGATION DETAILS
A0.4A	SHADOW STUDIES	A3.10	PERSPECTIVE VIEWS	I1.5	IRRIGATION DETAILS
A0.4B	SHADOW STUDIES	A3.11	PERSPECTIVE VIEWS	I1.6	IRRIGATION DETAILS AND WELO
A0.4C	SHADOW STUDIES	A3.12	PERSPECTIVE VIEWS		
A0.5	SITE CONTEXT PHOTOS	A3.13	PERSPECTIVE VIEWS		
A0.6	VICINITY MAP	A3.14	PERSPECTIVE VIEWS		
A1.1	SITE SURVEY	A3.15	PERSPECTIVE VIEWS		
A2.1	FLOOR PLANS	A3.16	PERSPECTIVE VIEWS		
A2.2	FLOOR PLANS	MAT	MATERIAL BOARD		
A2.3	FLOOR PLANS	A4.1	BUILDING SECTION		
A3.1	BUILDING ELEVATIONS	A5.1	CONCEPTUAL GRADING PLAN		
A3.2	BUILDING ELEVATIONS	L1.0	GROUND LEVEL LANDSCAPE PLAN		
A3.3	BUILDING ELEVATIONS	L1.1	ROOF DECK LANDSCAPE PLAN		
A3.4	BUILDING ELEVATIONS	L2.0	LANDSCAPE IMAGERY		
A3.5	STREETSCAPE ELEVATIONS	I1.0	GROUND LEVEL IRRIGATION PLAN		

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GENERAL INFORMATION

A0.0

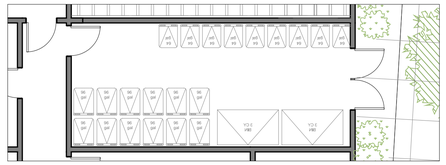
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ZONING MAP

N.T.S.

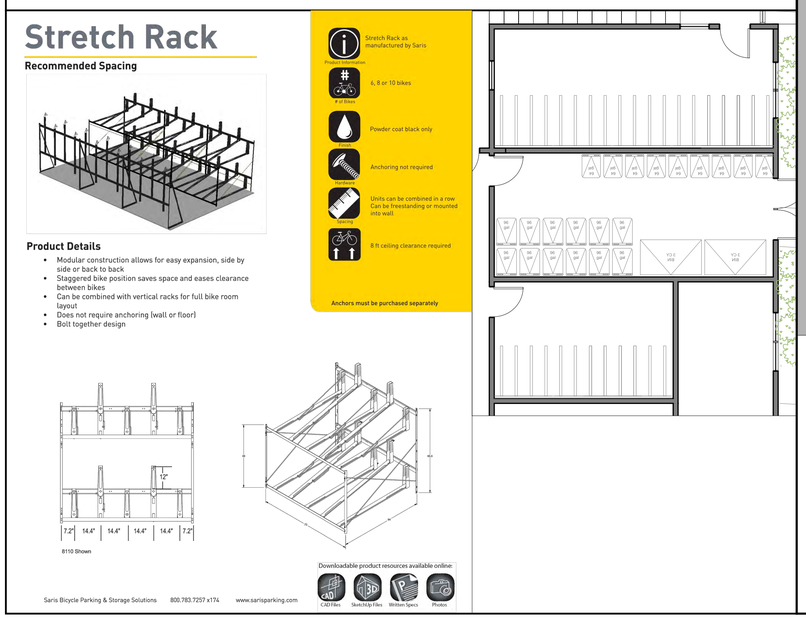


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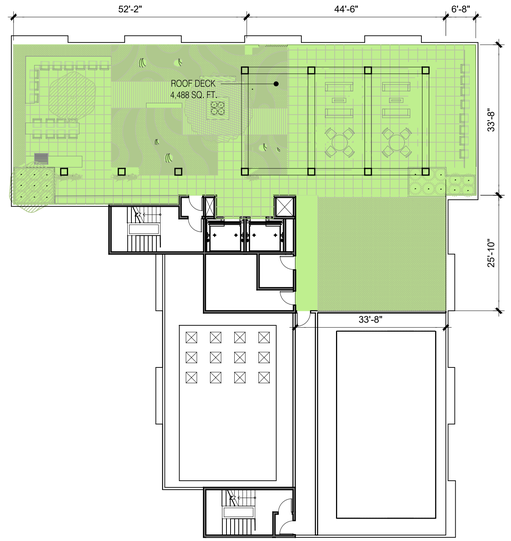


Waste and Recycling Calculation								
# of Bedrooms	Factor	Occupants	Total cuft required (.25cy or 50 gallons / 3		Waste (40%)		Recycling (40%)	Organics (20%)
166	1.00	166	13.83 cy	2,767 gal	5.53 cuft	1,107 gal	1,107 gal	553 gal
Space Calculation	Container Quantities			Space Required			150% Additional	
	Waste	Recycling	Organics	Factor/container		Space/ Container	Required	Provided
3 cy bin (606 gal)	2			28 sf		56 sf		
2 cy bin (404 gal)				28 sf		sf		
96 gallon cart		12		7 sf		84 sf		
64 gallon cart			9	6 sf		50 sf		
Total capacity	1212 gal	1152 gal	576 gal			190 sf	284 sf	363 SF

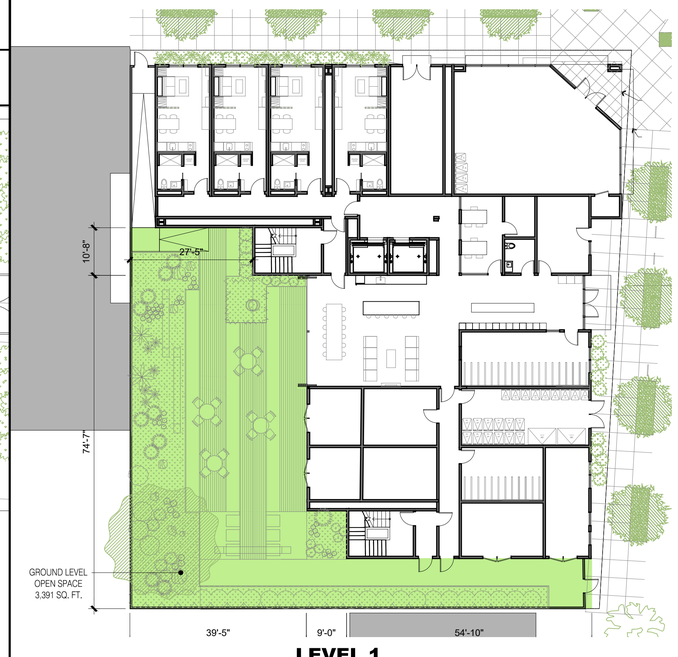
LONG TERM BIKE PARKING



OPEN SPACE DIAGRAMS



ROOF LEVEL



LEVEL 1

ZONING CODE DATA

	BASELINE ZONING ALLOWABLE/REQUIRED	ALLOWABLE W/ UP OR AUP MODIFICATION	PROPOSED W/ DENSITY BONUS	** Via Density Bonus Waiver
NUMBER OF DWELLING UNITS	N/A	N/A	166	
COMMERCIAL AREA	N/A	N/A	1,043	
PARKING	SEE TABLE	SEE TABLE	SEE TABLE	
BIKE PARKING	N/A	61	61	
FRONT YARD SETBACK (ASHBY)	15'	0' COMPLIES W/ UP BMC 23.204.100.D.2	2'-6" and 3'-0"	**
STREET SIDE YARD SETBACK (SHATTUC	VARIES; 6' TO 15'	0' COMPLIES W/ UP BMC 23.204.100.D.2	0" to 6'-8"	**
SIDE YARD SETBACK	VARIES; 4' TO 12'	0' COMPLIES W/ UP BMC 23.204.100.D.2	5'-7" to 39'-4"	**
REAR YARD SETBACK	15'	0' COMPLIES W/ UP BMC 23.204.100.D.2	11'-3" to 85'-2"	**
BUILDING HEIGHT	36'	NOT LIMITED COMPLIES W/UP BMC 23.204.100.D.2	113'-10"	**
BUILDING STORIES	3	NOT LIMITED COMPLIES W/UP BMC 23.204.100.D.2	10	**
LOT AREA	13,561	13,561	13,561	
LOT AREA (ACRES)	0.31	0.31	0.31	
GROSS FLOOR AREA (SEE TABLE)	54,244	54,244	81,552	
BUILDING FOOTPRINT	6,781	NOT LIMITED COMPLIES W/UP BMC 23.204.100.D.2	8,399	**
LOT COVERAGE	50%	NOT LIMITED COMPLIES W/UP BMC 23.204.100.D.2	62%	**
USABLE OPEN SPACE (SEE TABLE)	SEE TABLE	SEE TABLE	SEE TABLE	
PROJECT FAR	4.0	4.0	6.00	**

PROPOSED FLOOR AREA WITH DENSITY BONUS

	COMMERCIAL	RESIDENTIAL	TOTAL
LEVEL 10		8,150	8,150
LEVEL 9		8,150	8,150
LEVEL 8		8,150	8,150
LEVEL 7		8,150	8,150
LEVEL 6		8,150	8,150
LEVEL 5		8,150	8,150
LEVEL 4		8,150	8,150
LEVEL 3		8,150	8,150
LEVEL 2		7,953	7,953
GROUND LEVEL (EXCLUDES PARKING)	1,043	7,356	8,399
TOTAL FLOOR AREA W/ DENSITY BONU	1,043	80,509	81,552

UNIT COUNTS

UNIT TYPE	STUDIO	TOTAL
LEVEL 10	18	18
LEVEL 9	18	18
LEVEL 8	18	18
LEVEL 7	18	18
LEVEL 6	18	18
LEVEL 5	18	18
LEVEL 4	18	18
LEVEL 3	18	18
LEVEL 2	18	18
GROUND LEVEL	4	4
TOTAL	166	166
PERCENT OF TOTAL	100%	
TOTAL BEDROOM COUNT	166	166

OPEN SPACE TABLE

	UNITS	RATIO	TOTAL	LANDSCAPE AREA (40%)
TOTAL UNITS	166	40	6,640	
TOTAL REQUIRED			6,640	
TOTAL AREA PROVIDED			7,879	3,186
GROUND LEVEL OPEN SPACE			3,391	
ROOF DECK			4,488	

BICYCLE PARKING CALCULATIONS

	UNITS/SF	SPACES/BEDROOM/SF	TOTAL REQ	PROVIDED
NEW COMMERCIAL	1,043	1/2000	1	1
RESIDENTIAL (LONG TERM)	166	0.33	55	55
RESIDENTIAL (SHORT TERM)	166	0.025	5	5
TOTAL PARKING			**61**	**61**

PARKING TABLE

	UNITS/SF	MIN.	REQUIRED	PROPOSED
RESIDENTIAL	166	0	0	0
COMMERCIAL (1ST 1,000 SF EXEMPT)	43	2/1000 SF	0	0

ROOFTOP ARCHITECTURAL ELEMENTS CALCS

AVERAGE AREA	8155
TOTAL AREA OF ROOFTOP ELEMENTS	1,020
% AREA OF ROOFTOP ARCH.	12.5%
ALLOWABLE % (PER 23E.04.020C)	15.0%

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ZONING DATA

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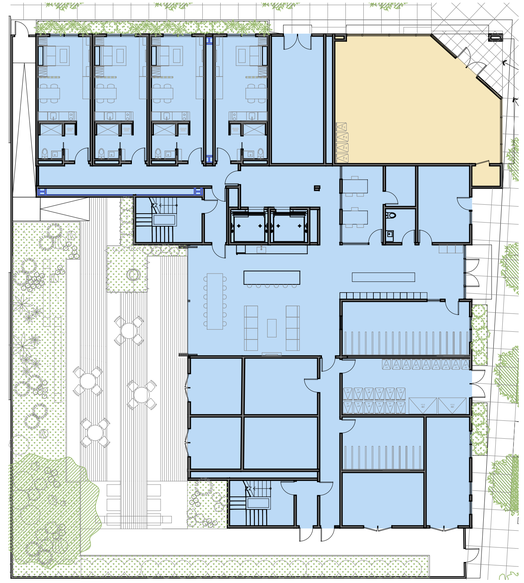
DENSITY BONUS DIAGRAM AREA KEY

RESIDENTIAL AREA

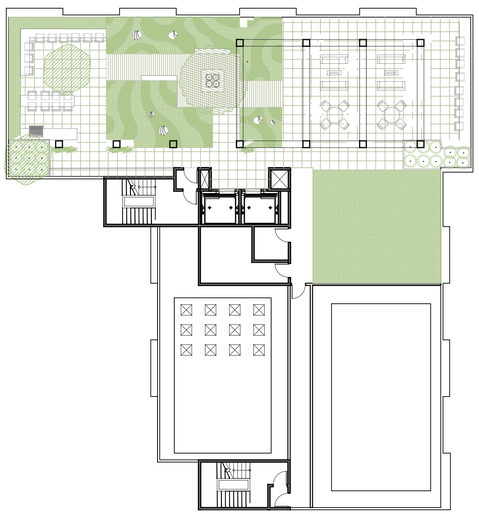
COMMERCIAL AREA



PLAN AT LEVELS 3-10



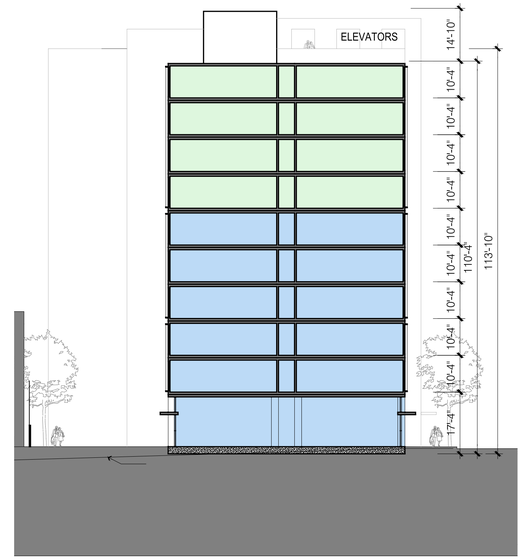
PLAN AT GROUND



PLAN AT ROOF



PLAN AT LEVELS 2



PROPOSED DENSITY BONUS PROJECT

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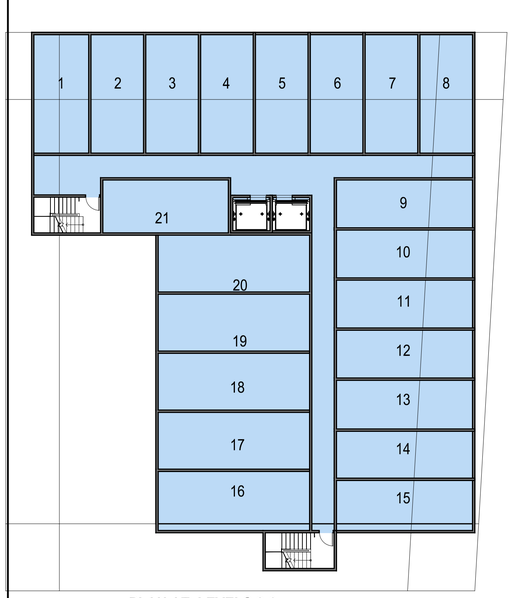
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DENSITY BONUS DIAGRAMS

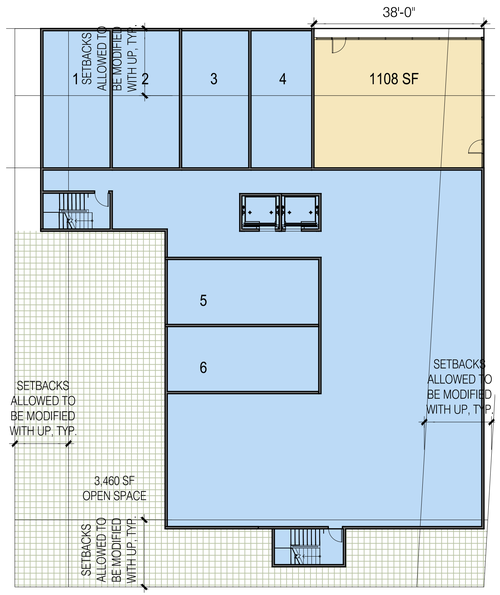
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ZONING COMPLIANCE TABLE

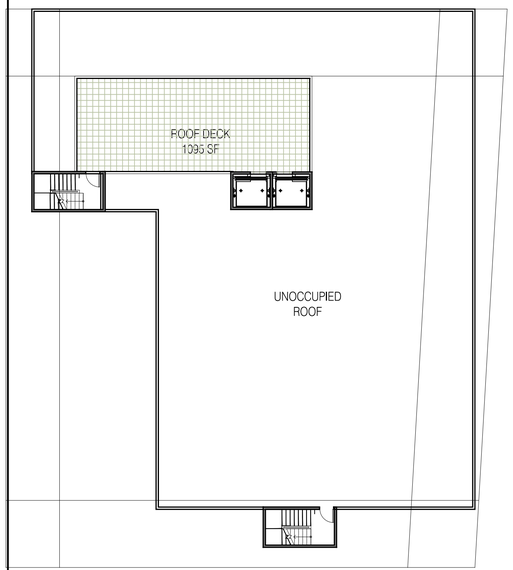
	ALLOWABLE BASE PROJECT W/ AVAILABLE USE PERMITS					PROPOSED DENSITY BONUS PROJECT	
	UNMODIFIED REQUIREMENT	ALLOWABLE MODIFICATION	CODE SECTION	TYPE	UP #	PROPOSED	COMPLIANCE CHECK
FRONT YARD SETBACK (ASHBY)	15'	0'	BMC 23.204.100.D.2	UP		VARIES 2'-6" AND 3'-0"	COMPLIES W/ DENSITY BONUS WAIVER
STREET SIDE YARD SETBACK (SHATTUCK)	VARIES 6' TO 15'	0'	BMC 23.204.100.D.2	UP		VARIES 0' TO 6'-8"	COMPLIES W/ DENSITY BONUS WAIVER
SIDE YARD SETBACK	VARIES 4' TO 12'	0'	BMC 23.204.100.D.2	UP		VARIES 5'-7" TO 39'-4"	COMPLIES W/ DENSITY BONUS WAIVER
REAR YARD SETBACK	15'	0'	BMC 23.204.100.D.2	UP	1	VARIES 11'-3" TO 85'-2"	COMPLIES W/ DENSITY BONUS WAIVER
BUILDING HEIGHT	36	NOT LIMITED	BMC 23.204.100.D.2	UP	2	113'-10"	COMPLIES W/ DENSITY BONUS WAIVER
BUILDING STORIES	3	NOT LIMITED	BMC 23.204.100.D.2	UP	3	10	COMPLIES W/ DENSITY BONUS WAIVER
LOT COVERAGE	VARIES 50% TO 40%	NOT LIMITED	BMC 23.204.100.D.2	UP	4	62%	COMPLIES W/ DENSITY BONUS WAIVER
USABLE OPEN SPACE	4440	NOT MODIFIABLE W/ UP				7879	COMPLIES
PROJECT FAR	4	NOT MODIFIABLE W/ UP				6	COMPLIES W/ DENSITY BONUS WAIVER



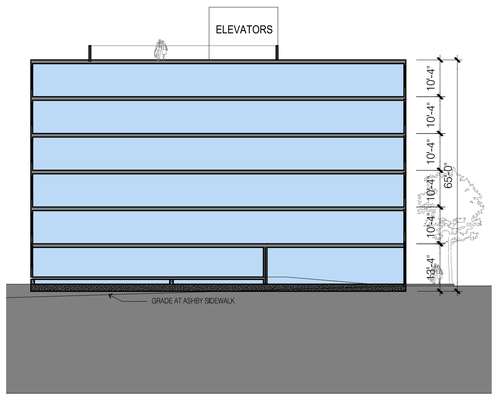
PLAN AT LEVELS 2-6



PLAN AT GROUND



PLAN AT ROOF



BASE PROJECT

DENSITY BONUS TABLE

	Base Project	Base # Units	Base # Units	% VLI units	# VLI Units	#VLI Units	Bonus %	# DB Units	# DB Units	Maximum DB Project
	sq. ft. - see calculation below	base project area / base avg. unit size	Base Units/Max. Residential Density (rounds up)	VLI = Very Low Income <50 AMI	% VLI x Base # Units			%Bonus x Base # Units	%Bonus x Base # Units (rounded up)	%Bonus x Base # Units (rounded up)
	53,118	111	111	15%	16.65	17.00	50.0%	55.5000	56	167

Base Project Res. Area	Floor	Proposed Project Res. Area
	Tenth	8,150
	Ninth	8,150
	Eighth	8,150
	Seventh	8,150
8,985	Sixth	8,150
8,985	Fifth	8,150
8,985	Fourth	8,150
8,985	Third	8,150
8,985	Second	7,953
8,193	Ground	7,356
Total Floor Area: **53,118**		**80,509**

#VLI	%VLI	%DB	#DB	#Concessions
6	5%	20.00%	134	1
7	6%	22.50%	136	1
8	7%	25.00%	139	1
9	8%	27.50%	142	1
10	9%	30.00%	145	1
12	10%	32.50%	148	2
13	11%	35.00%	150	2
14	12%	38.75%	155	2
15	13%	42.50%	159	2
16	14%	46.25%	163	2
17	**15%**	**50.00%**	**167**	**3**

Base Project # of Units	Floor	Proposed Project # of Units
	Tenth	18
	Ninth	18
	Eighth	18
	Seventh	18
21	Sixth	18
21	Fifth	18
21	Fourth	18
21	Third	18
21	Second	18
6	Ground	4
Total Units: **111**		**166**

Proposed Area:	**80,509**
Proposed Units:	**166**
Average Unit Size:	**485**

BASE PROJECT ZONING COMPLIANCE CHECKS

Base Project - Open Space

	Units	Ratio	Total Area
Total Required for Base Unit	111	40	4440
Total Area Provided			4555
Provided Open Space (Ground Floor Open Space)			3460
Provided Open Space (Roof Deck)			1095

Base Project - FAR

	Res. Area	Commercial	Total GFA
GFA	53,118	1108	54,226
Site Area			13,561
FAR			3.999

Base Project - Parking

	Units/SF	Bedrooms	Ratio	Total Req.	Provided
Residential				0	0
Commercial (1,000 exempt)	108	N/A	2/1000 SF	0	0

Base Project -Bicycle Parking

	Units/SF	Bedrooms	Ratio	Total Req.	Provided
New Comm.	1,108		1/2000	2	2
Res. (Long)		111	0.33	37	34
Res (Short)		111	0.025	2	2

Base Project - Stormwater

	Roof Area	%	Required	Provided
Base Units	8,985	4%	359	949

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DENSITY BONUS CALCULATIONS

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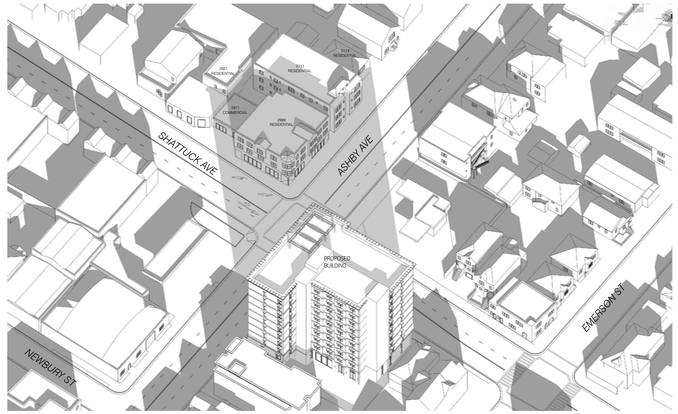
WINTER SOLSTICE
DEC 21ST:
2-HRS BEFORE SUNSET (PM)

DARK TONE GREY INDICATES SHADOWS FROM EXISTING BUILDINGS

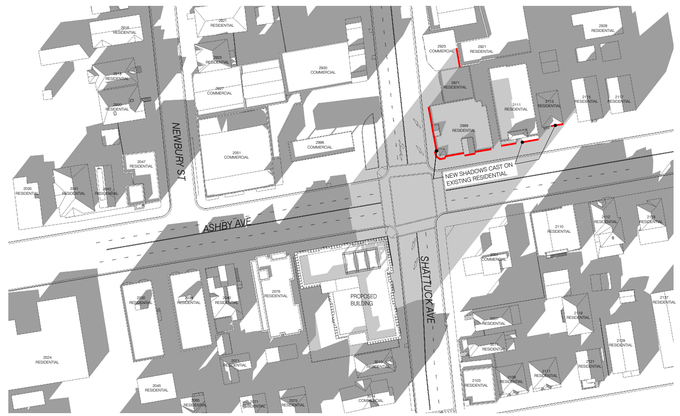
LIGHTER TONE GREY INDICATES SHADOWS FROM PROPOSED BUILDING

NEW SHADOW AT RESIDENTIAL BUILDING

ALL RESIDENTIAL BUILDINGS BEING SHADOWED SHOWN IN THESE DIAGRAMS



6 SHADOW STUDY AXONOMETRIC - PM
N.T.S.



5 SHADOW STUDY - PM
1:160 @ 11X17 1:80 @ 24X36

N

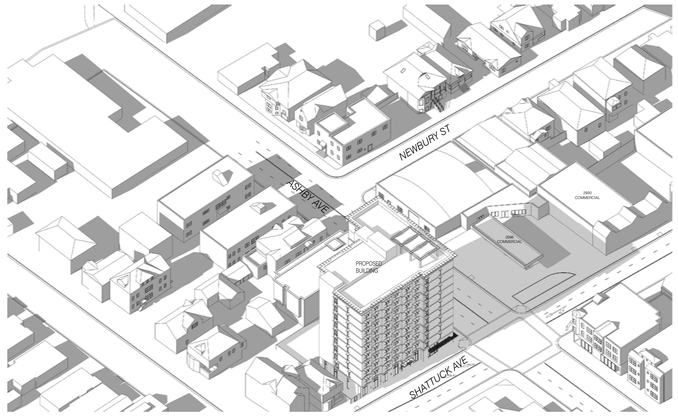
WINTER SOLSTICE
DEC 21ST:
NOON

DARK TONE GREY INDICATES SHADOWS FROM EXISTING BUILDINGS

LIGHTER TONE GREY INDICATES SHADOWS FROM PROPOSED BUILDING

NEW SHADOW AT RESIDENTIAL BUILDING

ALL RESIDENTIAL BUILDINGS BEING SHADOWED SHOWN IN THESE DIAGRAMS



4 SHADOW STUDY AXONOMETRIC - NOON
NT.S.



3 SHADOW STUDY - NOON
1:160 @ 11X17 1:80 @ 24X36

N

WINTER SOLSTICE
DEC 21ST:
2-HRS AFTER SUNRISE (AM)

DARK TONE GREY INDICATES SHADOWS FROM EXISTING BUILDINGS

LIGHTER TONE GREY INDICATES SHADOWS FROM PROPOSED BUILDING

NEW SHADOW AT RESIDENTIAL BUILDING

ALL RESIDENTIAL BUILDINGS BEING SHADOWED SHOWN IN THESE DIAGRAMS



2 SHADOW STUDY AXONOMETRIC - AM
N.T.S.



1 SHADOW STUDY - AM
1:160 @ 11X17 1:80 @ 24X36

N

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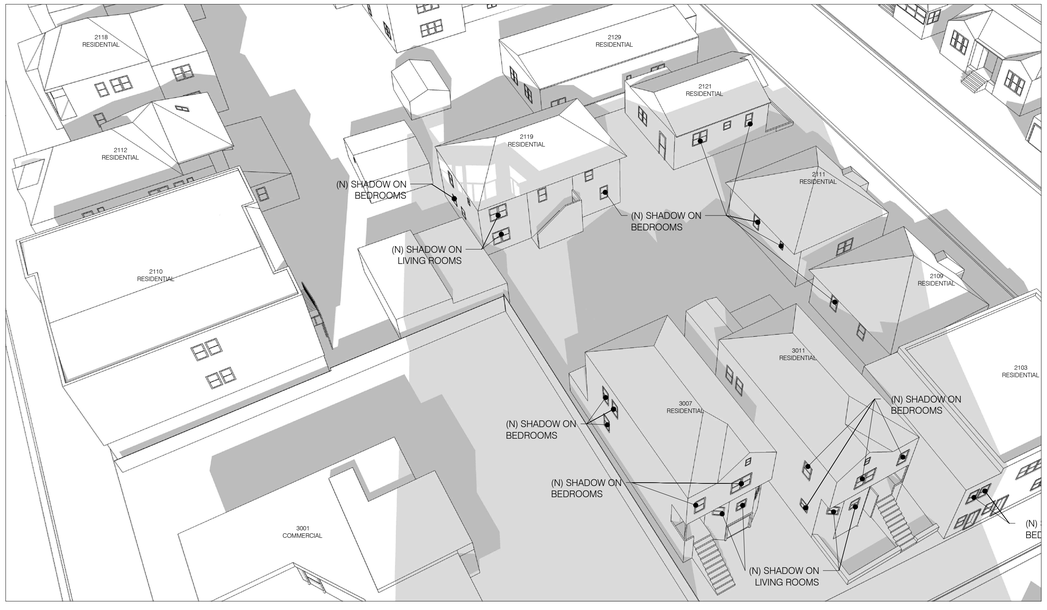
SHADOW STUDIES
DECEMBER 21ST

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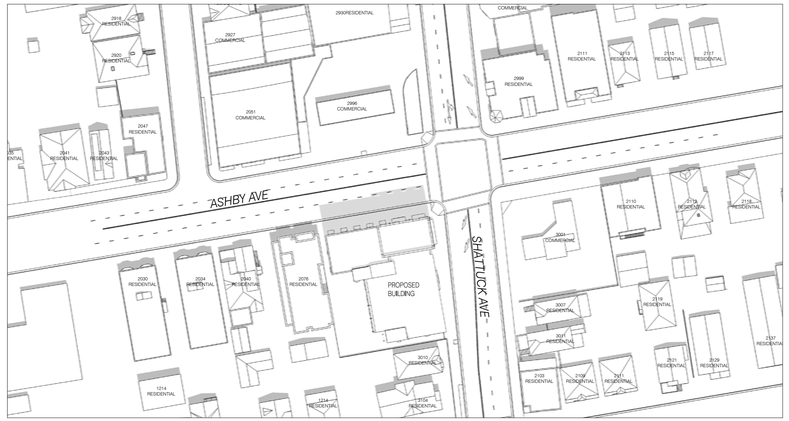
5 SHADOW STUDY AXONOMETRIC - JUNE 21: 2-HRS AFTER SUNRISE

NTS



4 SHADOW STUDY AXONOMETRIC - JUN 21: 2-HRS BEFORE SUNSET

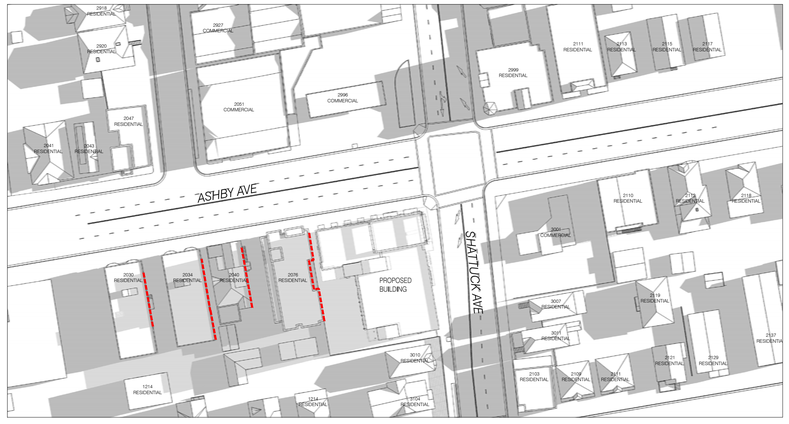
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1:130 @ 11X17 1:65 @ 24X36

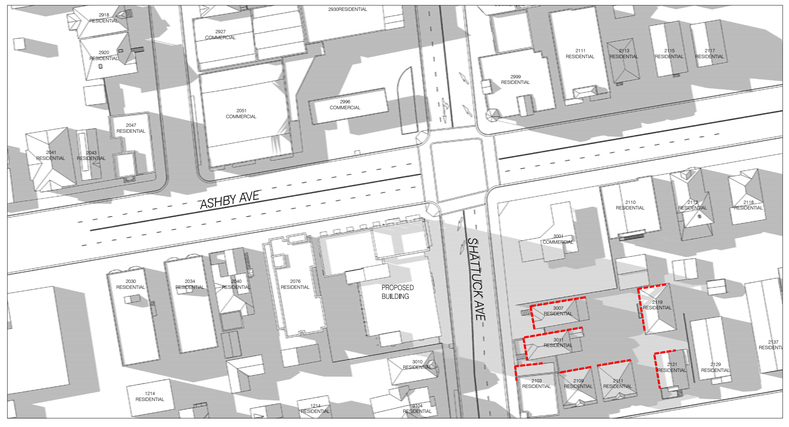
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2 SHADOW STUDY - JUNE 21: 2 HRS AFTER SUNRISE

1:130 @ 11X17 1:65 @ 24X36

N



1 SHADOW STUDY - JUNE 21: 2-HRS BEFORE SUNSET

1:130 @ 11X17 1:65 @ 24X36

N

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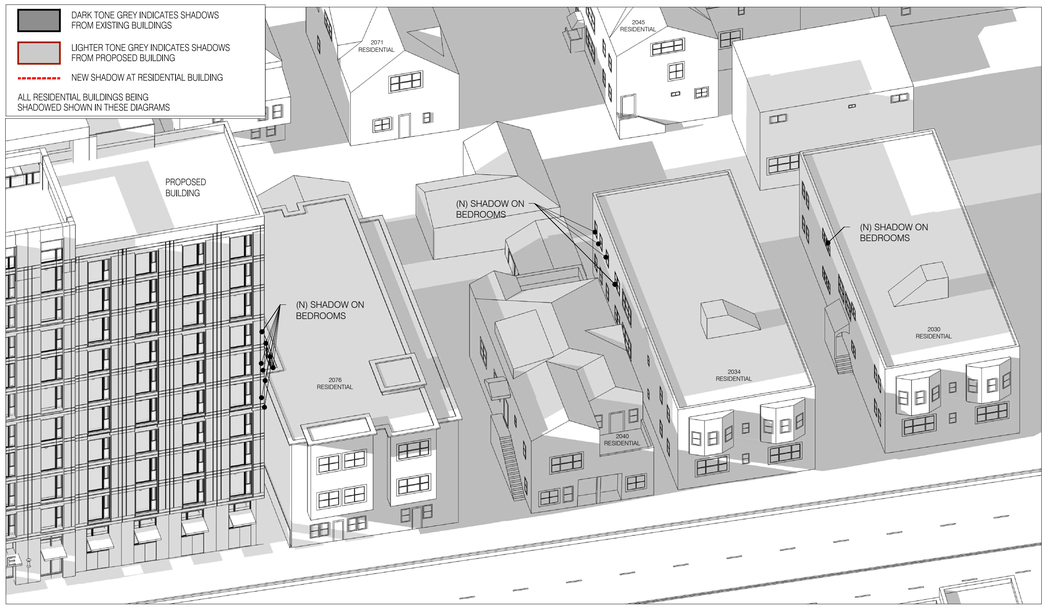
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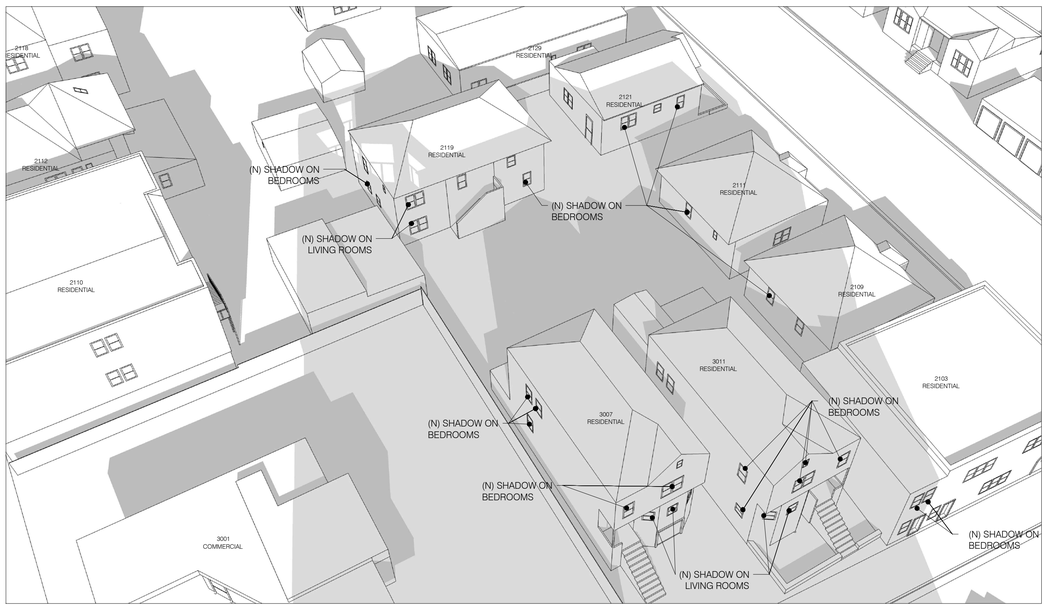
SHADOW STUDIES
JUNE 21ST

A0.4B



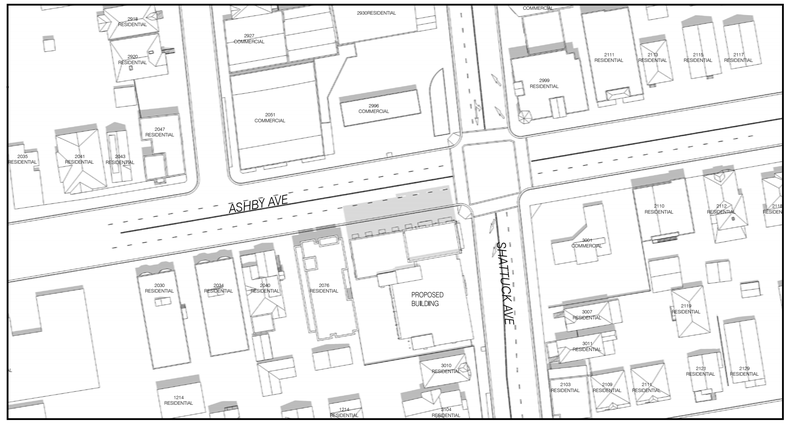
5 SHADOW STUDY AXONOMETRIC - JULY 8: 2 HRS AFTER SUNRISE

1:100 @ 11X17 1:50 @ 24X36



4 SHADOW STUDY AXONOMETRIC - JULY 8: 2-HRS BEFORE SUNSET

NTS



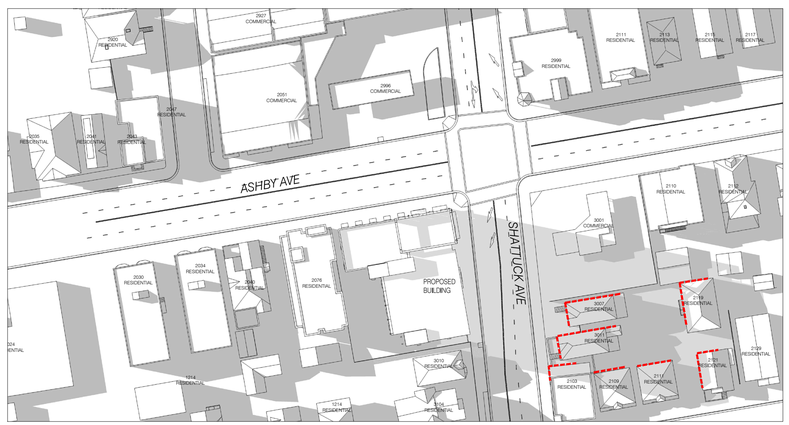
3 SHADOW STUDY - JULY 8: NOON

1:130 @ 11X17 1:65 @ 24X36



2 SHADOW STUDY - JULY 8: 2 HRS AFTER SUNRISE

1:130 @ 11X17 1:65 @ 24X36



1 SHADOW STUDY - JULY 8: 2-HRS BEFORE SUNSET

1:130 @ 11X17 1:65 @ 24X36

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JULY 8TH

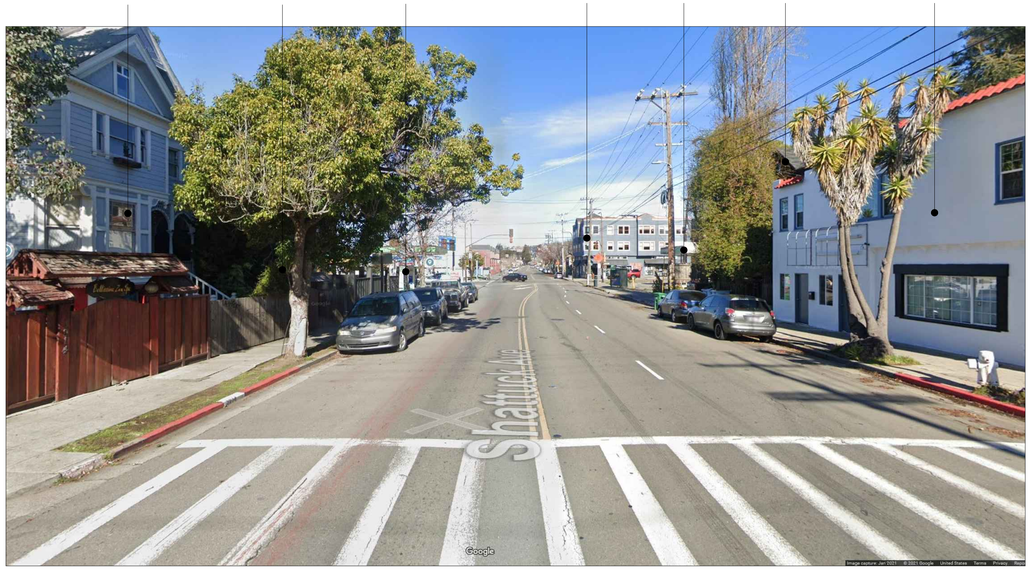
A0.4C



4 - VIEW FROM SHATTUCK LOOKING SOUTH



2 - VIEW FROM ASHBY LOOKING WEST



3 - VIEW FROM SHATTUCK LOOKING NORTH



1 - GOOGLE EARTH BIRD'S EYE CONTEXT VIEW

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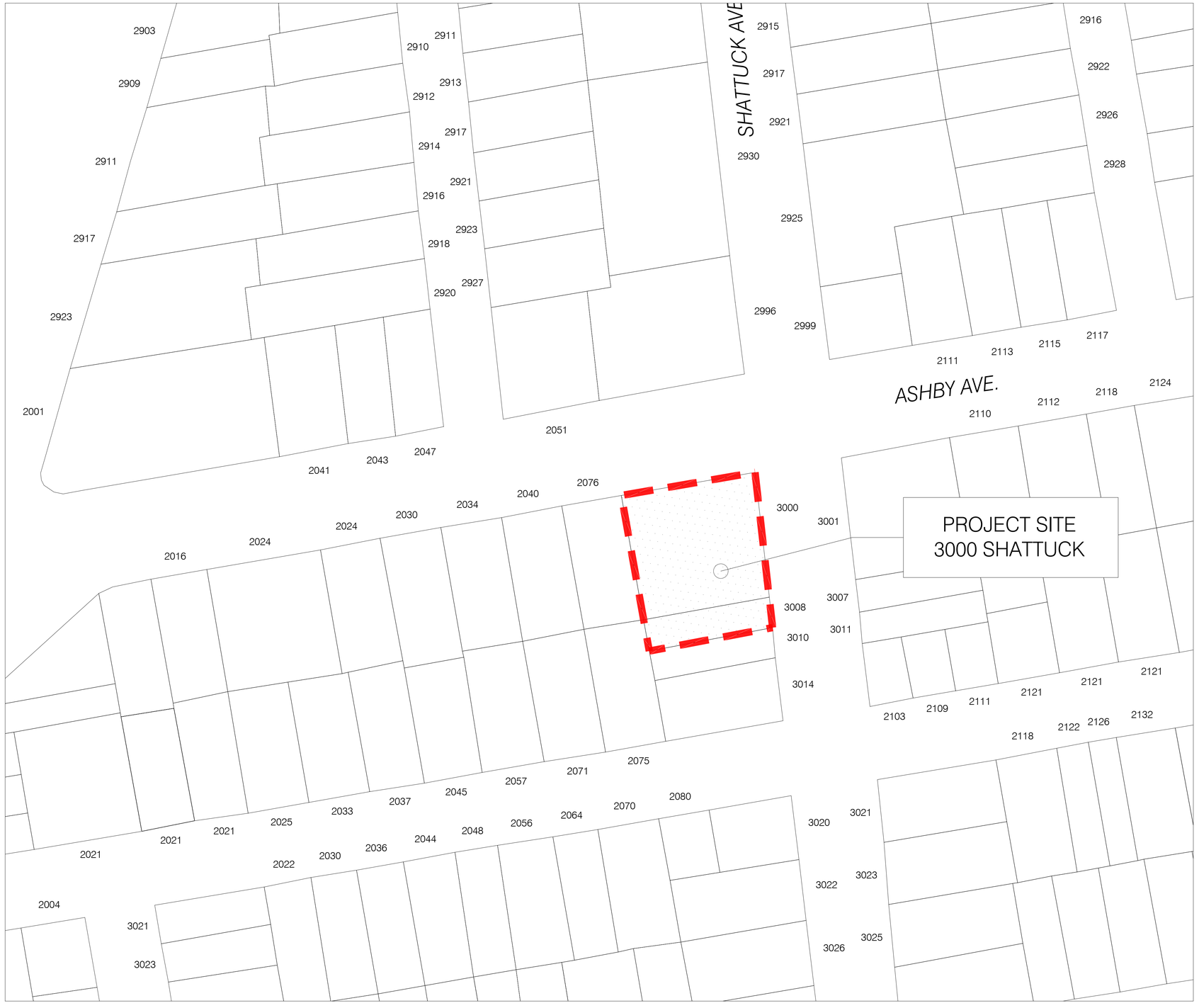
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SHEET:

SITE CONTEXT
PHOTOS

A0.5



1 - VICINITY MAP
NTS

N

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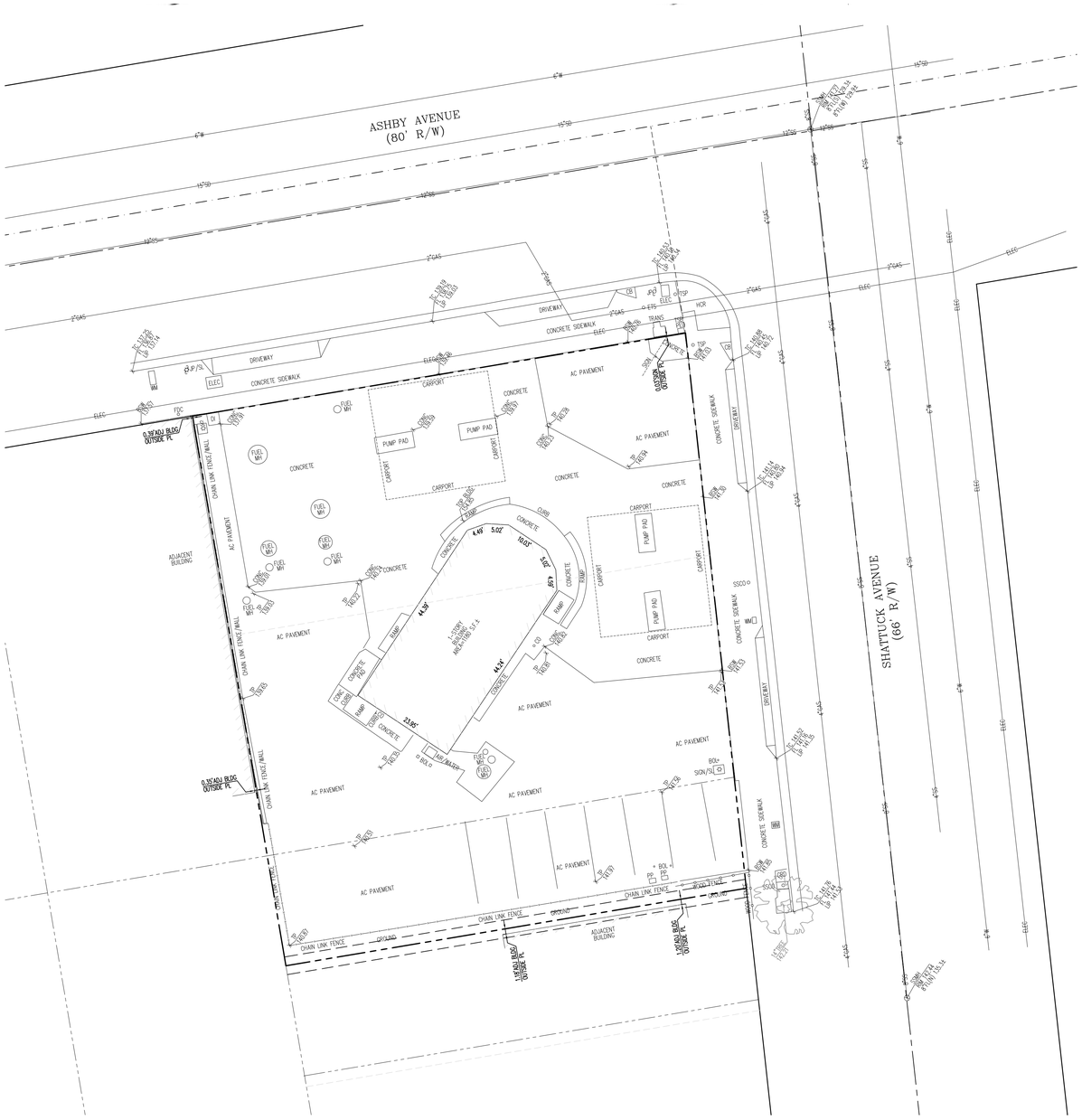
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SHEET:

VICINITY MAP

A0.6



GRAPHIC SCALE
10 0 5 10 20
(IN FEET)
1 inch = 10 ft.

LEGEND

SYMBOLS	DESCRIPTION
	BOUNDARY OF SUBJECT PROPERTU
	RIGHT OF WAY LINE
	INTERIOR PROPERTY LINE
	MONUMENT LINE
	CENTERLINE
	TIE LINE
	OLD LOT LINE
	EASEMENT LINE
WM	WATER METER
SSMH	SANITARY SEWER MAN HOLE
JP	JOINT POLE
SL	STREET LIGHT
CB	CATCH BASIN
FDC	FIRE DEPARTMENT CONNECTOR
ELEC	ELECTRIC BOX
ETS	ELECTROLYSIS TEST SYSTEM
DI	DRAIN INLET
TRANS	TRANSFORMER
SSCO	SANITARY SEWER CLEAN OUT
TSP	TRAFFIC SIGNAL POLE
HCR	HANDICAP RAMP
PP	POWER POLE
TSB PED	TRAFFIC SIGNAL BOX PEDESTAL
AC PAVEMENT	ASPHALT CONCRETE
BOL	BOLLARD
FUEL MH	FUEL MAN HOLE
CONC	BOLLARD
GRD	FUEL MAN HOLE
BSW 65.60	BACK OF SIDEWALK ELEVATION
CONC 65.60	TOP OF CONCRETE ELEVATION
LIP 65.60	LIP OF GUTTER ELEVATION
TC 65.64	TOP OF CURB ELEVATION
TP 65.64	TOP OF PAVEMENT ELEVATION
FL 65.64	FLOW LINE ELEVATION
	TREE
SS	SANITARY SEWER LINE
W	WATER LINE
SD	STORM DRAIN LINE
GAS	STORM DRAIN LINE
ELEC	STORM DRAIN LINE

ALTA/NSPS
LAND TITLE SURVEY

OF

3000 SHATTUCK AVENUE
CITY OF BERKELEY, ALAMEDA COUNTY, CALIFORNIA
MARCH 2022

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

1 / - SURVEY / EXISTING CONDITIONS

3/64" = 1'-0" @ 24X36 3/32' = 1'-0" @ 11X17

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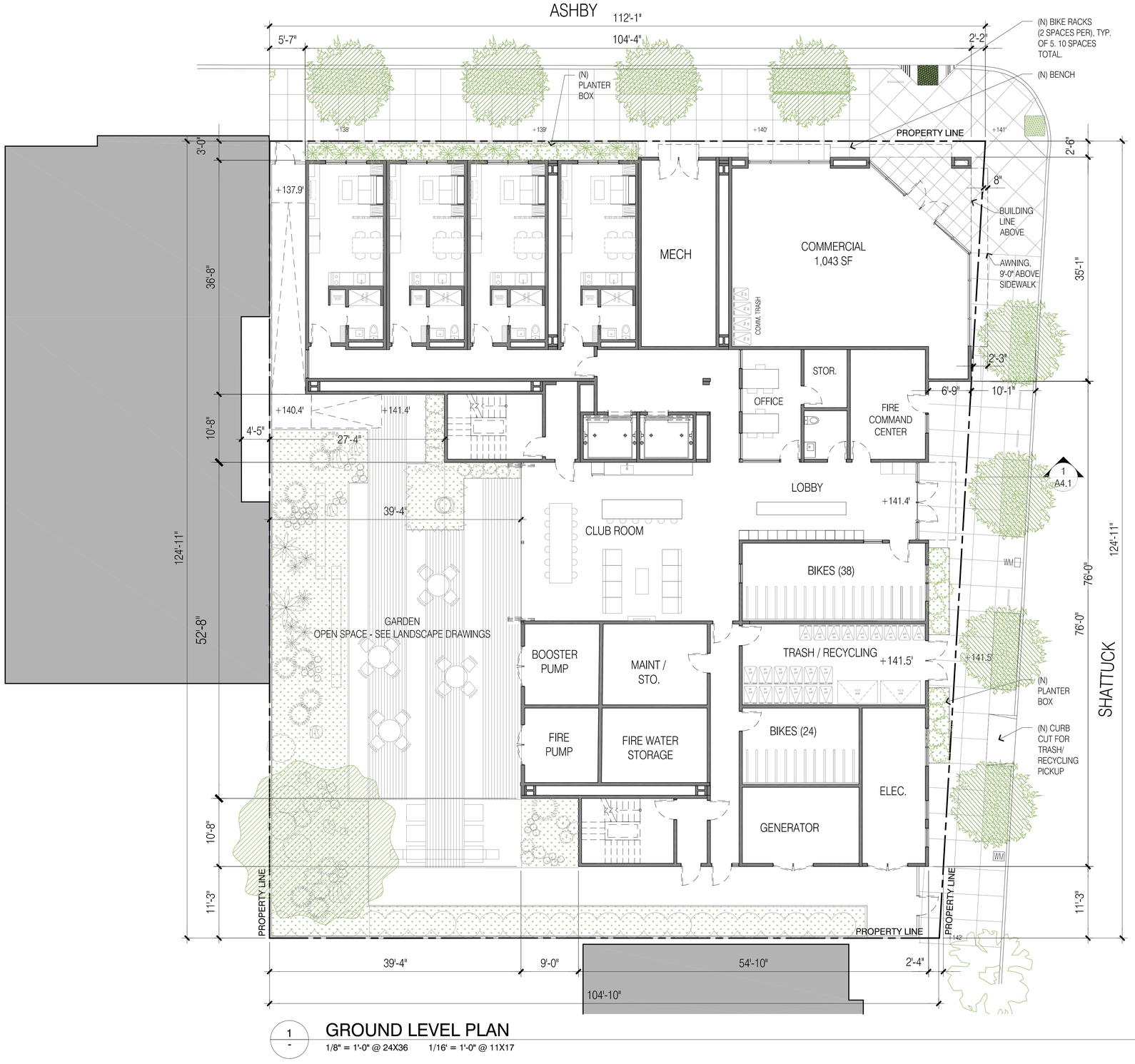
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SURVEY /
EXISTING CONDITIONS

A1.1



1 - GROUND LEVEL PLAN

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

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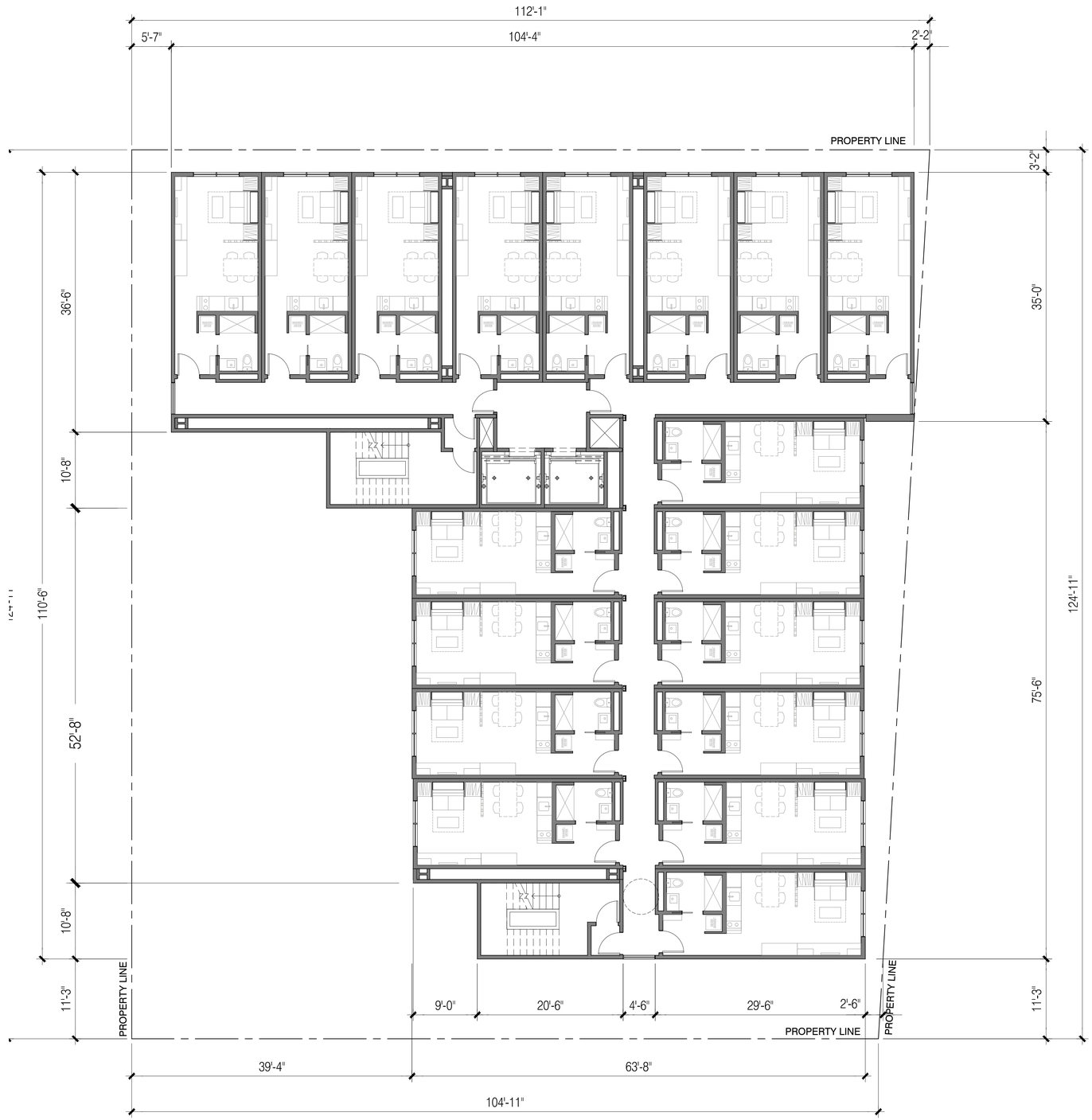
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SHEET:

PLAN AT GROUND LEVEL

A2.1



1 - PLAN AT LEVEL 2

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

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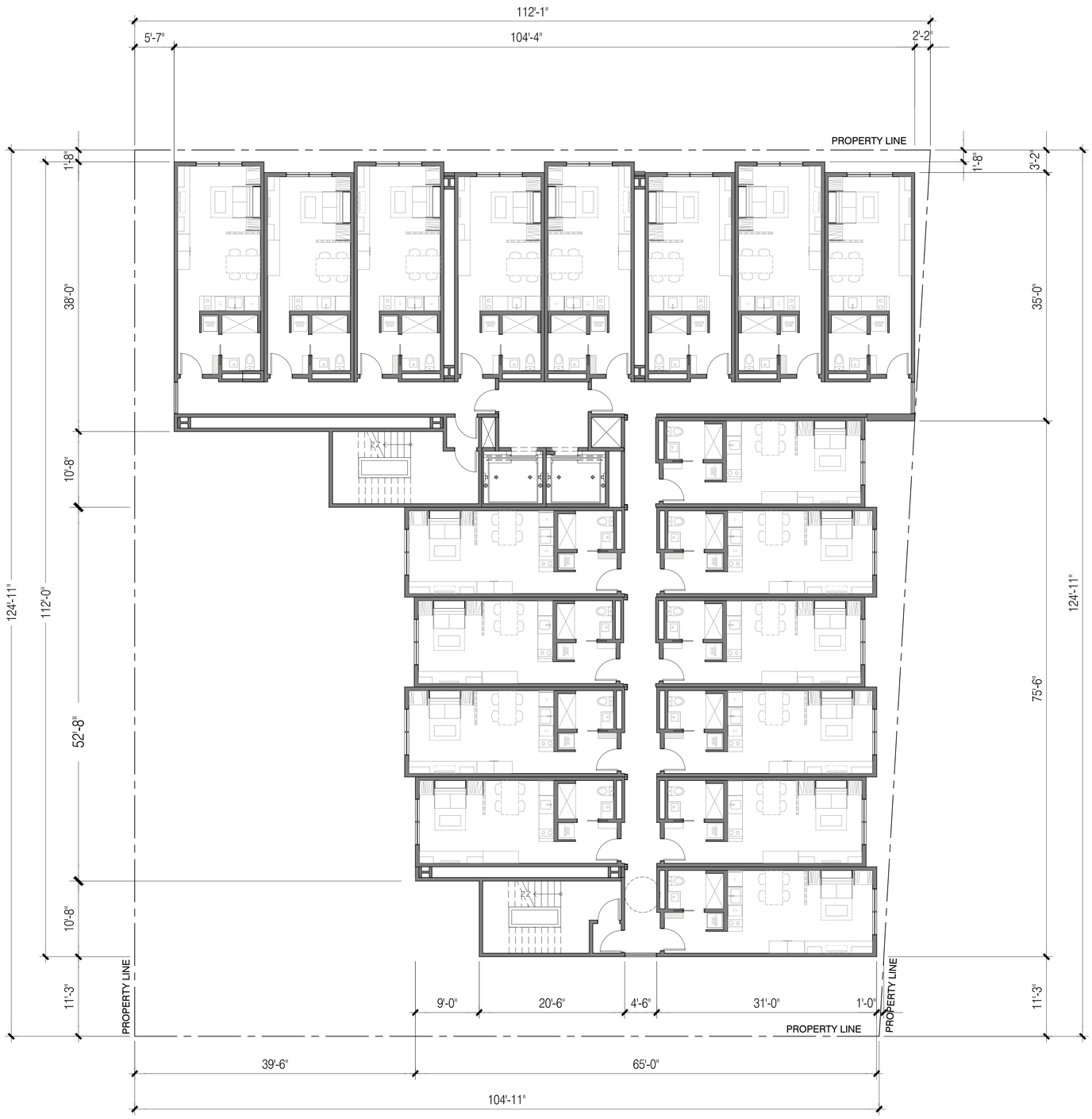
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SHEET:

PLAN AT
LEVEL 2

A2.2



1
-

FLOORS 3-10 PLANS

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

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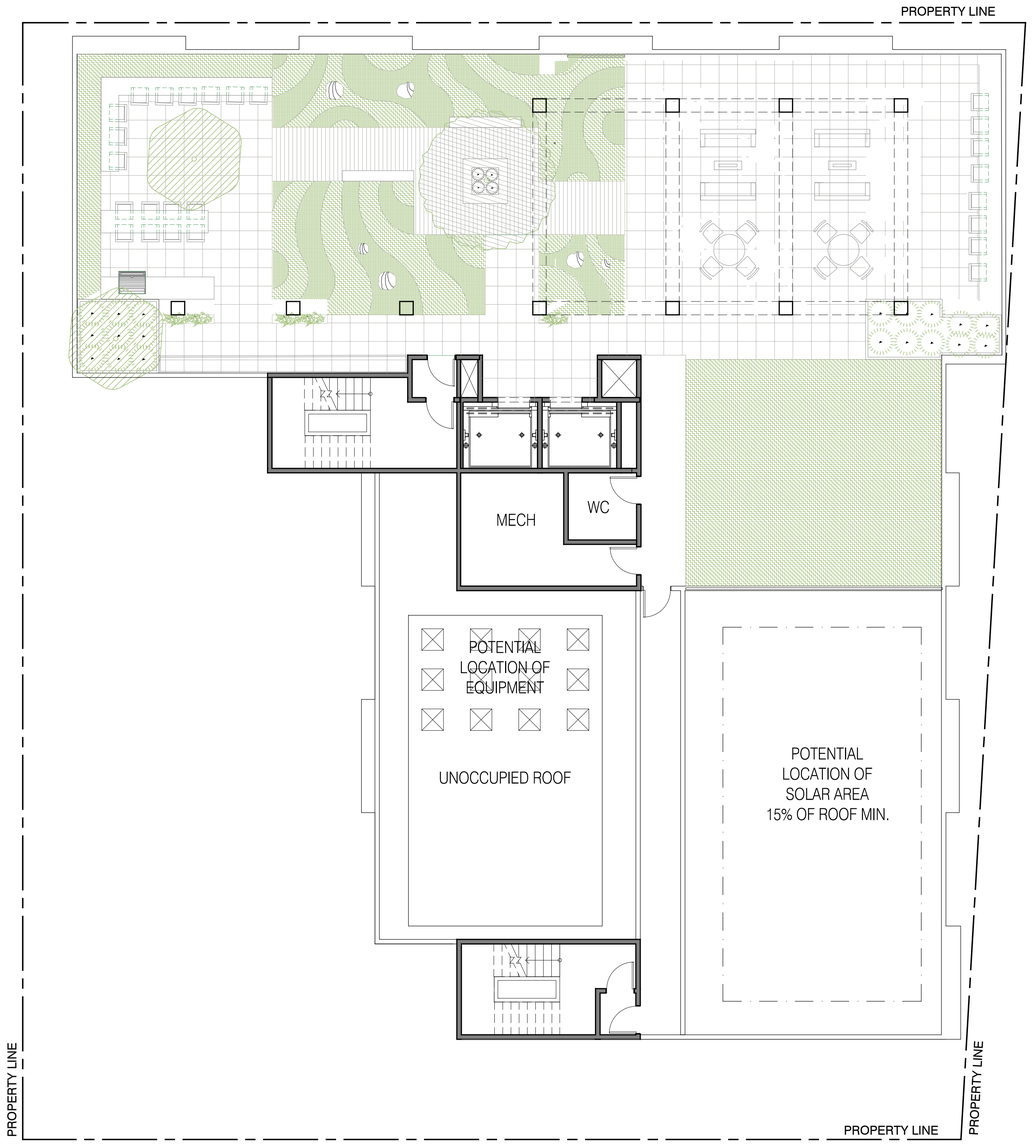
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SHEET:

PLANS
FLOORS 3-10

A2.3



1 - PLAN AT ROOF DECK LEVEL

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

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JOB: 2104

SHEET:

PLAN AT
ROOF DECK LEVEL

A2.4



1 - EAST ELEVATION

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

0 4 8 16

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SHEET:

BUILDING ELEVATIONS

A3.1



1 - NORTH ELEVATION

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

0 4 8 16

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SHEET:

BUILDING ELEVATIONS

A3.2



1 - WEST ELEVATION

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

0 4 8 16

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SHEET:

BUILDING ELEVATIONS

A3.3



1 - SOUTH ELEVATION

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

0 4 8 16

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SHEET:

BUILDING ELEVATIONS

A3.4



2 - STREET STRIP ELEVATION @ ASHBY AVENUE

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

0 4 8 16 32



1 - STREET STRIP ELEVATION @ SHATTUCK AVENUE

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

0 4 8 16 32

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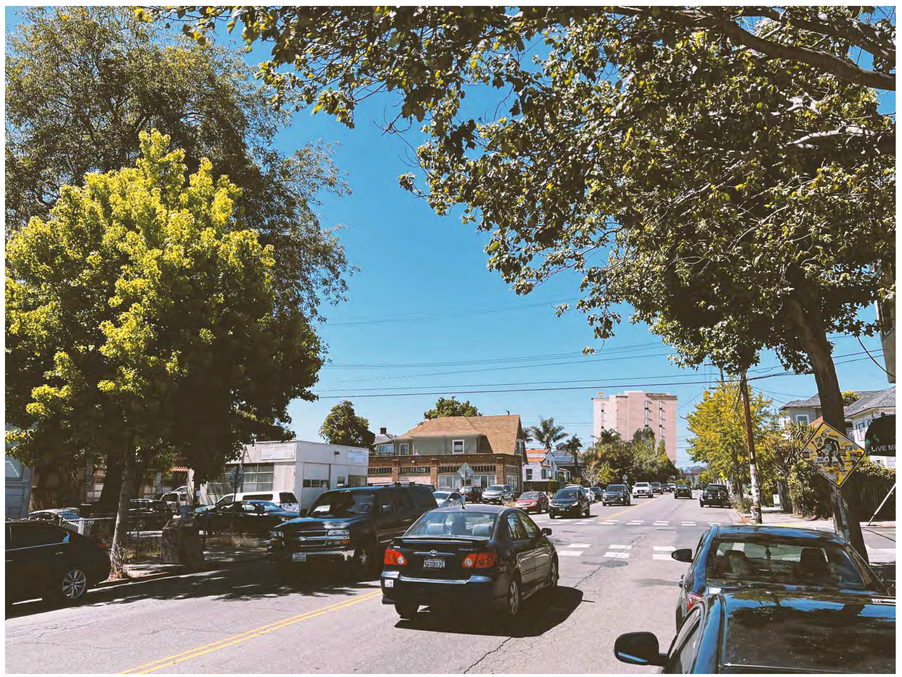
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SHEET:

STREET STRIP ELEVATIONS

A3.5



4 - SHATTUCK LOOKING NORTH - AFTER



2 - SHATTUCK LOOKING SOUTH - AFTER



3 - SHATTUCK LOOKING NORTH - BEFORE



1 - SHATTUCK LOOKING SOUTH - BEFORE

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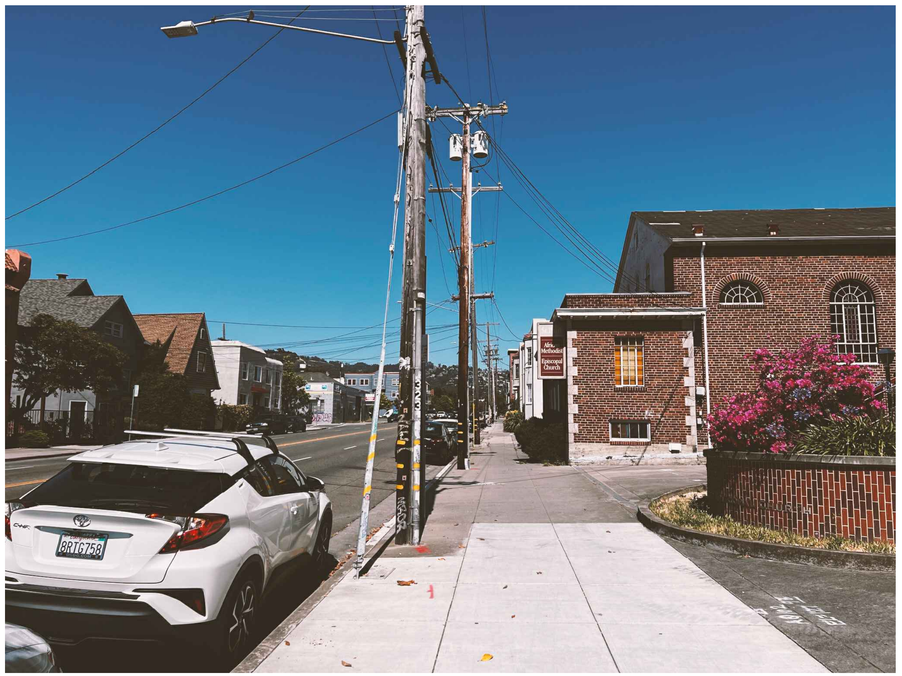
A3.6



4 - ASHBY LOOKING EAST - AFTER



2 - ASHBY LOOKING WEST - AFTER



3 - ASHBY LOOKING EAST - BEFORE



1 - ASHBY LOOKING WEST - BEFORE

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SHEET:

PHOTO CONTEXT VIEWS

A3.7



1
-
VIEW ALONG SHATTUCK LOOKING SOUTH WEST

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SHEET:

PERSPECTIVE VIEWS

A3.8



1
-

VIEW ALONG ASHBY LOOKING SOUTH WEST

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SHEET:

PERSPECTIVE VIEWS

A3.9



1
-

VIEW ALONG SHATTUCK LOOKING NORTH WEST

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SHEET:

PERSPECTIVE
VIEWS

A3.10



1
-
VIEW ALONG ASHBY LOOKING EAST

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PERSPECTIVE VIEWS

A3.11



1
-
DETAIL AT SIDEWALK LEVEL

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PERSPECTIVE VIEWS

A3.12



1 - RETAIL ENTRY CLOSE-UP VIEW

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PERSPECTIVE VIEWS

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1
-

DETAIL AT SIDEWALK LOOKING EAST

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JOB: 2104

SHEET:

PERSPECTIVE VIEWS

A3.14



1
-
DETAIL AT SIDEWALK LOOKING NORTHWEST

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PERSPECTIVE VIEWS

A3.15



1
-

LOBBY ENTRY CLOSE-UP VIEW

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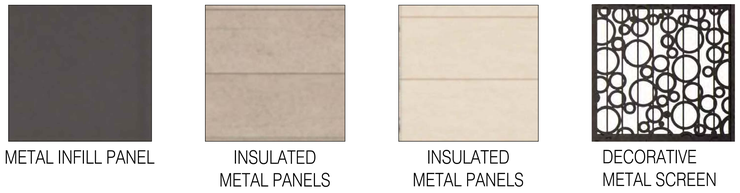
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PERSPECTIVE VIEWS

A3.16





1 - NORTH ELEVATION

3/32"=1'-0" @ 11X17 3/16" = 1'-0" @ 24X36

0 4 8 16

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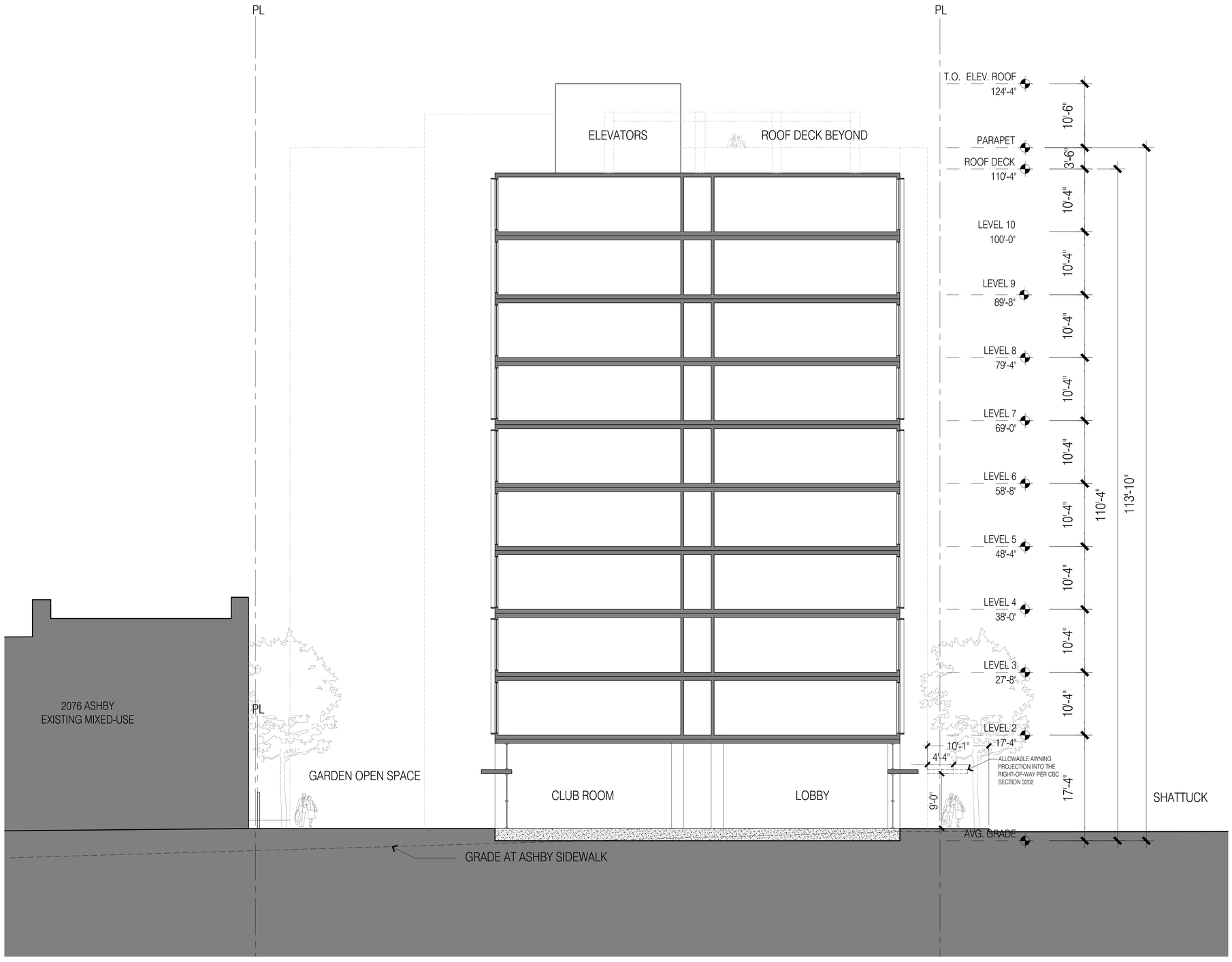
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SHEET:

BUILDING MAT

MAT



1 / - E-W SECTION

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

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SHEET:

BUILDING SECTION

A4.1

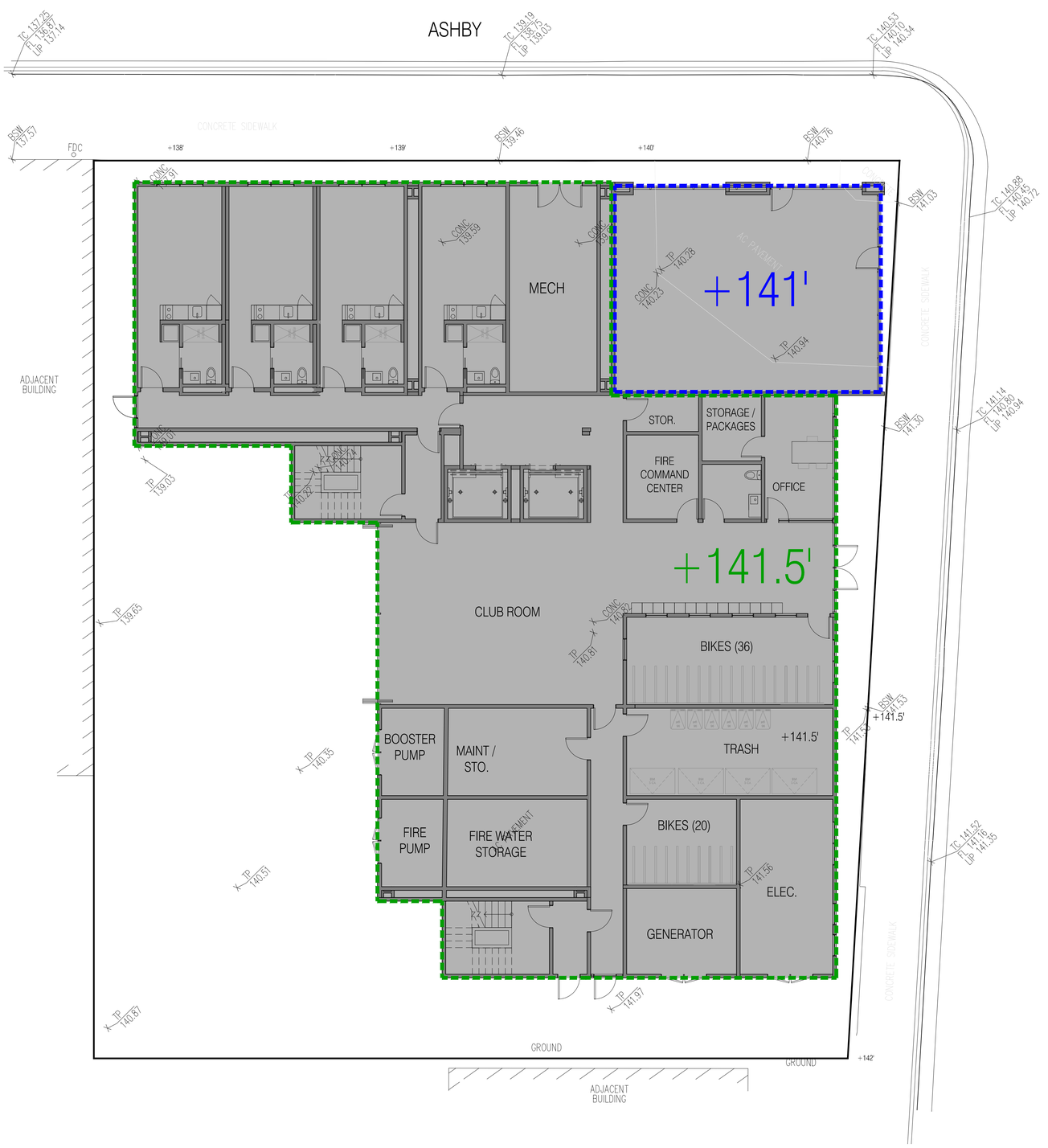
CUT AND FILL CALCULATIONS

	CUT/FILL AREA	AVERAGE CUT/FILL DEPTH (FT)	TOTAL VOLUME (CY)
PROPOSED BUILDING	8,502	2	630

EARTHWORK NOTES:

1. EARTHWORK QUATNITY IS A ROUGH ESTIMATE BASED ON A BUILDING PAD ELEVATION 12" BELOW FF OF GROUND FLOOR LEVEL. QUANTITIES MAY VARY DUE TO FINAL STRUCTURAL FOUNDATIONS AND PAVEMENT THICKNESS.

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



1
-

GROUND LEVEL PLAN

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

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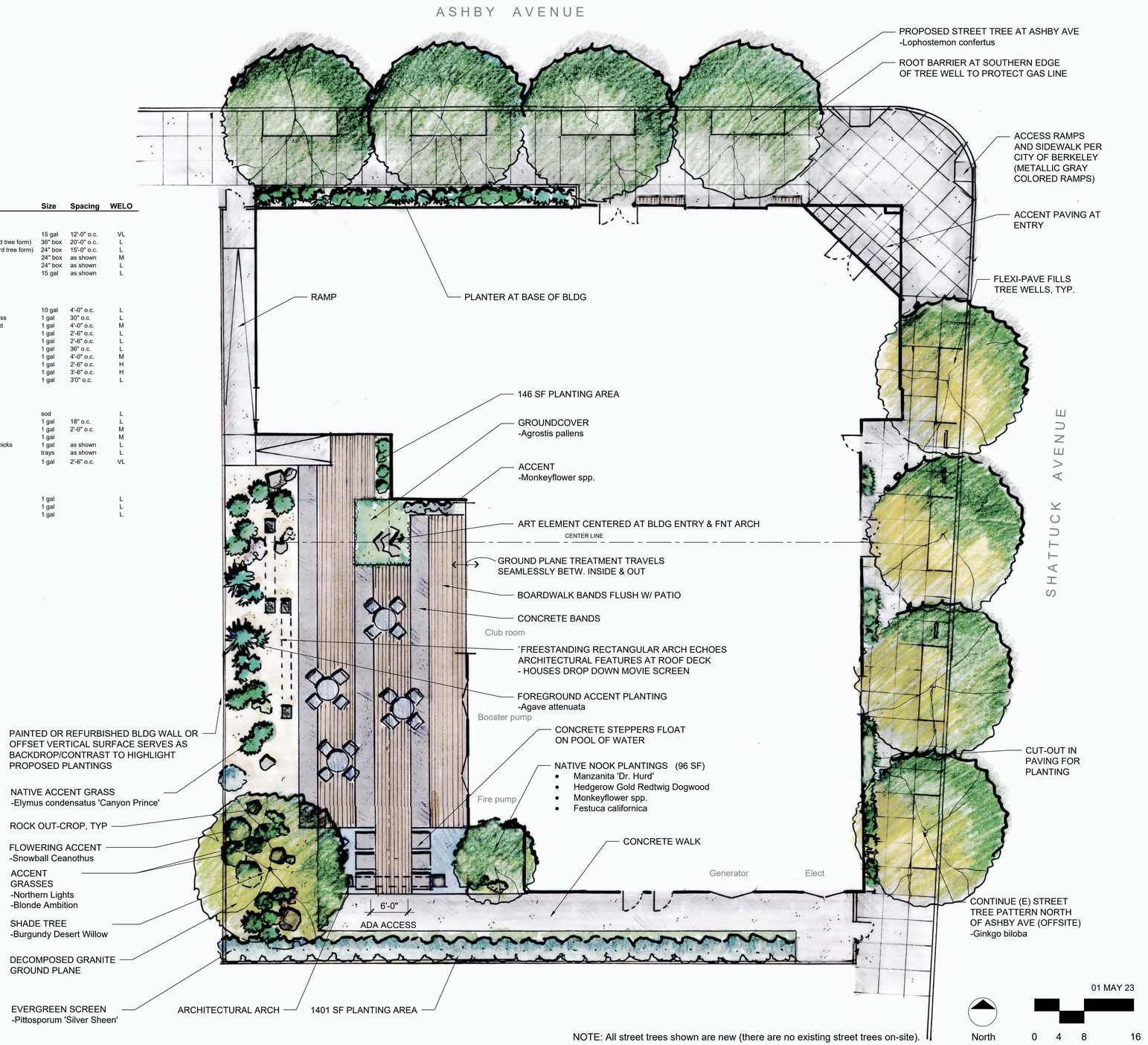
CONCEPTUAL GRADING PLAN

A5.1

Plant List

Index	Latin Name	Common Name	Size	Spacing	WELO
Trees					
AM	Arctostaphylos manzanita 'Dr. Hurd'	Manzanita	15 gal	12'-0" o.c.	VL
CL	Chilopsis linearis 'Burgundy'	Burgundy Desert Willow (standard tree form)	36" box	20'-0" o.c.	L
CR	Ceanothus 'Ray Hartman'	Ray Hartman Ceanothus (standard tree form)	24" box	15'-0" o.c.	L
GB	Ginkgo biloba	Ginkgo	24" box	as shown	M
LC	Lophstemon confertus	Brisbane Box	24" box	as shown	L
MC	Myrica californica	Pacific Wax Myrtle	15 gal	as shown	L
Shrubs					
AA	Agave attenuata 'Ray of Light'	Ray of Light Foxtail Agave	10 gal	4'-0" o.c.	L
BG	Bouteloua gracilis 'Blonde Ambition'	Blonde Ambition Blue Grama Grass	1 gal	30" o.c.	L
CS	Cornus sericea, C. Stolonifera 'Hedgerow Gol	Hedgerow Gold Redtwig Dogwood	1 gal	4'-0" o.c.	M
DA	Diplacus aurantiacus	Orange Bush Monkeyflower	1 gal	2'-6" o.c.	L
DP	Diplacus puniceus, Mimulus puniceus	Red Bush Monkeyflower	1 gal	2'-6" o.c.	L
EC	Elymus condensatus 'Canyon Prince'	Canyon Prince' Blue Rye Grass	1 gal	36" o.c.	L
FC	Festuca californica	California Fescue	1 gal	4'-0" o.c.	M
JE	Juncus effusus	Soft Rush	1 gal	2'-6" o.c.	H
JP	Juncus patens	Common Rush	1 gal	3'-6" o.c.	H
MR	Muhlenbergia rigens	Deer Grass	1 gal	3'0" o.c.	L
Groundcovers					
AP	Agrostis pallens	West Coast Native Bunchgrass	sod		L
CF	Calamagrostis foliosa	Mendocino Reed Grass	1 gal	18" o.c.	L
DC	Deschampsia cespitosa 'Northern Lights'	Northern Lights Tufted Hairgrass	1 gal	2'-0" o.c.	M
HA	Heuchera americana 'Green Spice'	Green Spice Coral Bells	1 gal		M
SK	Sempervivum 'Krebs 2'	Krebs Desert Bloom Hens and Chicks	1 gal	as shown	L
SR	Sedum rupestre 'Angelina'	Angelina Stonecrop	trays	as shown	L
ZC	Epilobium canum (Zauschneria californica)	California Fuschia	1 gal	2'-6" o.c.	VL
Rooftop Sedums					
SC1	Sedum spathulifolium 'Purpureum'	Red Pacific Stonecrop	1 gal		L
SC2	Sedum spathulifolium 'Cape Blanco'	Cape Blanco Pacific Stonecrop	1 gal		L
SC3	Sedum divergens	Pacific Stonecrop	1 gal		L

Note: *At least 80% of all plantings will be California natives.*



NOTE: All street trees shown are new (there are no existing street trees on-site).

01 MAY 23

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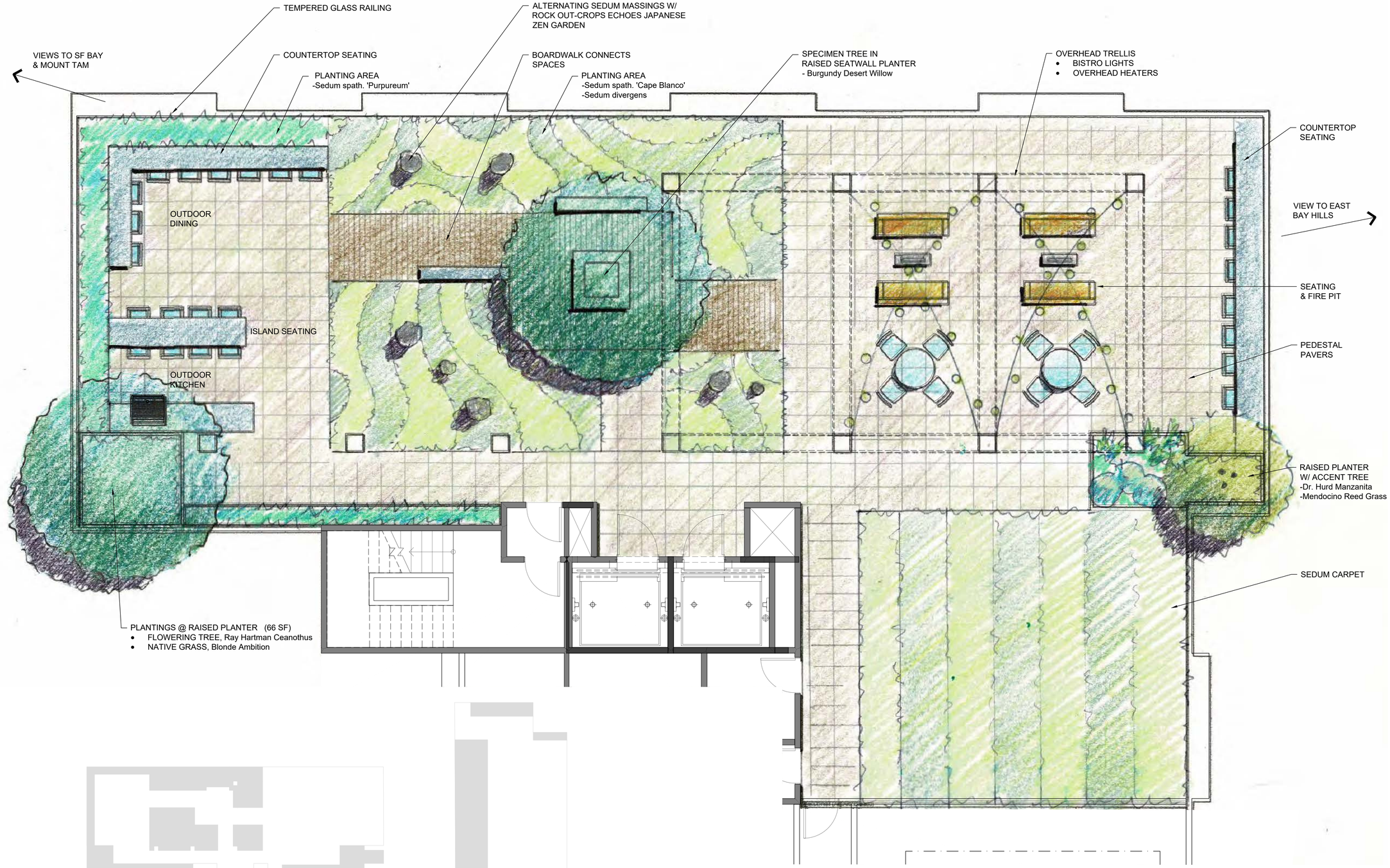
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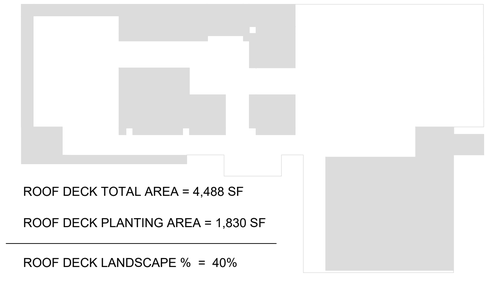
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SHEET:

GROUND LEVEL
LANDSCAPE PLAN

L1.0





ROOF DECK TOTAL AREA = 4,488 SF

ROOF DECK PLANTING AREA = 1,830 SF

ROOF DECK LANDSCAPE % = 40%

GROUND LEVEL TOTAL AREA = 3,391 SF

GROUND LEVEL PLANTING AREA = 1,356 SF

GROUND LEVEL LANDSCAPE % = 40%

North 0 2 4 8

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ROOF DECK
GROUND LEVEL

L1.1





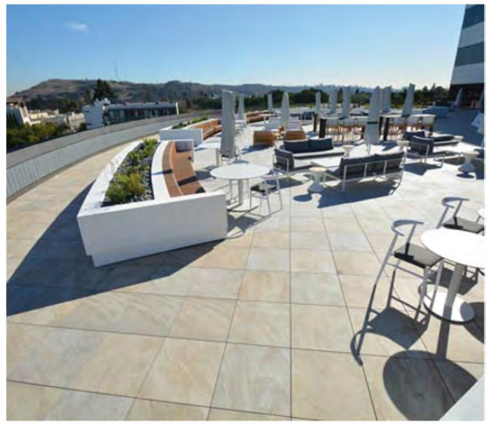













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JOB: 2104

SHEET:

LANDSCAPE IMAGERY

L2.0

PLAN NOTES LEGEND

1. 1" WATER METER FOR IRRIGATION TO BE PROVIDED BY UTILITY EBMUD. MAXIMUM IRRIGATION DEMAND: ( )GPM AT ( )PSI STATIC PRESSURE AT WATER METER LOCATION.
2. INSTALL A 1" IRRIGATION BACKFLOW PREVENTER AT THIS APPROXIMATE LOCATION.
3. APPROXIMATE LOCATION OF BOOSTER PUMP BY OTHERS. PRESSURE ON DISCHARGE SIDE OF BOOSTER PUMP SHALL BE 95 PSI.
4. IRRIGATION CONTROLLER "C". MOUNT ON INTERIOR WALL AT THIS LOCATION AS DETAILED AND AS DIRECTED BY ARCHITECT. CONNECT TO 120 VOLT A.C. ELECTRICAL SERVICE INSTALLED AT THIS LOCATION UNDER ELECTRICAL CONTRACT. IRRIGATION CONTRACTOR SHALL COORDINATE LOCATION OF ELECTRICAL SERVICE PRIOR TO CONSTRUCTION.
5. IRRIGATION MASTER VALVE AND FLOW SENSOR.
6. INSTALL A 1" PRESSURE REDUCING VALVE FOR MAIN SERVICING SITE LEVEL. SET PRESSURE TO BE 50 PSI.
7. 1.25" COPPER PIPE STUB-OUT FOR IRRIGATION FROM MECHANICAL ROOM TO THIS APPROXIMATE LOCATION TO SERVICE SITE LEVEL PLANTERS TO BE PROVIDED AND INSTALLED IN-STRUCTURE UNDER PLUMBING CONTRACT. COORDINATE INSTALLATION OF PIPE WITH GENERAL/PLUMBING CONTRACTOR(S) PRIOR TO CONSTRUCTION.
8. 1.25" ELECTRICAL CONDUIT AND SPLICE BOX FOR 2-WIRE CABLE TO BE PROVIDED AND INSTALLED FROM IRRIGATION CONTROLLER "C" TO THIS LOCATION UNDER ELECTRICAL CONTRACT WORK BY A LICENSED ELECTRICAL CONTRACTOR. COORDINATE INSTALLATION OF CONDUIT WITH GENERAL/ELECTRICAL CONTRACTOR(S) PRIOR TO CONSTRUCTION.
9. 1.25" COPPER PIPE STUB-OUT FOR IRRIGATION FROM MECHANICAL ROOM TO THIS APPROXIMATE LOCATION TO SERVICE ROOF LEVEL PLANTERS TO BE PROVIDED AND INSTALLED IN-STRUCTURE UNDER PLUMBING CONTRACT. COORDINATE INSTALLATION OF PIPE WITH GENERAL/PLUMBING CONTRACTOR(S) PRIOR TO CONSTRUCTION.
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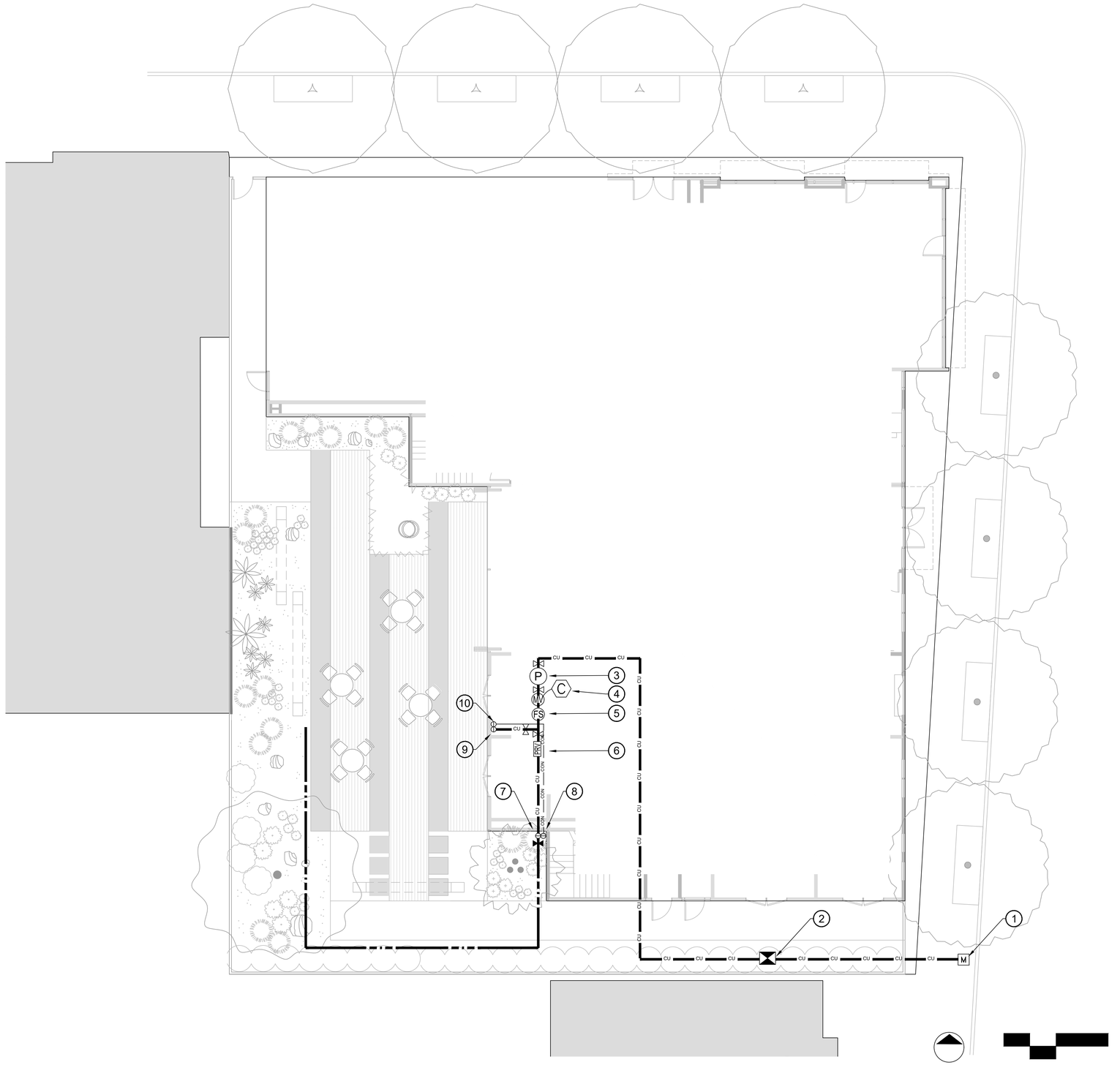
NOTES:

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2. IRRIGATION EQUIPMENT MAY BE SHOWN WITHIN HARDSCAPE FOR GRAPHIC CLARITY ONLY. INSTALL ALL IRRIGATION EQUIPMENT WITHIN PLANTED AREAS. IRRIGATION PIPE AND WIRE CROSSING BENEATH HARDSCAPE SURFACES SHALL BE CONTAINED WITHIN SLEEVING OR SCHEDULE 40 PVC CONDUIT. SLEEVING SIZE SHALL BE A MINIMUM OF TWO TIMES THE AGGREGATE DIAMETER OF ALL PIPES CONTAINED WITH SLEEVE. PROVIDE VERTICAL SWEEP FOR ALL ELECTRICAL CONDUIT ON EACH SIDE OF HARDSCAPE AND TERMINATE ENDS AT 12" MINIMUM DEPTH AND 12" FROM HARDSCAPE SURFACE.
3. UNSIZED LATERAL LINE PIPING LOCATED DOWN STREAM OF 1" PIPING SHALL BE 3/4" IN SIZE (TYPICAL).
4. SIZING OF LATERAL PIPE SHALL BE AS FOLLOWS:

   0.75" 0-6 GPM
   1" 7-12 GPM

5. SIZING OF LATERAL PIPE FOR DRIPLINE (12" O.C. GRID WITH 0.6 GPH OR LESS EMITTERS) SHALL BE AS FOLLOWS:

   0.75 0-500 FT
   1" 501-1100 FT



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GROUND LEVEL IRRIGATION PLAN

I1.0

PLAN NOTES LEGEND

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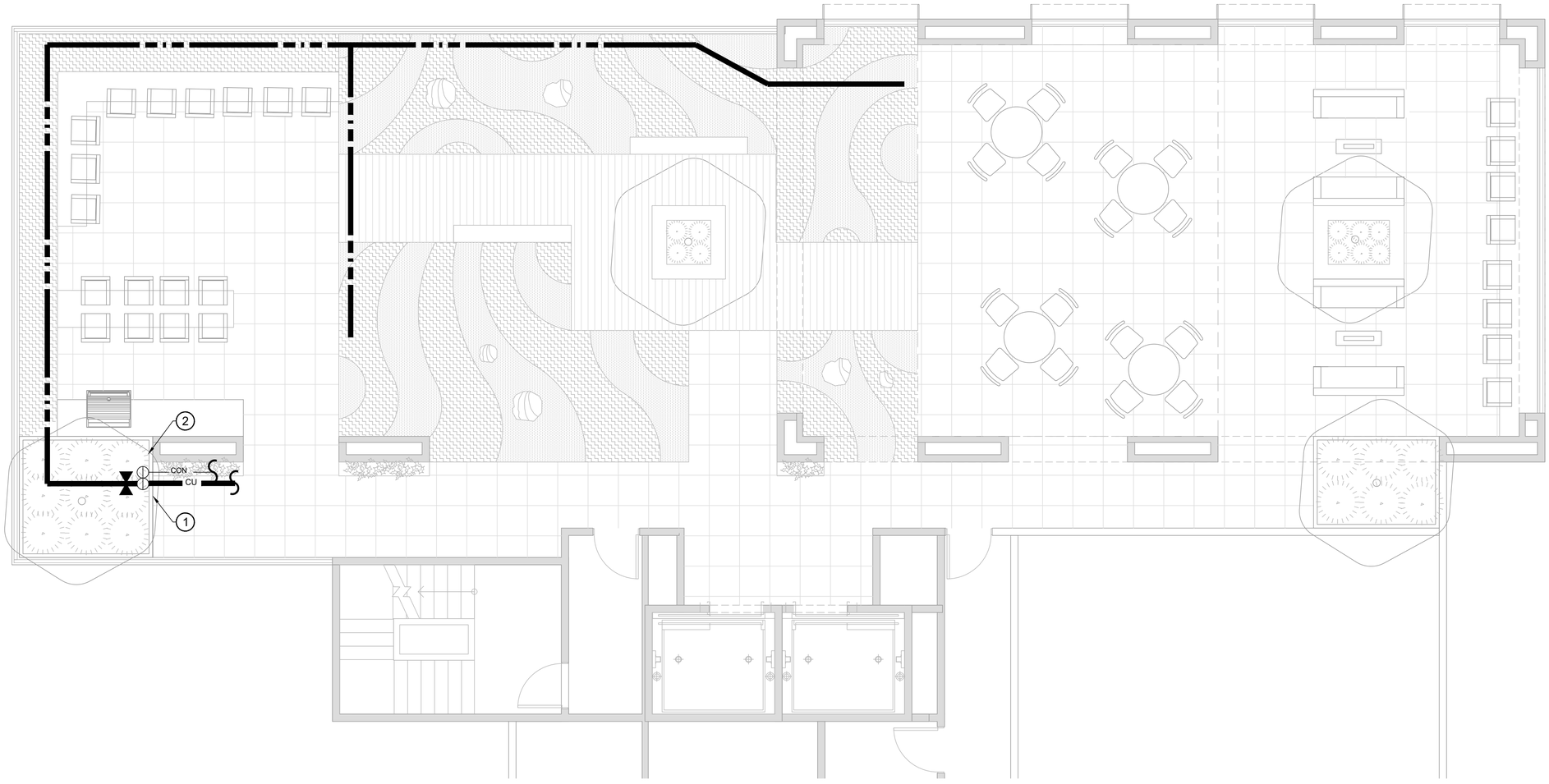
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ROOF DECK
IRRIGATION PLAN

I1.1

IRRIGATION NOTES

1. THESE IRRIGATION DRAWINGS ARE DIAGRAMMATIC AND INDICATIVE OF THE WORK TO BE INSTALLED. ALL PIPING, VALVES, AND OTHER IRRIGATION COMPONENTS MAY BE SHOWN WITHIN PAVED AREAS FOR GRAPHIC CLARITY ONLY AND ARE TO BE INSTALLED WITHIN PLANTING AREAS. DUE TO THE SCALE OF THE DRAWINGS, IT IS NOT POSSIBLE TO INDICATE ALL OFFSETS, FITTINGS, SLEEVES, CONDUIT, AND OTHER ITEMS WHICH MAY BE REQUIRED. INVESTIGATE THE STRUCTURAL AND FINISHED CONDITION AFFECTING THE CONTRACT WORK INCLUDING OBSTRUCTIONS, GRADE DIFFERENCES OR AREA DIMENSIONAL DIFFERENCES. IN THE EVENT OF FIELD DISCREPANCY WITH CONTRACT DOCUMENTS, PLAN THE INSTALLATION WORK ACCORDINGLY BY NOTIFICATION AND APPROVAL OF THE OWNER'S AUTHORIZED REPRESENTATIVE AND ACCORDING TO THE CONTRACT SPECIFICATIONS. NOTIFY AND COORDINATE IRRIGATION CONTRACT WORK WITH APPLICABLE CONTRACTORS FOR THE LOCATION AND INSTALLATION OF PIPE, CONDUIT OR SLEEVES THROUGH OR UNDER WALLS, ROADWAYS, PAVING AND STRUCTURES BEFORE CONSTRUCTION. IN THE EVENT THESE NOTIFICATIONS ARE NOT PERFORMED, THE CONTRACTOR ASSUMES FULL RESPONSIBILITY FOR REQUIRED REVISIONS.

2. THE CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE CODES, STANDARDS, AND REGULATIONS. ALL WORK AND MATERIALS SHALL BE IN FULL ACCORDANCE WITH THE LATEST RULES AND REGULATIONS OF THE NATIONAL ELECTRIC CODE; THE UNIFORM PLUMBING CODE, PUBLISHED BY THE WESTERN PLUMBING OFFICIALS ASSOCIATION; AND OTHER STATE OR LOCAL LAWS OR REGULATIONS. NOTHING IN THESE DRAWINGS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THESE CODES OR REGULATIONS. THE CONTRACTOR SHALL FURNISH WITHOUT ANY EXTRA CHARGE, ANY ADDITIONAL MATERIAL AND LABOR WHEN REQUIRED BY THE COMPLIANCE WITH THESE CODES AND REGULATIONS.

3. THE CONTRACTOR SHALL COORDINATE INSTALLATION OF IRRIGATION SYSTEM WITH LAYOUT AND INSTALLATION OF THE PLANT MATERIALS TO INSURE THAT THERE WILL BE COMPLETE AND UNIFORM IRRIGATION COVERAGE OF PLANTING IN ACCORDANCE WITH THESE DRAWINGS, AND CONTRACT DOCUMENTS. THE IRRIGATION LAYOUT SHALL BE CHECKED BY THE CONTRACTOR AND OWNER'S AUTHORIZED REPRESENTATIVE PRIOR TO CONSTRUCTION TO DETERMINE IF ANY CHANGES, DELETIONS, OR ADDITIONS ARE REQUIRED. IRRIGATION SYSTEM SHALL BE INSTALLED AND TESTED PRIOR TO INSTALLATION OF PLANT MATERIAL.

4. THE INTENT OF THIS IRRIGATION SYSTEM IS TO PROVIDE THE MINIMUM AMOUNT OF WATER REQUIRED TO SUSTAIN GOOD PLANT HEALTH.

5. IT IS THE RESPONSIBILITY OF THE MAINTENANCE CONTRACTOR AND/OR OWNER TO PROGRAM THE IRRIGATION CONTROLLER(S) TO PROVIDE THE MINIMUM AMOUNT OF WATER NEEDED TO SUSTAIN GOOD PLANT HEALTH. THIS INCLUDES MAKING ADJUSTMENTS TO THE PROGRAM FOR SEASONAL WEATHER CHANGES, PLANT MATERIAL, WATER REQUIREMENTS, MOUNDS, SLOPES, SUN, SHADE AND WIND EXPOSURE.

6. IT IS THE RESPONSIBILITY OF A LICENSED ELECTRICAL CONTRACTOR TO PROVIDE 120 VOLT A.C. (2.5 AMP DEMAND PER CONTROLLER) ELECTRICAL SERVICE TO THE CONTROLLER LOCATION(S). IT IS THE RESPONSIBILITY OF THE IRRIGATION CONTRACTOR TO COORDINATE THE ELECTRICAL SERVICE STUB-OUT TO THE CONTROLLER(S). PROVIDE PROPER GROUNDING PER CONTROLLER MANUFACTURER'S INSTRUCTIONS AND IN ACCORDANCE WITH LOCAL CODES.

7. INSTALL NEW BATTERIES IN THE IRRIGATION CONTROLLER(S) TO RETAIN PROGRAM IN MEMORY DURING TEMPORARY POWER FAILURES. USE QUANTITY, TYPE AND SIZE REQUIRED AS PER CONTROLLER MANUFACTURER'S INSTRUCTIONS.

8. SCHEDULE A MEETING WHICH INCLUDES REPRESENTATIVES OF THE IRRIGATION CONTROLLER MANUFACTURER, THE MAINTENANCE CONTRACTOR, THE OWNER AND THE IRRIGATION CONTRACTOR AT THE SITE FOR INSTRUCTION ON THE PROPER PROGRAMMING AND OPERATION OF THE IRRIGATION CONTROLLER.

9. INSTALL 2-WIRE CABLE ALONG THE MAIN LINE. CONTACT CONTROLLER REPRESENTATIVE FOR A PRE-CONSTRUCTION MEETING.

10. INSTALL 2-WIRE CABLE WITHIN 1.25" CONDUIT WITH LONG SWEEPS IN AND OUT OF EACH VALVE BOX. SEAL ALL CONDUIT OPENINGS WITH WATERPROOF FOAM.

11. INSTALL A 14"X19" GREY ELECTRICAL PULL BOX EVERY 200' AND AT EVERY CHANGE IN DIRECTION. ONLY SPLICE TWO WIRE CABLE AT THREE WAY WIRE CONNECTIONS.

12. IRRIGATION CONTROL WIRES: SOLID COPPER WITH U.L. APPROVAL FOR DIRECT BURIAL IN GROUND. SIZE #14AWG WIRE WITH A JACKETED 2-CONDUCTOR. PREFERRED WIRE MAKE AND MODEL IS THE PAIGE IRRIGATION WIRE, SPEC P7072D. ALL SPLICING SHALL BE MADE WITH 3-M DBR/Y-6 WATERPROOF SPLICE KIT.

13. DECODER GROUNDING SHALL BE PROVIDED EVERY 600 FEET, AT THE CONTROLLER AND AT THE LAST DECODER OR AT THE END OF THE 2 WIRE PATH. GROUND WITH A 5/8" X 8' COPPER CLAD GROUNDING ROD. #6 COPPER WIRE TO SURGE DEVICE/DECODER. INCLUDE A SURGE ARRESTOR AT EACH GROUNDING LOCATION. A SPLIT BOLT CONNECTION TO BE USED TO CONNECT THE SURGE DEVICE TO THE GROUND WIRE WITH A DBR/Y-6 WATERPROOF CONNECTOR.

14. SPLICING OF JACKETED 2-WIRE IS PERMITTED IN VALVE BOXES ONLY. LEAVE A 24" LONG COIL OF WIRE AT EACH SPLICE AND A 24" LONG EXPANSION LOOP IN ALL PULL BOXES.

15. INSTALL BLACK PLASTIC VALVE BOXES WITH BOLT DOWN, NON HINGED COVER MARKED "IRRIGATION CONTROL VALVE". BOX BODY SHALL HAVE KNOCK OUTS. ACCEPTABLE VALVE BOX MANUFACTURER'S INCLUDE NDS, CARSON OR APPROVED EQUAL.

16. INSTALL REMOTE CONTROL VALVE BOXES 12" FROM WALK, CURB, BUILDING OR LANDSCAPE FEATURE. AT MULTIPLE VALVE BOX GROUPS, INSTALL EACH BOX AN EQUAL DISTANCE FROM THE WALK, CURB, BUILDING OR LANDSCAPE FEATURE AND PROVIDE 12" BETWEEN BOX TOPS. ALIGN THE SHORT SIDE OF RECTANGULAR VALVE BOXES PARALLEL TO WALK, CURB, BUILDING OR LANDSCAPE FEATURE.

17. VALVE LOCATIONS SHOWN ARE DIAGRAMMATIC. INSTALL IN GROUND COVER/SHRUB AREAS.

18. THE CONTRACTOR SHALL LABEL CONTROL LINE WIRE AT EACH REMOTE CONTROL VALVE WITH A 2 1/4" X 2 3/4" POLYURETHANE I.D. TAG, INDICATING IDENTIFICATION NUMBER OF VALVE (CONTROLLER AND STATION NUMBER). ATTACH LABEL TO CONTROL WIRE. THE CONTRACTOR SHALL PERMANENTLY STAMP ALL VALVE BOX LIDS WITH APPROPRIATE IDENTIFICATION AS NOTED IN CONSTRUCTION DETAILS.

19. FLUSH AND ADJUST IRRIGATION OUTLETS AND NOZZLES FOR OPTIMUM PERFORMANCE AND TO PREVENT OVER SPRAY ONTO WALKS, ROADWAYS, AND/OR BUILDINGS. SELECT THE BEST DEGREE OF THE ARC AND RADIUS TO FIT THE EXISTING SITE CONDITIONS AND THROTTLE THE FLOW CONTROL AT EACH VALVE TO OBTAIN THE OPTIMUM OPERATING PRESSURE FOR EACH CONTROL ZONE.

20. LOCATE BUBBLERS ON UPHILL SIDE OF PLANT OR TREE.

21. INSTALL A HUNTER HCV SERIES, KBI CV SERIES, OR APPROVED EQUAL SPRING LOADED CHECK VALVE IN SPRINKLER RISER ASSEMBLIES WHERE LOW OUTLET DRAINAGE WILL CAUSE EROSION AND/OR EXCESS WATER.

22. WHERE IT IS NECESSARY TO EXCAVATE ADJACENT TO EXISTING TREES, USE CAUTION TO AVOID INJURY TO TREES AND TREE ROOTS. EXCAVATE BY HAND IN AREAS WHERE TWO (2) INCH AND LARGER ROOTS OCCUR. BACK FILL TRENCHES ADJACENT TO TREE WITHIN TWENTY-FOUR (24) HOURS. WHERE THIS IS NOT POSSIBLE, SHADE THE SIDE OF THE TRENCH ADJACENT TO THE TREE WITH WET BURLAP OR CANVAS.

23. NOTIFY LOCAL JURISDICTIONS FOR INSPECTION AND TESTING OF INSTALLED BACKFLOW PREVENTION DEVICE.

24. THE IRRIGATION SYSTEM DESIGN IS BASED ON THE MINIMUM OPERATING PRESSURE SHOWN ON THE IRRIGATION DRAWINGS. VERIFY WATER PRESSURE PRIOR TO CONSTRUCTION. REPORT ANY DIFFERENCE BETWEEN THE WATER PRESSURE INDICATED ON THE DRAWINGS AND THE ACTUAL PRESSURE READING AT THE IRRIGATION POINT OF CONNECTION TO THE OWNER'S AUTHORIZED REPRESENTATIVE.

25. IRRIGATION DEMAND: REFER TO PLANS.

26. PIPE SIZING SHOWN ON THE DRAWINGS IS TYPICAL. AS CHANGES IN LAYOUT OCCUR DURING STAKING AND CONSTRUCTION THE SIZE MAY NEED TO BE ADJUSTED ACCORDINGLY.

27. PIPE THREAD SEALANT COMPOUND SHALL BE RECTOR SEAL #5.

28. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR MINOR CHANGES IN THE IRRIGATION LAYOUT DUE TO OBSTRUCTIONS NOT SHOWN ON THE IRRIGATION DRAWINGS SUCH AS LIGHTS, FIRE HYDRANTS, SIGNS, ELECTRICAL ENCLOSURES, ETC.

29. WHEN WORK OF THIS SECTION HAS BEEN COMPLETED AND SUCH OTHER TIMES AS MAY BE DIRECTED, REMOVE ALL TRASH, DEBRIS, SURPLUS MATERIALS AND EQUIPMENT FROM SITE.

30. CONTRACTOR SHALL BE RESPONSIBLE FOR SUPPLEMENTAL HAND WATERING OF ALL PLANT MATERIAL WITHIN DRIPLINE AREAS UNTIL THE PLANTS ARE SUFFICIENTLY ESTABLISHED.

31. VERIFY LOCATIONS OF ALL IRRIGATION COMPONENTS INSTALLED WITHIN A VALVE BOX WITH LANDSCAPE ARCHITECT PRIOR TO INSTALLATION. DO NOT INSTALL UNTIL LANDSCAPE ARCHITECT PROVIDES ACCEPTABLE LOCATIONS.

IRRIGATION COORDINATION NOTES

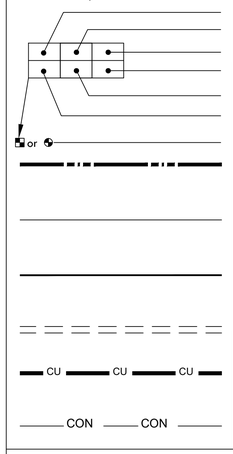
1. COPPER PIPING WITHIN STRUCTURE SHALL BE PROVIDED, ROUTED, AND INSTALLED BY PLUMBING CONTRACTOR. EXIT OF PIPE TO PLANTER SHALL BE A MINIMUM OF 6" BELOW FINISH GRADE.

2. IRRIGATION SLEEVING AND/OR CONDUIT IN STRUCTURE TO BE PROVIDED AND INSTALLED UNDER STRUCTURAL WORK.

3. ELECTRICAL CONTRACTOR SHALL PROVIDE CONDUIT, PULL BOXES AND WIRE IN STRUCTURE. THE DRAWINGS INDICATE REQUIRED WIRE QUANTITIES FROM A GIVEN PLANTER LOCATION, THROUGH STRUCTURE, TO THE CONTROLLER LOCATION. 14 GAUGE WIRE SHALL BE USED FOR CONTROL WIRING AND 12 GAUGE FOR COMMON GROUND. FINAL CONNECTION OR WIRING TO REMOTE CONTROL VALVES AND CONTROLLER SHALL BE COMPLETED BY IRRIGATION CONTRACTOR.

IRRIGATION LEGEND

SYMBOL	MODEL NUMBER	DESCRIPTION	NOZZLE GPM	OPERATING PSI	OPERATING RADIUS (FEET)
	PCB-25	HUNTER BUBBLER (SHRUB)	0.25	30	TRICKLE
■	PCB-25	HUNTER BUBBLER (TREE) MIN. 2 PER TREE. REFER TO BUBBLER DETAIL FOR QUANTITY OF BUBBLERS PER TREE SIZE.	0.25	30	TRICKLE
	WLT-0500-T	NDS SCH 40 BALL VALVE OR APPROVED EQUAL			
	ECO-ID	HUNTER ECO-INDICATOR			
	ICV-101/AS-40	HUNTER REMOTE CONTROL VALVE WITH 40 PSI PRESSURE REGULATOR			
	ICZ-101-40	HUNTER REMOTE CONTROL VALVE WITH A 40 PSI PRESSURE REGULATOR AND A 1" FILTER.			
	44-LRC	RAIN BIRD 1" TWO-PIECE QUICK COUPLING VALVE (YELLOW LOCKING RUBBER COVER)			
	QB44RCAR10	BUCKNER 1" TWO-PIECE QUICK COUPLING VALVE (ANTI-ROTATION)			
	T-FP600A-LF-1"	NIBCO 1" BRASS BALL VALVE			
PRV	500XLHLR	WILKINS PRESSURE REDUCING VALVE			
MV	WT-MV-100G-SNO	WeatherTRAK 1" BRASS MASTER VALVE (NORMALLY OPEN)			
FS	WTFLOW-HD-P-100	WeatherTRAK 1" FLOW SENSOR			
	975XL2SEU-1"	WILKINS REDUCED PRESSURE BACKFLOW ASSEMBL.			
C	WTPRO3-C-H2048-SWM	WeatherTRAK ET PRO3 2-WIRE 48 STATION CONTROLLER IN A STAINLESS STEEL WALL MOUNTED ENCLOSURE.			
—	WT2W-H2O-1VD	WEATHERTRAK DECODER (1 PER VALVE)			
—	WT2W-H2O-2VD	WEATHERTRAK DECODER - TWO STATION			
—	WT2W-H2O-MV	WEATHERTRAK MASTER VALVE DECODER			
—	WT2W-H2O-FS	WEATHERTRAK FLOW SENSOR DECODER			
—	WT2W-H2O-PS	WEATHERTRAK PUMP START DECODER			
—	WT2W-H20-SA	WEATHERTRAK SURGE ARRESTOR (1 EVERY 500 FEET ALONG MAIN) REFER TO DETAILS FOR INSTALLATION INSTRUCTIONS.			
—	CIMXL-5YA	5 YEAR EXTENSION OF WeatherTRAK Central.			
	NOT SHOWN ON PLANS	ROUTE TWO WIRE CABLE TO ALL REMOTE CONTROL VALVES. SIZE #14AWG WIRE WITH A JACKETED 2-CONDUCTOR. PREFERRED WIRE MAKE AND MODEL IS PAIGE ELECTRIC WIRE P7072D. ALL SPLICING SHALL BE MADE WITH 3-M DBR/Y-6 WATERPROOF SPLICE KITS OR APPROVED EQUAL. INSTALL 2 WIRE CABLE WITHIN 1.25" SCH 40 ELECTRICAL CONDUIT. PULL BOXES SHALL BE LOCATED EVERY 200' NO SPLICES ARE ALLOWED BETWEEN VALVES. REFER TO DETAIL FOR INSTALLATION INSTRUCTIONS.			
R	WT-WRS	WIRELESS RAIN SENSOR SYSTEM. AUTOMATICALLY SHUTS THE SYSTEM OFF AS SOON AS IT STARTS RAINING.			



CONTROLLER AND STATION NUMBER
REMOTE CONTROL VALVE SIZE (IN INCHES)
FLOW (GPM)
WATER USE CLASSIFICATION OF ZONE
APPLICATION RATE (IN/HR) or DRIPLINE SPACING
AREA (SQ. FT.)
ASSOCIATED REMOTE CONTROL VALVE

MAIN LINE: 1.25" THROUGHOUT: 1120-SCHEDULE 40 PVC PLASTIC PIPE WITH SCHEDULE 40 PVC SOLVENT WELD FITTINGS. 18" COVER.

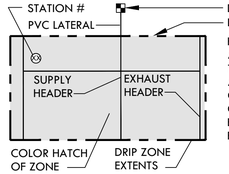
LATERAL LINE: 3/4" AND LARGER: 1120-SCHEDULE 40 PVC PLASTIC PIPE WITH SCHEDULE 40 PVC SOLVENT WELD FITTINGS. 12" COVER.

DRIPLINE LATERAL LINE: 3/4" AND LARGER: 1120-SCHEDULE 40 PVC PLASTIC PIPE WITH SCHEDULE 40 PVC SOLVENT WELD FITTINGS. 12" COVER.

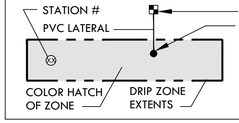
SLEEVING: SCHEDULE 40 PVC PLASTIC PIPE. COVER TO BE AS INDICATED IN SPECIFICATIONS OR AS INDICATED ABOVE FOR PIPE DEPTH OF COVER.

MAIN LINE: 1.25" THROUGHOUT: TYPE 'K' COPPER PIPE WITH WROUGHT FITTINGS. SHOWN FOR REFERENCE ONLY, SEE PLUMBING PLANS FOR ROUTING THROUGH STRUCTURE.

ELECTRICAL CONDUIT: SHOWN FOR REFERENCE ONLY, SEE ELECTRICAL PLANS FOR ROUTING THROUGH STRUCTURE.



DRIPLINE REMOTE CONTROL VALVE
DRIP ZONE:
HUNTER HDL SERIES DRIPLINE WITH BUILT IN PRESSURE COMPENSATION AND CHECK VALVE, PART #HDL-06-12-250-CV. USE PLD FITTINGS. TUBING TO BE INSTALLED 4" BELOW GRADE IN A 12" O.C. GRID ACCORDING TO DETAILS. SIZE EXHAUST HEADERS AS FOLLOWS: 1": 0-10 GPM, 1.25": 11-20 GPM. ALL EXHAUST HEADERS SHALL BE 1" SCH 40 PVC OR 1" SCH 40 FLEXIBLE PVC. USE SCH. 40 PVC SOLVENT WELD FITTINGS. EXTEND PVC HEADERS TO THE ENDS OF ALL DRIP ZONES TO BALANCE FLOW IF REQUIRED. SEE DETAILS FOR FURTHER INFORMATION.



DRIPLINE REMOTE CONTROL VALVE
APPROXIMATE CONNECTION POINT BETWEEN DRIPLINE TUBING AND PVC SUPPLY WHEN DRIP ZONE IS LESS THAN 3 GPM AND NO PVC SUPPLY/EXHUST HEADERS ARE NEEDED. REFER TO DRIPLINE TUBING CONNECTION DETAIL FOR MORE INFORMATION.

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03.09.2021 REVISED BASE PLANS
07.08.2022 ZONING INCOMPLETE RESPONSE
01.06.2023 DESIGN REVIEW SUBMITTAL
05.01.2023 RESPONSE TO DESIGN REVIEW

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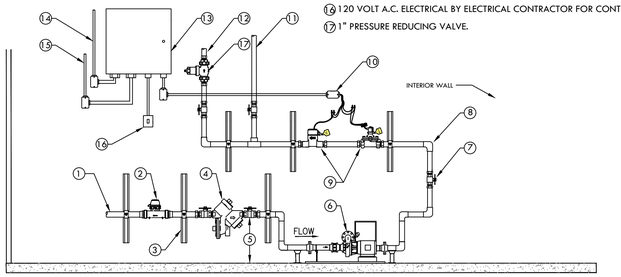
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IRRIGATION NOTES AND LEGEND

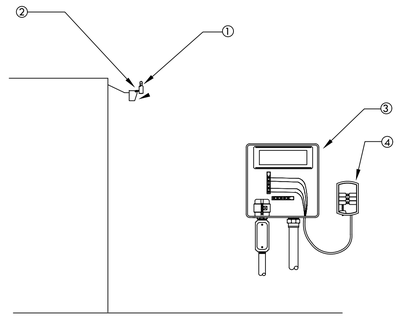
I1.2

① 1.25" COPPER MAIN LINE TO FOR IRRIGATION FROM DOMESTIC LINE WITHIN EQUIPMENT ROOM. SHOWN ON MEP PLANS.
② SUB-METER FOR IRRIGATION.
③ UNI-STRUT SUPPORT BRACKET, THREADED EXTENSIONS AND CLAMPS, LENGTH AS REQUIRED. PROVIDE A MINIMUM OF 6" SEPARATION FOR THE VALVES AND PIPE FROM THE WALL.
④ 1" WILKENS REDUCED PRESSURE BACKFLOW ASSEMBLY.
⑤ MIN. 18" ± FROM FINISH FLOOR.
⑥ WATER BOOSTER PUMP FOR IRRIGATION BY OTHERS.
⑦ 1.25" BRASS BALL VALVE.
⑧ ALL FITTINGS AND PIPING FOR WATER LINES WITHIN EQUIPMENT ROOM SHALL BE COPPER WITH WROT FITTINGS OR BRASS NIPPLES.
⑨ MASTER VALVE AND FLOW SENSOR. PROVIDE A MINIMUM LENGTH OF 10" UPSTREAM OF FLOW SENSOR AND 5" DOWNSTREAM OF ANY FITTING.
⑩ 1" ELECTRICAL CONDUIT WITH JUNCTION BOXES FOR CONTROL WIRES FOR FLOW SENSOR & MASTER VALVE.
⑪ 1.25" COPPER MAIN LINE ROUTED THROUGH STRUCTURE TO STUB-OUT LOCATION(S) AT ROOF LEVEL. INSTALLED BY PLUMBING CONTRACTOR. (REFER TO MEP PLAN FOR EXACT ROUTING THRU BUILDING)
⑫ 1.25" COPPER MAIN LINE ROUTED THROUGH STRUCTURE TO STUB-OUT LOCATION(S) AT SITE LEVEL. INSTALLED BY PLUMBING CONTRACTOR. (REFER TO MEP PLAN FOR EXACT ROUTING THRU BUILDING)
⑬ IRRIGATION CONTROLLER BY IRRIGATION CONTRACTOR. MINIMUM 42" ABOVE FINISHED FLOOR.
⑭ 1.25" ELECTRICAL CONDUIT WITH REQUIRED JUNCTION BOXES ROUTED THROUGH STRUCTURE FROM CONTROLLER LOCATION TO STUB-OUT LOCATION(S) AT ROOF LEVEL. INSTALLED BY ELECTRICAL CONTRACTOR.
⑮ 1.25" ELECTRICAL CONDUIT WITH REQUIRED JUNCTION BOXES ROUTED THROUGH STRUCTURE FROM CONTROLLER LOCATION TO STUB-OUT LOCATION(S) AT ROOF LEVEL. INSTALLED BY ELECTRICAL CONTRACTOR.
⑯ 120 VOLT A.C. ELECTRICAL BY ELECTRICAL CONTRACTOR FOR CONTROLLER.
⑰ 1" PRESSURE REDUCING VALVE.



NOTES:
1. THIS LAYOUT IS TO PROVIDE INFORMATION ON EQUIPMENT AND TYPICAL DISTANCES REQUIRED BETWEEN THE EQUIPMENT. IT IS DIAGRAMMATIC AND WILL NEED TO BE ADJUSTED ACCORDING TO AVAILABLE FLOOR SPACE AND OTHER EQUIPMENT INSTALLED WITHIN THE ENCLOSURE. OFFSETS AND FITTINGS WILL BE REQUIRED FOR THESE ADJUSTMENTS.
2. MAINTAIN 6" OF CLEARANCE FROM BUILDING WALLS FOR EASE OF MAINTENANCE FOR ALL COPPER PIPING, VALVES, AND FITTINGS.
3. SEAL ALL PIPE PENETRATIONS THROUGH WALLS/STRUCTURE AS REQUIRED (BY PLUMBING CONTRACTOR). SEE PLUMBING/WATERPROOFING DRAWINGS.
4. ALL FITTINGS AND PIPING FOR WATER LINES WITHIN EQUIPMENT ROOM SHALL BE COPPER WITH WROT FITTINGS OR BRASS NIPPLES.

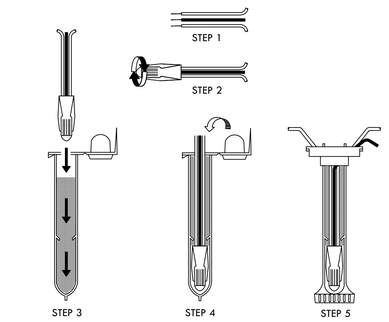
1 IRRIGATION EQUIPMENT LAYOUT DIAGRAM DETAIL
SCALE: NONE



NOTE: MAXIMUM LINE OF SIGHT FROM RAIN SENSOR TO RECEIVER IS 300 FT. DISTANCE IS LESS IF OBSTRUCTIONS EXIST. SENSOR MUST BE INSTALLED IN "CLEAR SPACE" WHERE IT IS EXPOSED TO UNOBSTRUCTED RAINFALL AND IS CLEAR OF IRRIGATION SPRAY.

① WIRELESS RAIN SENSOR TRANSMITTER (GUTTER MOUNTED)
② MOUNT RAIN SENSOR ON BUILDING WALL. ARCHITECT TO APPROVE LOCATION
③ CONTROLLER
④ RAIN SENSOR RECEIVER

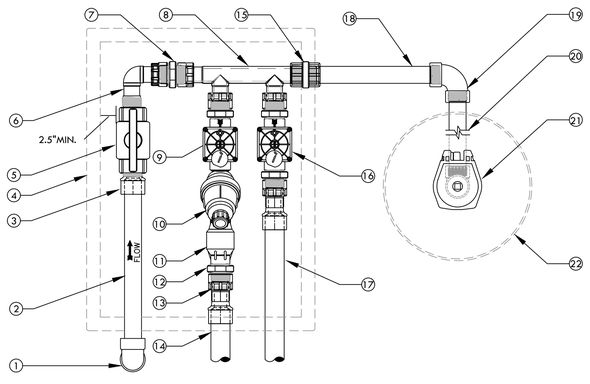
2 WIRELESS RAIN SENSOR-GUTTER MOUNT
SCALE: NONE



NOTE:
MAXIMUM # OF WIRES PER CONNECTOR:
- 3-#14 GAUGE
- 2-#12 GAUGE

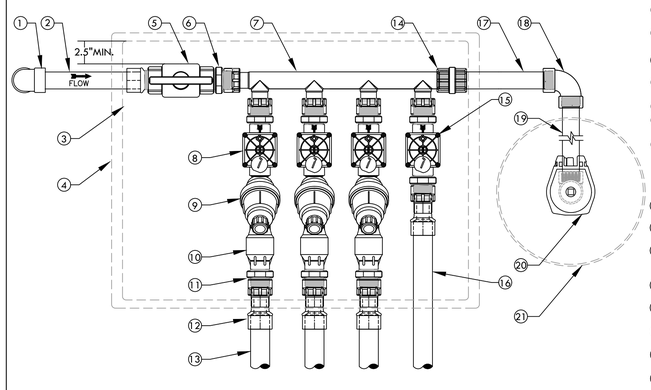
INSTRUCTIONS:
1. STRIP WIRES APPROXIMATELY 1/2" FROM ENDS TO EXPOSE WIRE.
2. TWIST CONNECTOR AROUND WIRES CLOCKWISE UNTIL HAND TIGHT, DO NOT OVERTIGHTEN.
3. INSERT WIRE ASSEMBLY TO BOTTOM OF GEL-FILLED TUBE. CHECK TO MAKE SURE CONNECTOR HAS BEEN PUSHED PAST LOCKING FINGERS AND IS SEATED AT THE BOTTOM OF THE TUBE.
4. PLACE WIRES WHICH EXIT TUBE IN WIRE EXIT HOLES AND CLOSE CAP UNTIL IT SNAPS.
5. INSPECT FINAL SPLICE ASSEMBLY THAT IT IS SECURED.

3 WEATHERPROOF WIRE SPLICE ASSEMBLY
SCALE: NONE



① SCH 40 PVC 90° ELBOW (SxS) FROM PVC MAIN LINE BELOW.
② SCH 40 PVC PIPE. LENGTH AS REQUIRED.
③ SCH 80 PVC MALE ADAPTER.
④ CARSON 1220 RECTANGULAR PLASTIC VALVE BOX WITH LID. INSTALL PER REMOTE CONTROL VALVE DETAIL.
⑤ NDS 1"LO-TORQ BALL VALVE THREADED (PART #LT-1000-T)
⑥ DURA 1" MIPT x 1" SWIVEL 90° (PART #306-009)
⑦ DURA 1"x1" THREADED ADAPTER (PART #08303) 4 TOTAL.
⑧ DURA 1" MULTI-PORT MANIFOLD (PART #301-010-2)
⑨ DRIP REMOTE CONTROL VALVE. REFER TO LEGEND FOR MODEL.
⑩ FILTER. REFER TO LEGEND FOR MODEL.
⑪ 40 PSI REGULATOR. REFER TO LEGEND FOR MODEL.
⑫ DURA 1" x 3/4" MALE ADAPTER (PART #08303-131). ONLY REQUIRED WITH 3/4" OUTLET REGULATORS. USE 1"x1" DURA THREAD ADAPTER ON 1" REGULATORS
⑬ DURA 1" SLIP X 1" SWIVEL (PART #329-011) 2 TOTAL.
⑭ SCHEDULE 40 PVC LATERAL TO DRIP IRRIGATION
⑮ SCHEDULE 80 PVC THREADED FEMALE COUPLING TO SERVICE QCV. IF NO QCV INSTALL A DURA 1" CAP (PART #348-010)
⑯ BUBBLER OR SPRINKLER REMOTE CONTROL VALVE. REFER TO LEGEND FOR MODEL.
⑰ SCHEDULE 40 PVC LATERAL TO BUBBLER OR SPRAY IRRIGATION.
⑱ SCHEDULE 80 PVC NIPPLE (LENGTH AS REQUIRED).
⑲ SCHEDULE 80 PVC 90° ELBOW (TxT).
⑳ SCHEDULE 80 PVC NIPPLE (LENGTH AS REQUIRED).
㉑ QUICK COUPLING VALVE. INSTALL PER DETAIL.
㉒ 10" ROUND BOX. INSTALL PER DETAIL.

4 TWO REMOTE VALVE MANIFOLD DETAIL WITH QUICK COUPLING VALVE (1" VALVES ONLY)
SCALE: NONE



① SCH 40 PVC 90° ELBOW (SxS) FROM PVC MAIN LINE BELOW.
② SCH 40 PVC PIPE. LENGTH AS REQUIRED.
③ SCH 80 PVC MALE ADAPTER.
④ CARSON 1220 RECTANGULAR PLASTIC VALVE BOX WITH LID. INSTALL PER REMOTE CONTROL VALVE DETAIL.
⑤ NDS 1"LO-TORQ BALL VALVE THREADED (PART #LT-1000-T)
⑥ DURA 1"x1" THREADED ADAPTER (PART #08303) 6 TOTAL.
⑦ DURA 1" MULTI-PORT MANIFOLD (PART #301-010-4)
⑧ DRIP REMOTE CONTROL VALVE. REFER TO LEGEND FOR MODEL.
⑨ FILTER. REFER TO LEGEND FOR MODEL.
⑩ 40 PSI REGULATOR. REFER TO LEGEND FOR MODEL.
⑪ DURA 1" x 3/4" MALE ADAPTER (PART #08303-131) 3 TOTAL. ONLY REQUIRED WITH 3/4" OUTLET REGULATORS. USE 1"x1" DURA THREAD ADAPTER ON 1" REGULATORS
⑫ DURA 1" SLIP X 1" SWIVEL (PART #329-011) 4 TOTAL.
⑬ SCHEDULE 40 PVC LATERAL TO DRIP IRRIGATION.
⑭ SCHEDULE 80 PVC THREADED FEMALE COUPLING TO SERVICE QCV. IF NO QCV INSTALL A DURA 1" CAP (PART #348-010)
⑮ BUBBLER OR SPRINKLER REMOTE CONTROL VALVE. REFER TO LEGEND FOR MODEL.
⑯ SCHEDULE 40 PVC LATERAL TO BUBBLERS OR SPRAY IRRIGATION.
⑰ SCHEDULE 80 PVC NIPPLE (LENGTH AS REQUIRED).
⑱ SCHEDULE 80 PVC 90° ELBOW (TxT).
⑲ SCHEDULE 80 PVC NIPPLE (LENGTH AS REQUIRED).
⑳ QUICK COUPLING VALVE. INSTALL PER DETAIL.
㉑ 10" ROUND BOX. INSTALL PER DETAIL.

5 FOUR REMOTE VALVE MANIFOLD DETAIL WITH QUICK COUPLING VALVE (1" VALVES ONLY)
SCALE: NONE

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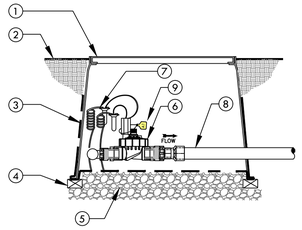
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JOB: 2104

SHEET:

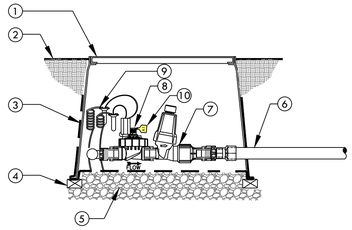
IRRIGATION DETAIL

I1.3



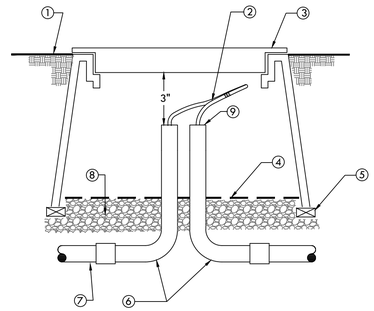
1. CARSON 1220 RECTANGULAR VALVE BOX FOR FOUR VALVES OR CARSON 1419 FOR TWO VALVES
2. FINISH GRADE
3. 19 GAUGE 1/2" SQUARE WIRE MESH. WRAP UP THE SIDES OF THE BOX
4. BRICK-1 EACH CORNER
5. PEA GRAVEL OR 3/4" DRAIN ROCK- 4" DEEP BELOW VALVE (NO SOIL IN VALVE BOX)
6. REMOTE CONTROL VALVE WITH FLOW CONTROL AND MANUAL BLEED. REFER TO TWO OR FOUR VALVE MANIFOLD DETAIL FOR INSTALLATION INSTRUCTIONS
7. VALVE CONTROL WIRE- PROVIDE 3M-DBY SEAL PACKS AT ALL SPLICES AND 24" OF EXCESS UF WIRE IN A 1" DIAMETER COIL
8. SCH 40 PVC LATERAL LINE TO BUBBLERS OR SPRAY
9. VALVE I.D. TAG (WITH CONTROL AND STATION NUMBER).

1 BUBBLER OR SPRAY REMOTE CONTROL VALVE IN TWO OR FOUR VALVE MANIFOLD
SCALE: NONE



1. CARSON 1220 RECTANGULAR VALVE BOX FOR FOUR VALVES OR CARSON 1419 FOR TWO VALVES
2. FINISH GRADE
3. 19 GAUGE 1/2" SQUARE WIRE MESH. WRAP UP THE SIDES OF THE BOX
4. BRICK-1 EACH CORNER
5. PEA GRAVEL OR 3/4" DRAIN ROCK- 4" DEEP BELOW VALVE (NO SOIL IN VALVE BOX)
6. SCH 40 PVC LATERAL LINE TO DRIPLINE OR DRIP.
7. DRIP FILTER AND REGULATOR
8. REMOTE CONTROL VALVE WITH FLOW CONTROL AND MANUAL BLEED. REFER TO TWO OR FOUR VALVE MANIFOLD DETAIL FOR INSTALLATION INSTRUCTIONS
9. VALVE CONTROL WIRE- PROVIDE 3M-DBY SEAL PACKS AT ALL SPLICES AND 24" OF EXCESS UF WIRE IN A 1" DIAMETER COIL
10. VALVE I.D. TAG (WITH CONTROL AND STATION NUMBER).

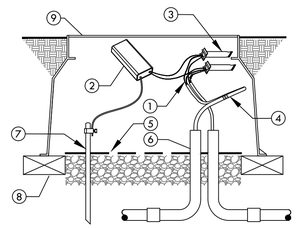
2 DRIP REMOTE CONTROL VALVE IN TWO OR FOUR VALVE MANIFOLD
SCALE: NONE



1. FINISH GRADE
2. 24" LOOP OF TWO WIRE CABLE.
3. GREY RECTANGULAR PLASTIC VALVE BOX WITH BOLT DOWN LID. HEAT BRAND "PB" INTO LID.
4. 18 GAUGE 1/2" [13mm] SQUARE STAINLESS STEEL WIRE MESH.
5. BRICK-ONE ON EACH CORNER
6. SCHEDULE 40 PVC SWEEP ELLS
7. SCHEDULE 40 U.L. LISTED PVC CONDUIT
8. PEA GRAVEL OR 3/4" [20mm] DRAIN ROCK - 4" [102mm] DEEP BELOW VALVE (NO SOIL IN VALVE BOX).
9. SEAL ALL CONDUIT OPENINGS WITH WATERPROOF FOAM.

3 IRRIGATION TWO WIRE PULL BOX
SCALE: NONE

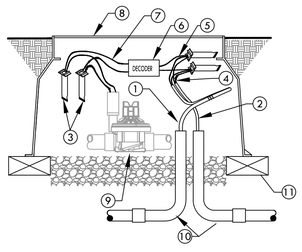
NOTE:
TWO WIRE DECODER SYSTEMS MUST BE PROPERLY GROUNDED IN ORDER TO PROTECT AGAINST LIGHTNING SURGES. THE COMMUNICATION CABLE MUST BE GROUNDED NO FURTHER THAN 500' FROM ANY DECODER. THE SURGE DEVICE MUST BE A WEATHERTRAK MODEL WT2W-LSP. THE MINIMUM DISTANCE BETWEEN THE SURGE ARRESTOR AND THE GROUND ROD SHOULD BE 3' (91.4CM). WEATHERTRAK RECOMMENDS A SPLIT BOLT CONNECTION TO BE USED TO CONNECT THE SURGE DEVICE TO THE GROUND WIRE WITH A 3M DBY-6 WATERPROOF CONNECTOR.



1. 2-WIRE PATH JACKETED/ TWISTED FROM CONTROLLER. ALLOW A 24" SLACK PER DECODER
2. LIGHTNING ARRESTOR (MODEL WT2W-LSP). 1 EVERY 500' FROM STARTING FROM CONTROLLER.
3. 3M DBR/Y-6 OR APPROVED EQUAL WATERPROOF SPLICE KIT (4 TOTAL)
4. 2-WIRE PATH JACKETED/ TWISTED TO NEXT DECODER
5. 18 GAUGE 1/2" [13mm] SQUARE STAINLESS STEEL WIRE MESH.
6. 1.25" CONDUIT FOR 2 WIRE CABLE WITH LONG SWEEPS IN AND OUT OF EACH VALVE BOX. SEAL ALL CONDUIT OPENINGS WITH WATERPROOF FOAM.
7. INSTALL 5/8" DIAMETER COPPER GROUND ROD OF 8' LENGTH.
8. BRICK-ONE ON EACH CORNER
9. GREY RECTANGULAR PLASTIC VALVE BOX WITH BOLT DOWN LID. HEAT BRAND "GR" INTO LID.

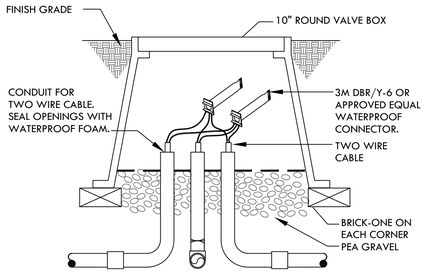
4 LIGHTNING ARRESTOR
SCALE: NONE

NOTE:
1. ALL DECODERS SHALL HAVE A VALVE NUMBER ADDRESSED AT CONTROLLER PRIOR TO INSTALLATION.
2. USE U.F. SAFETY CABLE STRIPPER BY KING INNOVATION (MODEL NUMBER 46200) FOR ALL TWO-WIRE SPLICE CONNECTIONS.

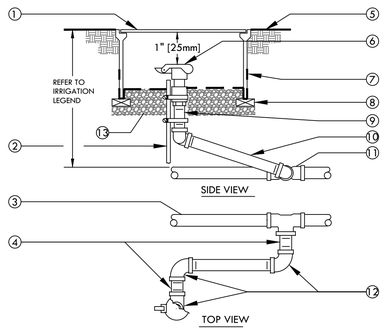


1. #14AWG TWO WIRE CABLE FROM CONTROLLER. REFER TO IRRIGATION NOTES FOR MODEL NUMBER OF WIRE. ALLOW A 24" SLACK PER DECODER. USE ELECTRICAL TAPE TO HOLD SLACK CABLES TOGETHER.
2. TWO WIRE CABLE TO NEXT DECODER
3. 3M DBR/Y-6 OR APPROVED EQUAL WATERPROOF SPLICE KIT (4 TOTAL)
4. A MAXIMUM OF 4" OF WIRE SHALL BE STRIPPED FROM TWO WIRE CABLE WHEN SPLICING AT DECODERS.
5. CONNECT CORRECT DECODER WIRES TO TWO WIRE CABLES.
6. DECODER
7. CONNECT CORRECT DECODER WIRES TO VALVE SOLENOID WIRES
8. VALVE BOX. REFER TO REMOTE CONTROL VALVE DETAIL FOR INSTALLATION INSTRUCTIONS.
9. REMOTE CONTROL VALVE. REFER TO REMOTE CONTROL VALVE DETAIL FOR INSTALLATION INSTRUCTIONS.
10. 1.25" CONDUIT FOR 2 WIRE CABLE WITH LONG SWEEPS IN AND OUT OF EACH VALVE BOX. SEAL ALL CONDUIT OPENINGS WITH WATERPROFF FOAM.
11. BRICK-ONE ON EACH CORNER

5 DECODER WIRING IN CONDUIT
SCALE: NONE



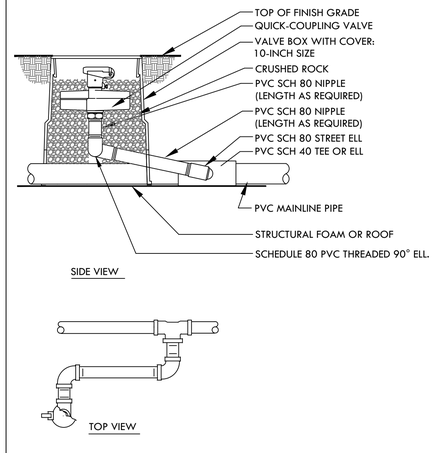
6 2-WIRE SPLICE BOX AT MAIN LINE TEE OR 3 WAY WIRE BRANCH
SCALE: NONE



1. 10" ROUND PLASTIC VALVE BOX WITH BOLT DOWN LID.
2. 1 1/4" x 1 1/4" x 3/16" [30mm x 30mm x 5mm] ANGLE IRON 30" [760mm] LONG W/2 STAINLESS STEEL STRAPS (ONE AROUND QCV).
3. PVC MAIN LINE.
4. 3" [75mm] LONG SCHEDULE 80 PVC THREADED NIPPLE.
5. FINISH GRADE.
6. QUICK COUPLING VALVE.
7. 19 GAUGE 1/2" [13mm] SQUARE WIRE MESH.
8. BRICK - 2 TOTAL.
9. SCHEDULE 80 PVC THREADED NIPPLE.
10. 10" [250mm] LONG SCHEDULE 80 PVC THREADED NIPPLE.
11. UPC APPROVED SCHEDULE 40 PVC TEE OR ELBOW.
12. SCHEDULE 80 PVC THREADED 90° ELL.
13. PEA GRAVEL OR 3/4" DRAIN ROCK- 4" [100mm] DEEP BELOW VALVE (NO SOIL IN VALVE BOX).

NOTE:
NIPPLES AND FITTINGS TO BE SAME SIZE AS VALVE IPT INLET THREAD SIZE.

7 QUICK COUPLING VALVE
SCALE: NONE



NOTE:
1. NIPPLES AND FITTINGS TO BE SAME SIZE AS VALVE IPT INLET THREAD SIZE.
2. TRIM VALVE BOX LENGTH AS NECESSARY TO BE FLUSH WITH TOP OF PLANTING TILES.
3. IF NECESSARY SLOT SIDES VALVE BOX TO ALLOW PASSAGE OF PIPE THROUGH BOTTOM OF VALVE BOX.

8 QUICK COUPLING VALVE-ON STRUCTURE
SCALE: NONE

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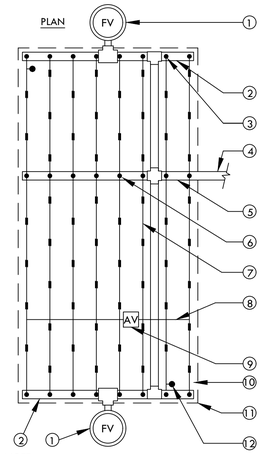
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JOB: 2104

SHEET:

IRRIGATION DETAIL

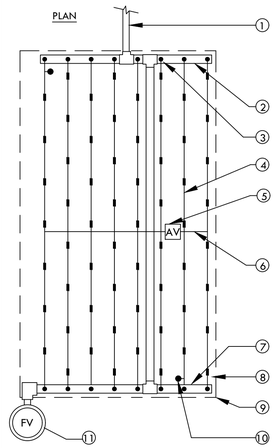
I1.4



1. FLUSH VALVE PLUMBED TO FLUSH MANIFOLD AT LOW POINT
2. 1" FLEXIBLE PVC IPS HOSE FLUSH MANIFOLD.
3. MANIFOLD-TO-ELBOW CONNECTION (TYP).
4. PVC LATERAL LINE FROM VALVE. MINIMUM SIZE TO BE 1" UNLESS OTHERWISE NOTED.
5. PVC SUPPLY MANIFOLD. EXTEND TO END OF ZONE/EXHAUST HEADER.
6. MANIFOLD-TO-TEE CONNECTION.
7. DRIPLINE LATERAL.
8. AIR/VACUUM RELIEF LATERAL, BLANK POLY TUBING CENTERED ON MOUND OR BERM.
9. AIR/VACUUM RELIEF PLUMBED TO BLANK 5/8" POLY TUBING AT EACH HIGH POINT.
10. PERIMETER LATERALS 2" [50mm] TO 4" [100mm] FROM EDGE.
11. AREA PERIMETER.
12. DRIPLINE OPERATION INDICATOR LOCATED AT THE ENDS OF EACH DRIPLINE ZONE.

NOTE:
1. THE TOTAL LENGTH OF ALL INTERCONNECTED DRIP LINE OFF A SINGLE PVC SUPPLY LINE CONNECTION OR A SINGLE RUN OF DRIPLINE SHALL NOT EXCEED 300 FT.
2. INSTALL DRIPLINE 2-4" BELOW GRADE AND STAKE DOWN EVERY 4' OR AS REQUIRED.

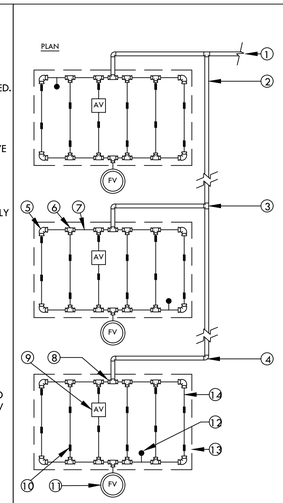
1 HLD DRIPLINE CENTER FEED LAYOUT
SCALE: NONE



1. PVC LATERAL LINE FROM VALVE. MINIMUM SIZE TO BE 1" UNLESS OTHERWISE NOTED.
2. PVC FLUSH MANIFOLD. MINIMUM SIZE TO BE 1" UNLESS OTHERWISE NOTED.
3. MANIFOLD-TO-ELBOW CONNECTION (TYP).
4. DRIPLINE LATERAL.
5. AIR/VACUUM RELIEF VALVE PLUMBED TO BLANK 5/8" TUBING AT EACH HIGH POINT.
6. AIR/VACUUM RELIEF LATERAL, BLANK 5/8" POLY TUBING CENTERED ON MOUND OR BERM.
7. 1" FLEXIBLE PVC IPS HOSE FLUSH MANIFOLD.
8. PERIMETER LATERALS 2" [50mm] TO 4" [100mm] FROM EDGE.
9. AREA PERIMETER.
10. DRIP OPERATION INDICATOR LOCATED AT THE ENDS OF EACH DRIPLINE ZONES.
11. FLUSH VALVE PLUMBED TO FLUSH MANIFOLD AT LOW POINT.

NOTE:
1. THE TOTAL LENGTH OF ALL INTERCONNECTED DRIP LINE OFF A SINGLE PVC SUPPLY LINE CONNECTION OR A SINGLE RUN OF DRIPLINE SHALL NOT EXCEED 300 FT.
2. INSTALL DRIPLINE 2-4" BELOW GRADE AND STAKE DOWN EVERY 4' OR AS REQUIRED.

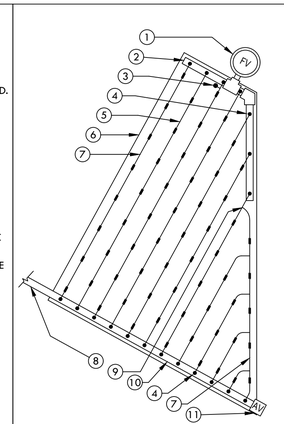
2 HLD DRIPLINE END FEED LAYOUT
SCALE: NONE



1. PVC LATERAL LINE FROM VALVE. MINIMUM SIZE TO BE 1" UNLESS OTHERWISE NOTED.
2. PVC FLUSH MANIFOLD. MINIMUM SIZE TO BE 1" UNLESS OTHERWISE NOTED.
3. PVC TEE (SxSxS).
4. PVC ELL (SxS).
5. HUNTER PLD-ELBOW (PLD-ELB)
6. HUNTER PLD-TEE (PLD-TEE).
7. BLANK 5/8" [16mm] POLY TUBING AT SUPPLY AND FLUSH END OF EACH ISLAND.
8. REFER TO DRIPLINE TO PVC CONNECTION DETAIL.
9. AIR/VACUUM RELIEF VALVE PLUMBED TO TUBING AT HIGH POINT.
10. DRIPLINE LATERAL.
11. MANUAL FLUSH VALVE PLUMBED TO TUBING AT LOW POINT.
12. DRIPLINE OPERATION INDICATOR LOCATED AT THE ENDS OF EACH DRIPLINE ZONE.
13. ISLAND PERIMETER.
14. PERIMETER LATERALS 2" [50mm] TO 4" [100mm] FROM EDGE.

NOTE:
1. THE TOTAL LENGTH OF A SINGLE DRIP LINE RUN SHALL NOT EXCEED 300 FT.
2. INSTALL DRIPLINE 2-4" BELOW GRADE AND STAKE DOWN EVERY 4' OR AS REQUIRED.

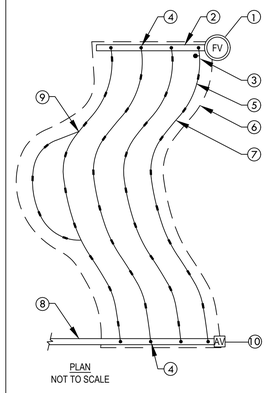
3 HLD DRIPLINE ISLAND LAYOUT
SCALE: NONE



1. FLUSH VALVE PLUMBED TO FLUSH MANIFOLD AT LOW POINT
2. 1" SCH 40 PVC OR FLEXIBLE PVC IPS HOSE FLUSH MANIFOLD.
3. DRIPLINE OPERATION INDICATOR LOCATED AT THE ENDS OF EACH DRIPLINE ZONE.
4. MANIFOLD-TO-ELBOW CONNECTION.
5. DRIPLINE LATERAL.
6. AREA PERIMETER.
7. PERIMETER LATERALS 2" [50mm] TO 4" [100mm] FROM EDGE.
8. PVC LATERAL LINE FROM VALVE. MINIMUM SIZE TO BE 1" UNLESS OTHERWISE NOTED.
9. HUNTER PLD-TEE (PLD-TEE)
10. PVC SUPPLY MANIFOLD.
11. HUNTER PLD AIR/VACUUM RELIEF VALVE (PLD-AVR) PLUMBED TO SUPPLY MANIFOLD AT HIGH POINT.

NOTE:
1. THE TOTAL LENGTH OF ALL INTERCONNECTED DRIP LINE OFF A SINGLE PVC SUPPLY LINE CONNECTION OR A SINGLE RUN OF DRIPLINE SHALL NOT EXCEED 300 FT.
2. INSTALL DRIPLINE 2-4" BELOW GRADE AND STAKE DOWN EVERY 4' OR AS REQUIRED.

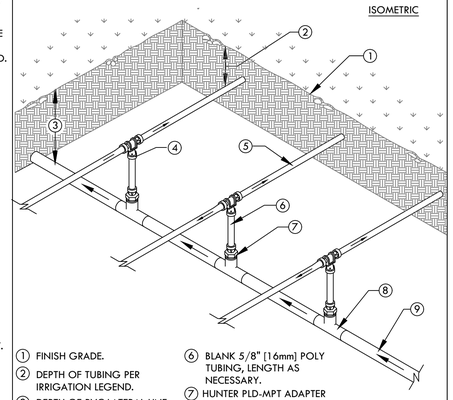
4 HLD DRIPLINE TRIANGULAR LAYOUT
SCALE: NONE



1. FLUSH VALVE PLUMBED TO FLUSH MANIFOLD AT LOW POINT
2. 1" SCH 40 PVC OR FLEXIBLE PVC IPS HOSE FLUSH/EXHAUST MANIFOLD.
3. DRIPLINE OPERATION INDICATOR LOCATED AT THE ENDS OF EACH DRIPLINE ZONE.
4. MANIFOLD-TO-ELBOW CONNECTION.
5. DRIPLINE LATERAL.
6. AREA PERIMETER.
7. PERIMETER LATERALS 2" [50mm] TO 4" [100mm] FROM EDGE.
8. PVC SUPPLY LINE/HEADER FROM VALVE. MINIMUM SIZE TO BE 1" UNLESS OTHERWISE NOTED.
9. HUNTER PLD-TEE (PLD-TEE)
10. HUNTER PLD AIR/VACUUM RELIEF VALVE (PLD-AVR) PLUMBED TO SUPPLY MANIFOLD AT HIGH POINT.

NOTE:
1. THE TOTAL LENGTH OF ALL INTERCONNECTED DRIP LINE OFF A SINGLE PVC SUPPLY LINE CONNECTION OR A SINGLE RUN OF DRIPLINE SHALL NOT EXCEED 300 FT.
2. INSTALL DRIPLINE 2-4" BELOW GRADE AND STAKE DOWN EVERY 4' OR AS REQUIRED.

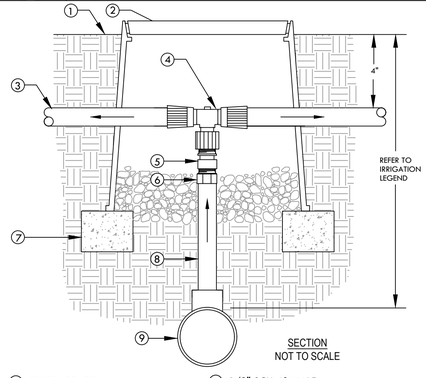
5 HLD DRIPLINE ODD CURVE LAYOUT
SCALE: NONE



1. FINISH GRADE.
2. DEPTH OF TUBING PER IRRIGATION LEGEND.
3. DEPTH OF PVC LATERAL LINE PER IRRIGATION LEGEND
4. HUNTER PLD-TEE (PLD-TEE)
5. DRIPLINE TUBING.
6. BLANK 5/8" [16mm] POLY TUBING, LENGTH AS NECESSARY.
7. HUNTER PLD-MPT ADAPTER (PLD-050)
8. PVC TEE (SxSxT) WITH 1/2" [13mm] FPT OUTLET.
9. PVC LATERAL LINE FROM REMOTE CONTROL VALVE.

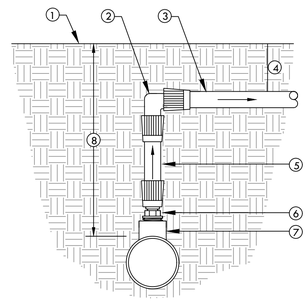
NOTE:
THE TOTAL LENGTH OF A SINGLE DRIP LINE RUN SHALL NOT EXCEED 300 FT.

6 HLD DRIPLINE CENTER FEED MANIFOLD
SCALE: NONE



1. FINISH GRADE
2. CARSON 708 OR EQUAL. COLOR: BLACK. USE PURPLE FOR RECYCLED WATER SYSTEMS.
3. DRIPLINE TUBING
4. HUNTER PLD-TEE X 1/2" FPT ADAPTER
5. TORO 1/2" CHECK VALVE (PCV-500)
6. 1/2" SCH 40 MALE ADAPTER.
7. BRICK (1 OF 2)
8. 1/2" SCH 40 PVC (LENGTH AS REQUIRED)
9. PVC LATERAL LINE SUPPLY. MINIMUM SIZE TO BE 1" UNLESS SIZED DIFFERENTLY ON DRAWINGS. USE SCH 40 PVC 1"x1"x1/2" TEE OR 90° ELBOW.

7 DRIPLINE TO PVC CONNECTION
SCALE: NONE



1. FINISH GRADE
2. HUNTER PLD-ELBOW (PLD-ELB)
3. DRIPLINE TUBING
4. DEPTH OF TUBING PER IRRIGATION LEGEND.
5. BLANK 5/8" [16mm] POLY TUBING, LENGTH AS NECESSARY.
6. HUNTER PLD-MPT ADAPTER (PLD-050)
7. SCH 40 PVC TEE (SxSxT) WITH 1/2" FPT OUTLET.
8. DEPTH OF PVC LATERAL LINE PER IRRIGATION LEGEND

8 DRIPLINE MANIFOLD TO ELBOW CONNECTION
SCALE: NONE

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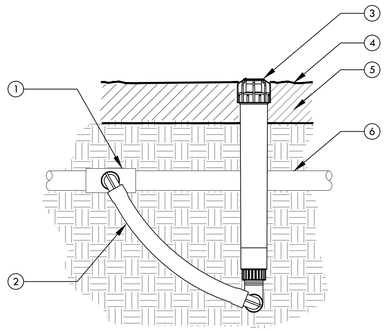
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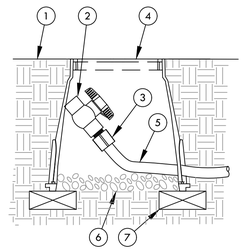
IRRIGATION DETAIL

I1.5



1. UPC APPROVED SCHEDULE 40 PVC TEE, ELBOW OR BARB x THREAD DRIP FITTING TEE OR ELBOW WITH 3/4" OUTLET.
2. 1/2" X 3/4" X 6" HUNTER SWING JOINT (SJ-7506)
3. ECO INDICATOR
4. FINISHED GRADE
5. MULCH
6. PVC LATERAL PIPE OR DRIPLINE

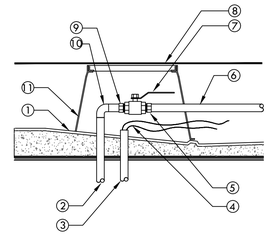
1 DRIPLINE OPERATION INDICATOR
SCALE: NONE



NOTE:
ALLOW A MINIMUM OF PVC HOSE IN VALVE BOX IN ORDER TO DIRECT FLUSHED WATER OUTSIDE VALVE BOX.

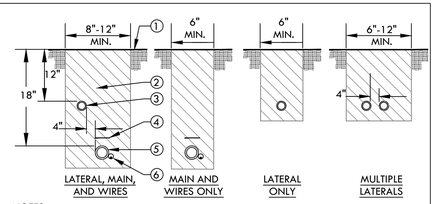
1. FINISH GRADE
2. 1/2" SCH 40 THREADED BALL VALVE.
3. 1/2" SCH 40 MALE ADAPTER.
4. 6" ROUND PLASTIC VALVE BOX.
5. 1" IPS PVC HOSE FROM EXHAUST HEADER.
6. PEA GRAVEL SUMP (6" DEEP).
7. BRICK (1 OF 2)

2 DRIPLINE-FLUSH POINT
SCALE: NONE



1. SLOPED ROOF BELOW PEDESTAL SYSTEM
2. COPPER PIPE THROUGH STRUCTURE PROVIDED BY PLUMBING CONTRACTOR. WATERPROOF ALL PENETRATIONS.
3. CONDUIT FOR CONTROL WIRES THROUGH STRUCTURE PROVIDED BY ELECTRICAL CONTRACTOR. WATERPROOF ALL PENETRATIONS
4. TWO-WIRE CABLE OR CONTROL WIRES
5. SCH 40 PVC MALE ADAPTER.
6. PVC MAIN LINE TO REMOTE CONTROL VALVES.
7. BRONZE BALL VALVE.
8. ROOF DECK PAVERS
9. COPPER MALE ADAPTER.
10. COPPER 90° ELBOW.
11. 10" ROUND PLASTIC VALVE BOX. CUT BOX TO FIT BELOW PEDESTAL PAVER SYSTEM

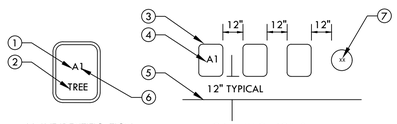
3 ON STRUCTURE STUB-OUT WITH BRONZE BALL VALVE
SCALE: NONE



NOTES:
1. ALL MAIN SUPPLY LINES AND LATERAL LINES SHALL BE PLACED IN SLEEVES UNDER PAVED SURFACES. INSTALL LOW VOLTAGE WIRES WITHIN A SEPARATE CONDUIT UNDER PAVED SURFACES. DO NOT TAPE WIRES WITHIN CONDUIT.
2. REUSE SALVAGED EXCAVATED FILL AND COMPACT TO ORIGINAL DENSITY IN LANDSCAPE AREAS. ALL OTHER AREAS SHALL BE AT 95% COMPACTION. BACKFILL MATERIAL SHALL BE THE EARTH EXCAVATED FROM THE TRENCHES, FREE FROM ROCKS (ANYTHING LARGER THAN 2"), CONCRETE CHUNKS, AND OTHER FOREIGN OR COARSE MATERIALS.
3. WHEN 12" POP-UP SPRINKLER HEADS ARE USED, INCREASE THE DEPTH OF LATERAL TO 18" AT THE SPRINKLER LOCATION ONLY.

1. FINISH GRADE.
2. CLEAN BACKFILL MATERIAL.
3. LATERAL LINE.
4. 3" DETECTABLE WARNING TAPE OVER MAIN LINE. INSTALL 3" ABOVE MAIN LINE. USE CHRISTY MODEL #TA-DT-3-BIRR FOR POTABLE IRRIGATION SYSTEMS OR #TA-DT-3-PRW FOR RECYCLED IRRIGATION WATER SYSTEMS
5. MAIN LINE.
6. TWO WIRE CABLE IN CONDUIT

4 TRENCHING
SCALE: NONE



VALVE IDENTIFICATION

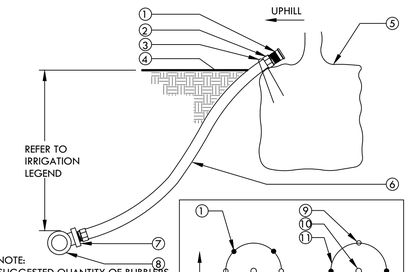
1. CONTROLLER ID.
2. ALL TREE VALVES TO HAVE TREE BRANDED INTO LID.
3. RECTANGULAR VALVE BOX.
4. HEAT BRAND VALVE TYPE PER TABLE OR CONTROLLER ID AND STATION NUMBER INTO LID.
5. EDGE OF LAWN, WALK, FENCE, CURB, ETC.
6. STATION NUMBER.
7. ROUND VALVE BOX FOR QCV AND GATE VALVE. HEAT BRAND VALVE TYPE INTO INTO LID PER TABLE.

TOP VIEW OF BOXES

ITEMS TO BRAND:	BRAND CODE
GATE VALVE	GV
PRESSURE REDUCER	PRV
MASTER VALVE	MV
FLOW SENSOR	FS
HYDROMETER	HM
MAIN LINE AIR RELIEF	ARV
REMOTE CONTROL VALVE	A___
QUICK COUPLER	QC
SPLICE BOX	SB
PULL BOX	PB
LIGHTNING ARRESTOR	LA
GROUND ROD	GR

INSTRUCTIONS:
1. CENTER VALVE BOX OVER REMOTE CONTROL VALVE TO FACILITATE SERVICING VALVE.
2. SET BOXES 1" ABOVE FINISH GRADE OR MULCH COVER IN GROUND COVER/SHRUB AREA AND FLUSH WITH FINISH GRADE IN TURF AREA.
3. SET RCV AND VALVE BOX ASSEMBLY IN GROUND COVER/SHRUB AREA WHERE POSSIBLE. INSTALL IN LAWN ONLY IF GROUND COVER DOES NOT EXIST ADJACENT TO LAWN.
4. SET BOXES PARALLEL TO EACH OTHER AND PERPENDICULAR TO EDGE OF LAWN, WALK, FENCE, CURB, ETC.
5. AVOID HEAVILY COMPACTING SOIL AROUND VALVE BOXES TO PREVENT COLLAPSE AND DEFORMATION OF VALVE BOX SIDES.
6. INSTALL EXTENSION BY VALVE BOX MANUFACTURER AS REQUIRED TO COMPLETELY ENCLOSE ASSEMBLY FOR EASY ACCESS.

5 VALVE BOX INSTALLATION
SCALE: NONE



TREE BUBBLER PLACEMENT EXAMPLES

NOTE:
SUGGESTED QUANTITY OF BUBBLERS PER TREES AND SHRUBS SIZE:
- 15 GAL OR 24" BOX = 2 BUBBLERS
- 36" OR 48" BOX = 4 BUBBLERS

1. BUBBLER (TO BE INSTALLED ON TOP OF ROOTBALL).
2. 1/2" SCH. 40 MALE ADAPTER (2 TOTAL).
3. 6" STAPLE.
4. FINISH GRADE.
5. TREE OR SHRUB ROOTBALL.
6. 1/2" IPS FLEXIBLE PVC. USE WELD-ON 795 SOLVENT CEMENT OR EQUAL WHEN BONDING PVC HOSE TO FITTINGS.
7. PVC TEE (SST), ELBOW (ST) OR FEMALE ADAPTER.
8. PVC LATERAL LINE.
9. TREE STAKES.
10. TREE.
11. EDGE OF ROOTBALL (TYPICAL).

6 TREE BUBBLER
SCALE: NONE

WATER USE ESTIMATION

WATER TYPE	POTABLE
SITE ETO=	39.7

REGULAR LANDSCAPE AREAS

HYDROZONE #	HYDROZONE NAME	PLANT WATER USE TYPE	PLANT FACTOR (PF)	IRRIGATION METHOD	IRRIGATION EFFICIENCY	ETAF (PF/IE)	AREA (SQ. FT) (HA)	ETAF X AREA (HA)	ETWU (GAL/YR)	ACRE FEET/ YEAR	HCF/ YEAR	PERCENTAGE OF LANDSCAPE
GROUND LEVEL	GC/SHRUBS	LOW	0.3	DRIP	0.81	0.370	1,692	627	15,425	0.05	20.62	53%
ROOF	GC/SHRUBS	LOW	0.3	DRIP	0.81	0.370	1,008	373	9,189	0.03	12.29	32%
TREES	TREES	MOD	0.5	BUBBLER	0.81	0.617	480	296	7,293	0.02	9.75	15%
					TOTALS		3,180	1,296	31,907	0.10	42.66	100%

SPECIAL LANDSCAPE AREAS

HYDROZONE #	HYDROZONE NAME											
3						1	0					0%
						TOTALS	0					0%

MAWA	GALLONS/YR	35,223
	ACRE FEET/YR	0.11
	HCF/YR	47.09
ETWU	GALLONS/YR	31,907
	ACRE FEET/YR	0.10
	HCF/YR	42.66

MAWA FORMULA
MAXIMUM APPLIED WATER ALLOWANCE (MAWA) GALLONS PER YEAR
MAWA = (ETo)(0.62)[(LA x 0.45) + (0.55 x SLA)]
ETo = REFERENCE EVAPOTRANSPIRATION
0.55= ET ADJUSTMENT FACTOR
LA=LANDSCAPED AREA (SQUARE FEET)
0.62 = CONVERSION FACTOR (GALLONS/SQ.FT/YR)

ETWU FORMULA
ESTIMATED TOTAL WATER USE (ETWU) GALLONS PER YEAR
ETWU= ((ETO)(.62)(ETAF x LA))
ETo = REFERENCE EVAPOTRANSPIRATION
PF = PLANT FACTOR FOR HYDROZONES
HA = HYDROZONE AREA (SQ.FT)
0.62 = CONVERSION FACTOR (GALLONS/SQ.FT/YR)
IE = IRRIGATION EFFICIENCY (0.81)-BUBBLER/DRIP
IE = IRRIGATION EFFICIENCY (0.75)-ROTORS/SPRAY

SITE IRRIGATION EFFICIENCY	SITE PLANT FACTOR	MAWA COMPLIANT
81.0%	0.33	YES

ETAF Calculations	
REGULAR LANDSCAPE AREAS	
TOTAL ETAF x AREA	1,296
TOTAL AREA	3,180
AVG. ETAF	40.76%

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03.09.2021 REVISED BASE PLANS
07.08.2022 ZONING INCOMPLETE RESPONSE
01.06.2023 DESIGN REVIEW SUBMITTAL
05.01.2023 RESPONSE TO DESIGN REVIEW

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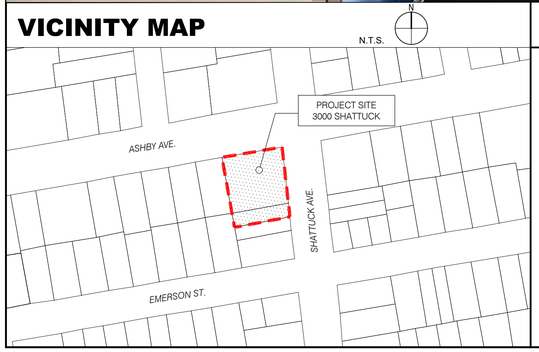
SHEET:

IRRIGATION DETAIL

I1.6



VICINITY MAP



PROJECT DIRECTORY

PROJECT SPONSOR:
3000 Shattuck Avenue, LLC
NX Ventures, LLC
1958A University Ave
Berkeley, CA 94704

ARCHITECT:
Isaiah Stackhouse, Principal
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LANDSCAPE ARCHITECT:
Penn Phillips
INSIDEOUT DESIGN
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Oakland CA 94618
510.655.7674
www.aboutinsideout.com

PROJECT DESCRIPTION

PROJECT ADDRESS: 3000 Shattuck
Berkeley, CA 94705 (APN: 053 159200100)

SCOPE OF WORK:

REMOVAL OF EXISTING 1 STORY COMMERCIAL STRUCTURE & CONSTRUCTION OF A NEW 9-STORY MIXED-USE BUILDING WITH 156-DWELLING UNITS, GROUND LEVEL LOBBIES AND COMMERCIAL SPACE WITH STATE OF CALIFORNIA DENSITY BONUS.

ZONING CODE SUMMARY

(BASED ON THE BERKELEY MUNICIPAL ZONING CODE)

ZONING: C-SA

SEE SHEET A0.1 FOR COMPLETE ZONING DATA

DRAWING LIST

A0.0	GENERAL INFORMATION	A3.6	PHOTO CONTEXT VIEWS	I1.1	ROOF DECK IRRIGATION PLAN
A0.1	ZONING INFORMATION & DIAGRAMS	A3.7	PHOTO CONTEXT VIEWS	I1.2	IRRIGATION NOTES AND LEGENDS
A0.3A	DENSITY BONUS DIAGRAMS	A3.8	PERSPECTIVE VIEWS	I1.3	IRRIGATION DETAILS
A0.3B	DENSITY BONUS CALCULATIONS	A3.9	PERSPECTIVE VIEWS	I1.4	IRRIGATION DETAILS
A0.4A	SHADOW STUDIES	A3.10	PERSPECTIVE VIEWS	I1.5	IRRIGATION DETAILS
A0.4B	SHADOW STUDIES	A3.11	PERSPECTIVE VIEWS	I1.6	IRRIGATION DETAILS AND WELO
A0.4C	SHADOW STUDIES	A3.12	PERSPECTIVE VIEWS		
A0.5	SITE CONTEXT PHOTOS	A3.13	PERSPECTIVE VIEWS		
A0.6	VICINITY MAP	A3.14	PERSPECTIVE VIEWS		
A1.1	SITE SURVEY	A3.15	PERSPECTIVE VIEWS		
A2.1	FLOOR PLANS	A3.16	PERSPECTIVE VIEWS		
A2.2	FLOOR PLANS	MAT	MATERIAL BOARD		
A2.3	FLOOR PLANS	A4.1	BUILDING SECTION		
A3.1	BUILDING ELEVATIONS	A5.1	CONCEPTUAL GRADING PLAN		
A3.2	BUILDING ELEVATIONS	L1.0	GROUND LEVEL LANDSCAPE PLAN		
A3.3	BUILDING ELEVATIONS	L1.1	ROOF DECK LANDSCAPE PLAN		
A3.4	BUILDING ELEVATIONS	L2.0	LANDSCAPE IMAGERY		
A3.5	STREETSCAPE ELEVATIONS	I1.0	GROUND LEVEL IRRIGATION PLAN		

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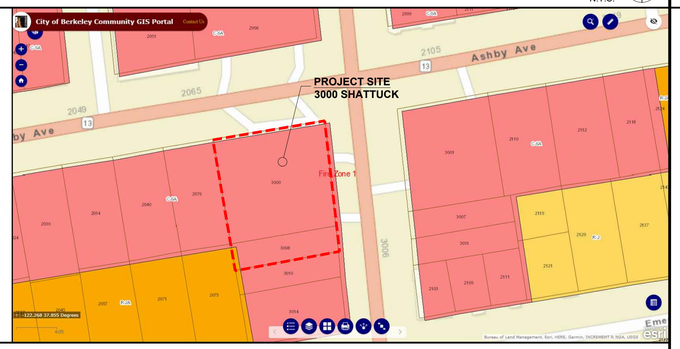
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GENERAL INFORMATION

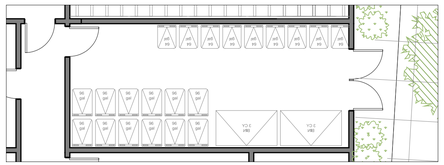
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ZONING MAP

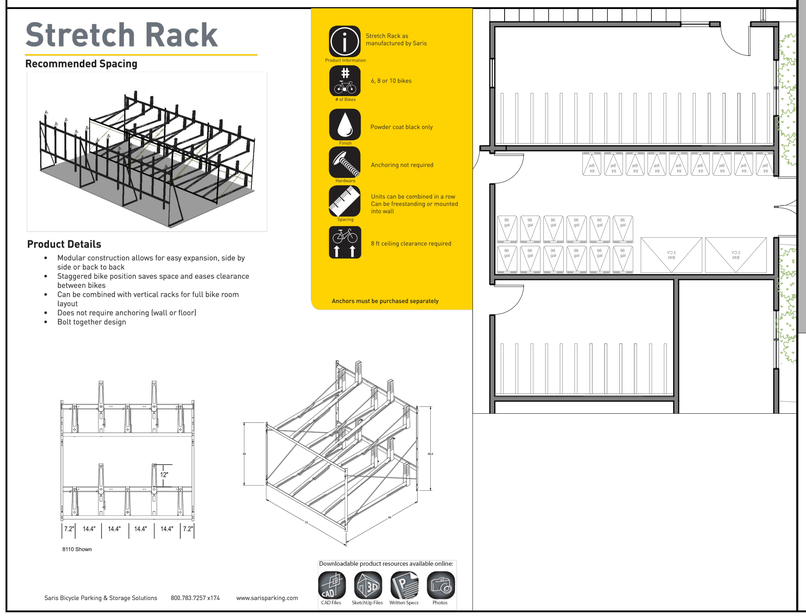


REFUSE AND RECYCLING

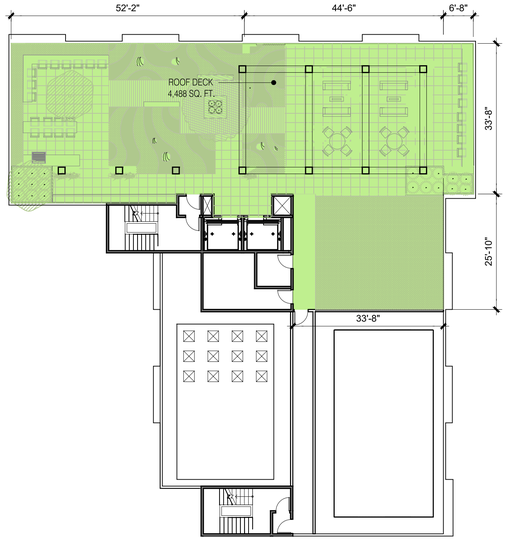


Waste and Recycling Calculation								
# of Bedrooms	Factor	Occupants	Total cuft required (.25cy or 50 gallons / 3		Waste (40%)		Recycling (40%)	Organics (20%)
166	1.00	166	13.83 cy	2,767 gal	5.53 cuft	1,107 gal	1,107 gal	553 gal
Space Calculation	Container Quantities			Space Required			150% Additional	
	Waste	Recycling	Organics	Factor/container		Space/ Container	Required	Provided
3 cy bin (606 gal)	2			28 sf		56 sf		
2 cy bin (404 gal)				28 sf		sf		
96 gallon cart		12		7 sf		84 sf		
64 gallon cart			9	6 sf		50 sf		
Total capacity	1212 gal	1152 gal	576 gal			190 sf	284 sf	363 SF

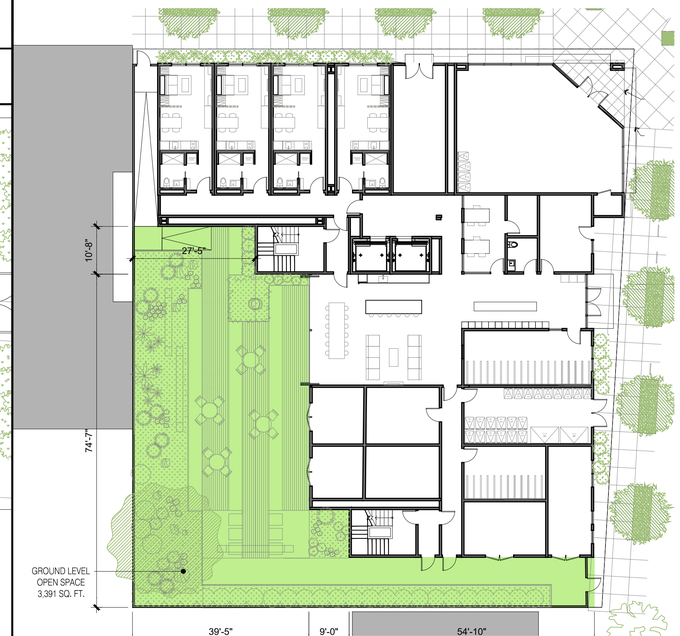
LONG TERM BIKE PARKING



OPEN SPACE DIAGRAMS



ROOF LEVEL



LEVEL 1

ZONING CODE DATA

	BASELINE ZONING ALLOWABLE/REQUIRED	ALLOWABLE W/ UP OR AUP MODIFICATION	PROPOSED W/ DENSITY BONUS	** Via Density Bonus Waiver
NUMBER OF DWELLING UNITS	N/A	N/A	166	
COMMERCIAL AREA	N/A	N/A	1,043	
PARKING	SEE TABLE	SEE TABLE	SEE TABLE	
BIKE PARKING	N/A	61	61	
FRONT YARD SETBACK (ASHBY)	15'	0' COMPLIES W/ UP BMC 23.204.100.D.2	2'-6" and 3'-0"	**
STREET SIDE YARD SETBACK (SHATTUC	VARIES; 6' TO 15'	0' COMPLIES W/ UP BMC 23.204.100.D.2	0" to 6'-8"	**
SIDE YARD SETBACK	VARIES; 4' TO 12'	0' COMPLIES W/ UP BMC 23.204.100.D.2	5'-7" to 39'-4"	**
REAR YARD SETBACK	15'	0' COMPLIES W/ UP BMC 23.204.100.D.2	11'-3" to 85'-2"	**
BUILDING HEIGHT	36'	NOT LIMITED COMPLIES W/UP BMC 23.204.100.D.2	113'-10"	**
BUILDING STORIES	3	NOT LIMITED COMPLIES W/UP BMC 23.204.100.D.2	10	**
LOT AREA	13,561	13,561	13,561	
LOT AREA (ACRES)	0.31	0.31	0.31	
GROSS FLOOR AREA (SEE TABLE)	54,244	54,244	81,552	
BUILDING FOOTPRINT	6,781	NOT LIMITED COMPLIES W/UP BMC 23.204.100.D.2	8,399	**
LOT COVERAGE	50%	NOT LIMITED COMPLIES W/UP BMC 23.204.100.D.2	62%	**
USABLE OPEN SPACE (SEE TABLE)	SEE TABLE	SEE TABLE	SEE TABLE	
PROJECT FAR	4.0	4.0	6.00	**

PROPOSED FLOOR AREA WITH DENSITY BONUS

	COMMERCIAL	RESIDENTIAL	TOTAL
LEVEL 10		8,150	8,150
LEVEL 9		8,150	8,150
LEVEL 8		8,150	8,150
LEVEL 7		8,150	8,150
LEVEL 6		8,150	8,150
LEVEL 5		8,150	8,150
LEVEL 4		8,150	8,150
LEVEL 3		8,150	8,150
LEVEL 2		7,953	7,953
GROUND LEVEL (EXCLUDES PARKING)	1,043	7,356	8,399
TOTAL FLOOR AREA W/ DENSITY BONU	1,043	80,509	81,552

UNIT COUNTS

UNIT TYPE	STUDIO	TOTAL
LEVEL 10	18	18
LEVEL 9	18	18
LEVEL 8	18	18
LEVEL 7	18	18
LEVEL 6	18	18
LEVEL 5	18	18
LEVEL 4	18	18
LEVEL 3	18	18
LEVEL 2	18	18
GROUND LEVEL	4	4
TOTAL	166	166
PERCENT OF TOTAL	100%	
TOTAL BEDROOM COUNT	166	166

OPEN SPACE TABLE

	UNITS	RATIO	TOTAL	LANDSCAPE AREA (40%)
TOTAL UNITS	166	40	6,640	
TOTAL REQUIRED			6,640	
TOTAL AREA PROVIDED			7,879	3,186
GROUND LEVEL OPEN SPACE			3,391	
ROOF DECK			4,488	

BICYCLE PARKING CALCULATIONS

	UNITS/SF	SPACES/BEDROOM/SF	TOTAL REQ	PROVIDED
NEW COMMERCIAL	1,043	1/2000	1	1
RESIDENTIAL (LONG TERM)	166	0.33	55	55
RESIDENTIAL (SHORT TERM)	166	0.025	5	5
TOTAL PARKING			**61**	**61**

PARKING TABLE

	UNITS/SF	MIN.	REQUIRED	PROPOSED
RESIDENTIAL	166	0	0	0
COMMERCIAL (1ST 1,000 SF EXEMPT)	43	2/1000 SF	0	0

ROOFTOP ARCHITECTURAL ELEMENTS CALCS

AVERAGE AREA	8155
TOTAL AREA OF ROOFTOP ELEMENTS	1,020
% AREA OF ROOFTOP ARCH.	12.5%
ALLOWABLE % (PER 23E.04.020C)	15.0%

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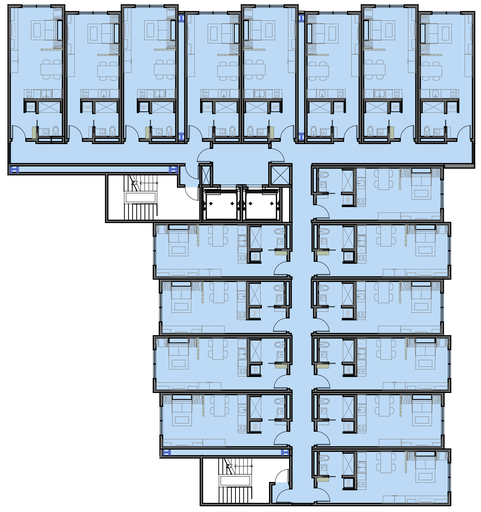
ZONING DATA

A0.1

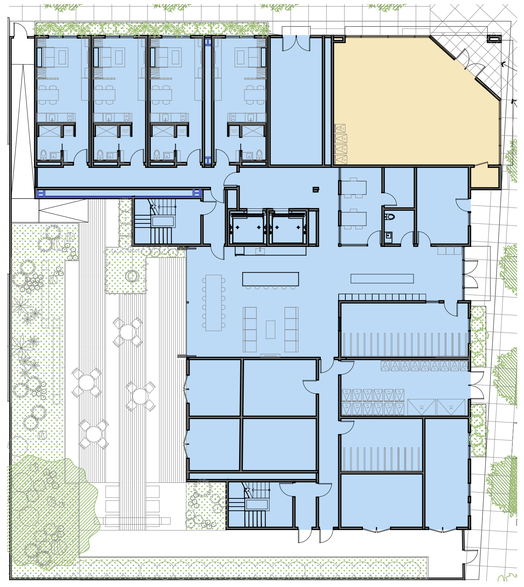
DENSITY BONUS DIAGRAM AREA KEY

RESIDENTIAL AREA

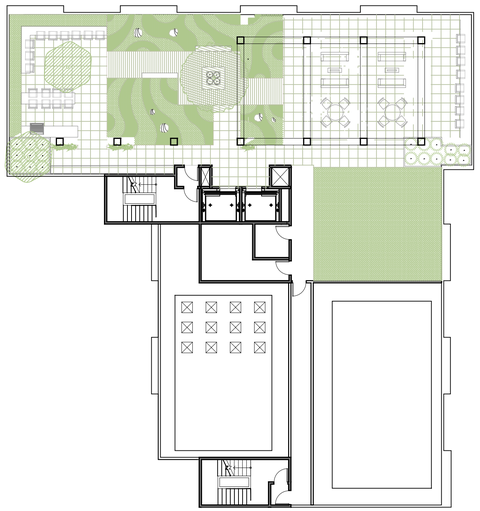
COMMERCIAL AREA



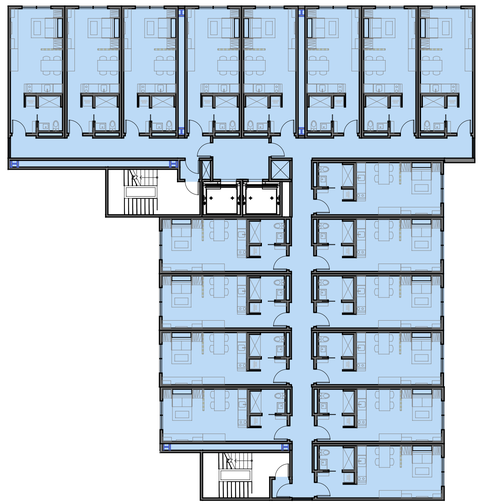
PLAN AT LEVELS 3-10



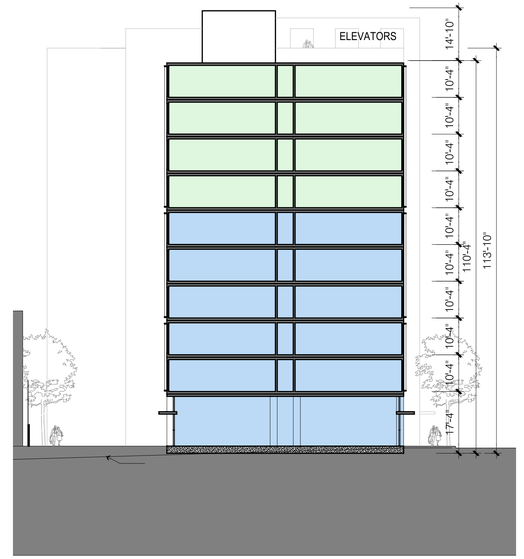
PLAN AT GROUND



PLAN AT ROOF



PLAN AT LEVELS 2



PROPOSED DENSITY BONUS PROJECT

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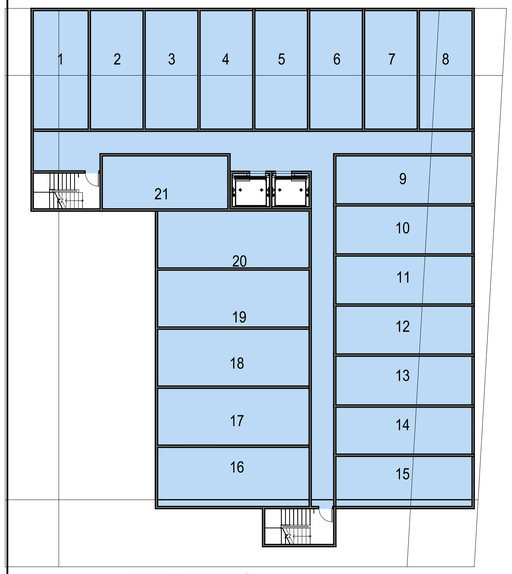
SHEET:

DENSITY BONUS DIAGRAMS

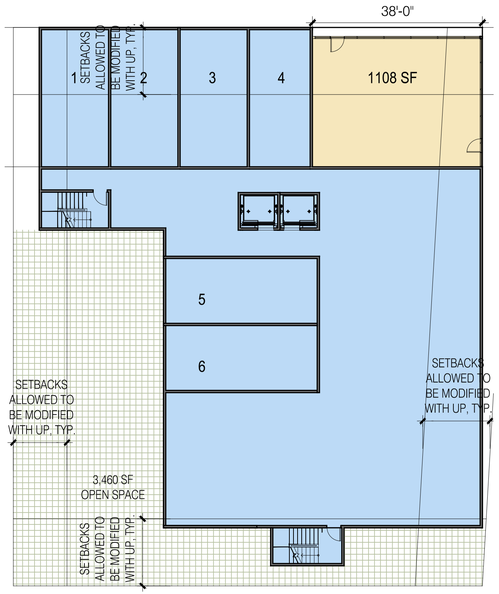
A0.3A

ZONING COMPLIANCE TABLE

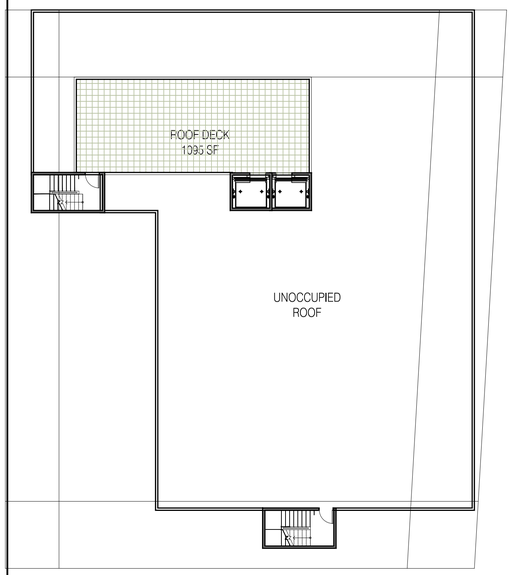
	ALLOWABLE BASE PROJECT W/ AVAILABLE USE PERMITS					PROPOSED DENSITY BONUS PROJECT	
	UNMODIFIED REQUIREMENT	ALLOWABLE MODIFICATION	CODE SECTION	TYPE	UP #	PROPOSED	COMPLAINCE CHECK
FRONT YARD SETBACK (ASHBY)	15'	0'	BMC 23.204.100.D.2	UP		VARIES 2'-6" AND 3'-0"	COMPLIES W/ DENSITY BONUS WAIVER
STREET SIDE YARD SETBACK (SHATTUCK)	VARIES 6' TO 15'	0'	BMC 23.204.100.D.2	UP		VARIES 0' TO 6'-8"	COMPLIES W/ DENSITY BONUS WAIVER
SIDE YARD SETBACK	VARIES 4' TO 12'	0'	BMC 23.204.100.D.2	UP		VARIES 5'-7" TO 39'-4"	COMPLIES W/ DENSITY BONUS WAIVER
REAR YARD SETBACK	15'	0'	BMC 23.204.100.D.2	UP	1	VARIES 11'-3" TO 85'-2"	COMPLIES W/ DENSITY BONUS WAIVER
BUILDING HEIGHT	36	NOT LIMITED	BMC 23.204.100.D.2	UP	2	113'-10"	COMPLIES W/ DENSITY BONUS WAIVER
BUILDING STORIES	3	NOT LIMITED	BMC 23.204.100.D.2	UP	3	10	COMPLIES W/ DENSITY BONUS WAIVER
LOT COVERAGE	VARIES 50% TO 40%	NOT LIMITED	BMC 23.204.100.D.2	UP	4	62%	COMPLIES W/ DENSITY BONUS WAIVER
USABLE OPEN SPACE	4440	NOT MODIFIABLE W/ UP				7879	COMPLIES
PROJECT FAR	4	NOT MODIFIABLE W/ UP				6	COMPLIES W/ DENSITY BONUS WAIVER



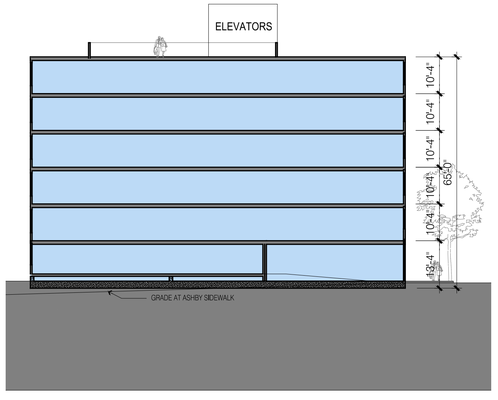
PLAN AT LEVELS 2-6



PLAN AT GROUND



PLAN AT ROOF



BASE PROJECT

DENSITY BONUS TABLE

	Base Project	Base # Units	Base # Units	% VLI units	# VLI Units	#VLI Units	Bonus %	# DB Units	# DB Units	Maximum DB Project
	sq. ft. - see calculation below	base project area / base avg. unit size	Base Units/Max. Residential Density (rounds up)	VLI = Very Low Income <50 AMI	% VLI x Base # Units			%Bonus x Base # Units	%Bonus x Base # Units (rounded up)	%Bonus x Base # Units (rounded up)
	53,118	111	111	15%	16.65	17.00	50.0%	55.5000	56	167

	Base Project Res. Area	Floor	Proposed Project Res. Area	#VLI	%VLI	%DB	#DB	#Concessions
		Tenth	8,150	6	5%	20.00%	134	1
		Ninth	8,150	7	6%	22.50%	136	1
		Eighth	8,150	8	7%	25.00%	139	1
		Seventh	8,150	9	8%	27.50%	142	1
	8,985	Sixth	8,150	10	9%	30.00%	145	1
	8,985	Fifth	8,150	12	10%	32.50%	148	2
	8,985	Fourth	8,150	13	11%	35.00%	150	2
	8,985	Third	8,150	14	12%	38.75%	155	2
	8,985	Second	8,150	15	13%	42.50%	159	2
	8,985	Second	7,953	16	14%	46.25%	163	2
	8,193	Ground	7,356	**17**	**15%**	**50.00%**	**167**	**3**
Total Floor Area:	**53,118**		**80,509**					

	Base Project # of Units	Floor	Proposed Project # of Units
		Tenth	18
		Ninth	18
		Eighth	18
		Seventh	18
	21	Sixth	18
	21	Fifth	18
	21	Fourth	18
	21	Third	18
	21	Second	18
	6	Ground	4
Total Units:	**111**		**166**

Proposed Area:	**80,509**
Proposed Units:	**166**
Average Unit Size:	**485**

BASE PROJECT ZONING COMPLIANCE CHECKS

Base Project - Open Space

	Units	Ratio	Total Area
Total Required for Base Unit	111	40	4440
Total Area Provided			4555
Provided Open Space (Ground Floor Open Space)			3460
Provided Open Space (Roof Deck)			1095

Base Project - FAR

	Res. Area	Commercial	Total GFA
GFA	53,118	1108	54,226
Site Area			13,561
FAR			3.999

Base Project - Parking

	Units/SF	Bedrooms	Ratio	Total Req.	Provided
Residential				0	0
Commercial (1,000 exempt)	108	N/A	2/1000 SF	0	0

Base Project -Bicycle Parking

	Units/SF	Bedrooms	Ratio	Total Req.	Provided
New Comm.	1,108		1/2000	2	2
Res. (Long)		111	0.33	37	34
Res (Short)		111	0.025	2	2

Base Project - Stormwater

	Roof Area	%	Required	Provided
Base Units	8,985	4%	359	949

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05.11.2023 ZAB HEARING SET

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DENSITY BONUS CALCULATIONS

A0.3B

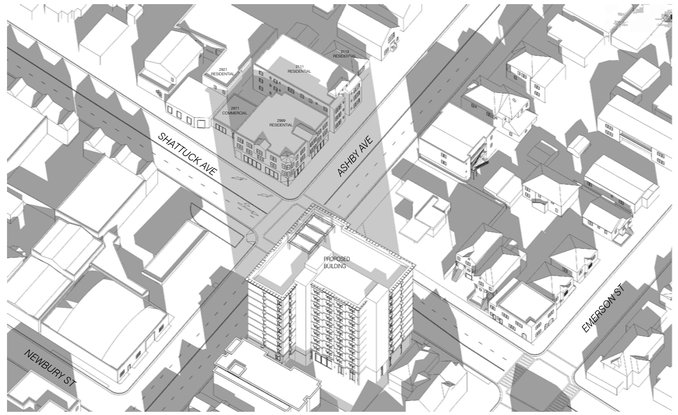
WINTER SOLSTICE
DEC 21ST:
2-HRS BEFORE SUNSET (PM)

DARK TONE GREY INDICATES SHADOWS FROM EXISTING BUILDINGS

LIGHTER TONE GREY INDICATES SHADOWS FROM PROPOSED BUILDING

NEW SHADOW AT RESIDENTIAL BUILDING

ALL RESIDENTIAL BUILDINGS BEING SHADOWED SHOWN IN THESE DIAGRAMS



6 SHADOW STUDY AXONOMETRIC - PM
N.T.S.



5 SHADOW STUDY - PM
1:160 @ 11X17 1:80 @ 24X36

N

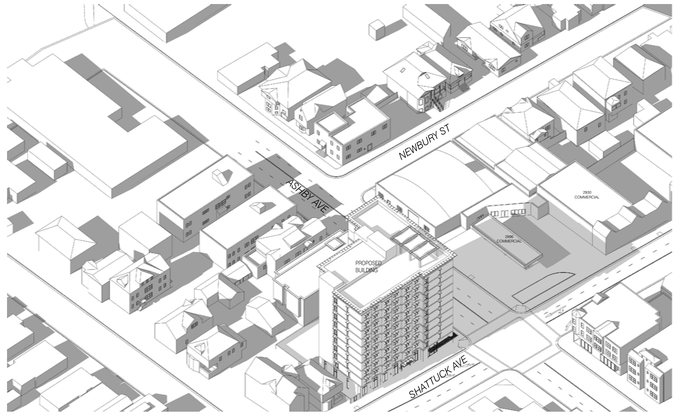
WINTER SOLSTICE
DEC 21ST:
NOON

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4 SHADOW STUDY AXONOMETRIC - NOON
NT.S.



3 SHADOW STUDY - NOON
1:160 @ 11X17 1:80 @ 24X36

N

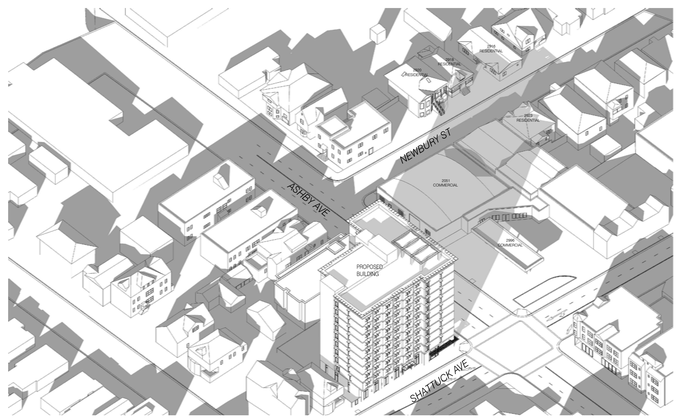
WINTER SOLSTICE
DEC 21ST:
2-HRS AFTER SUNRISE (AM)

DARK TONE GREY INDICATES SHADOWS FROM EXISTING BUILDINGS

LIGHTER TONE GREY INDICATES SHADOWS FROM PROPOSED BUILDING

NEW SHADOW AT RESIDENTIAL BUILDING

ALL RESIDENTIAL BUILDINGS BEING SHADOWED SHOWN IN THESE DIAGRAMS



2 SHADOW STUDY AXONOMETRIC - AM
N.T.S.



1 SHADOW STUDY - AM
1:160 @ 11X17 1:80 @ 24X36

N

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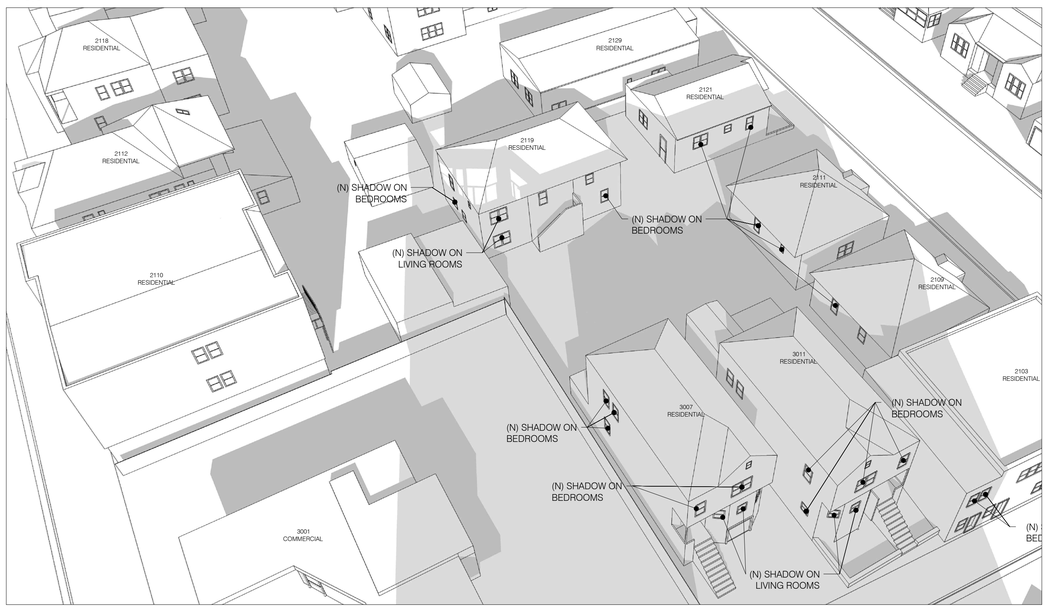
SHADOW STUDIES
DECEMBER 21ST

A0.4A



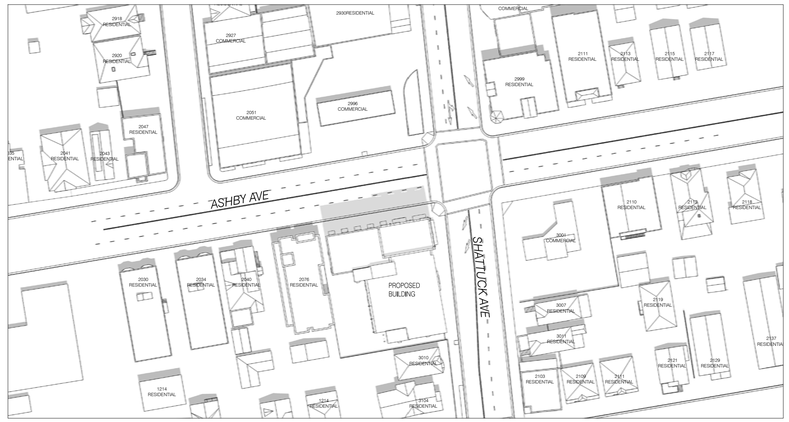
5 SHADOW STUDY AXONOMETRIC - JUNE 21: 2-HRS AFTER SUNRISE

NTS



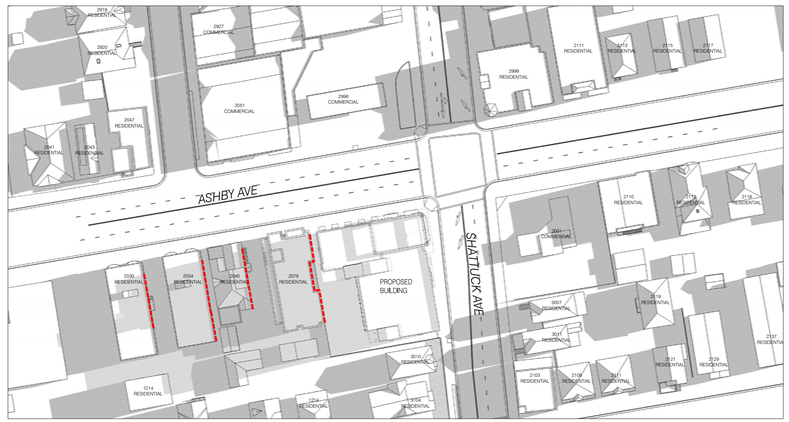
4 SHADOW STUDY AXONOMETRIC - JUN 21: 2-HRS BEFORE SUNSET

NTS



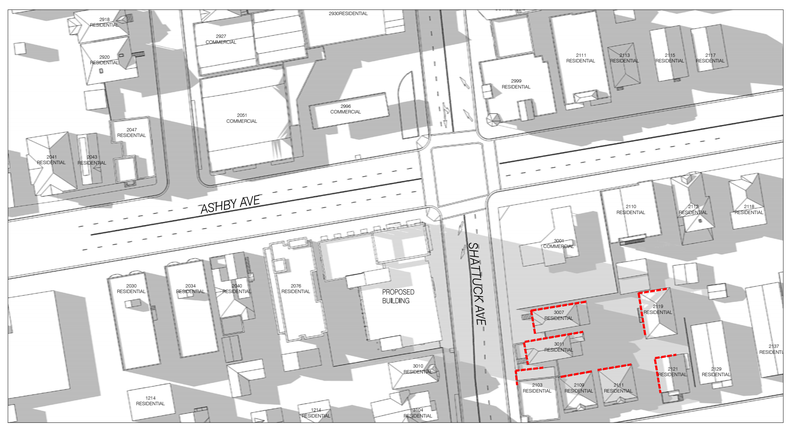
3 SHADOW STUDY - JUNE 21: NOON

1:130 @ 11X17 1:65 @ 24X36



2 SHADOW STUDY - JUNE 21: 2 HRS AFTER SUNRISE

1:130 @ 11X17 1:65 @ 24X36



1 SHADOW STUDY - JUNE 21: 2-HRS BEFORE SUNSET

1:130 @ 11X17 1:65 @ 24X36

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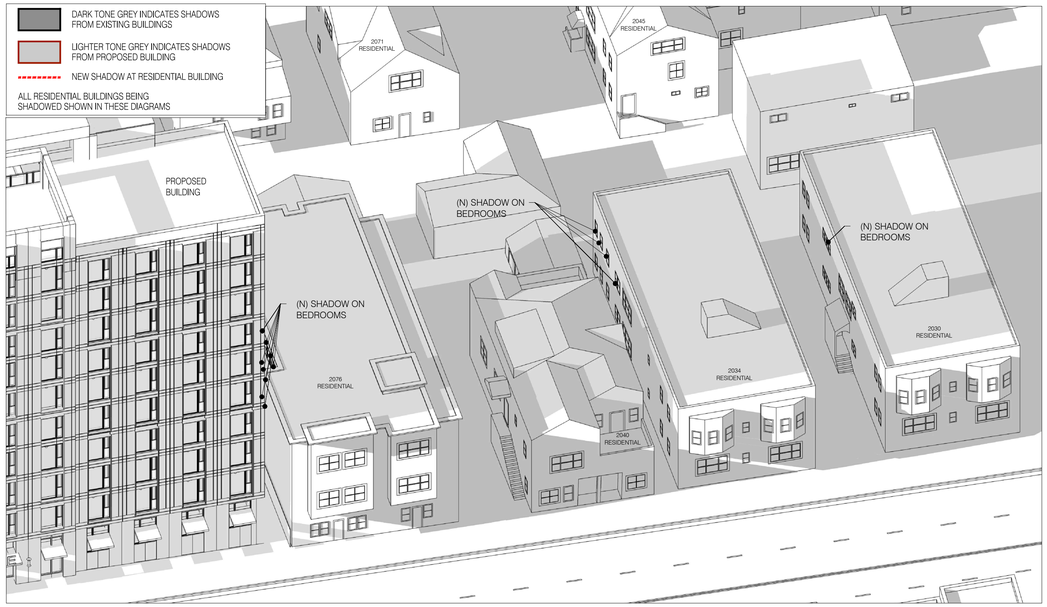
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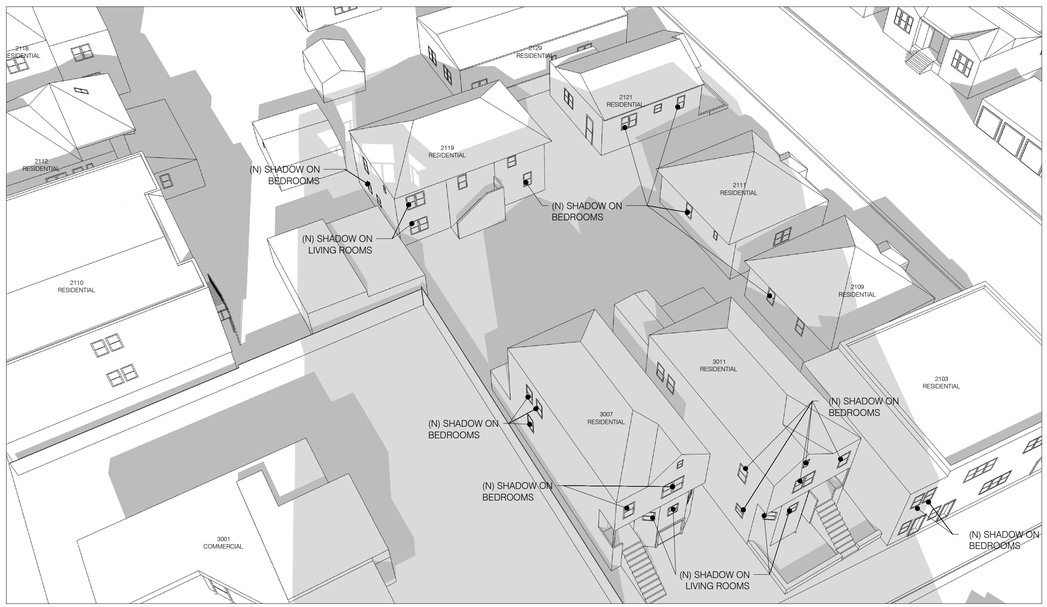
SHADOW STUDIES
JUNE 21ST

A0.4B



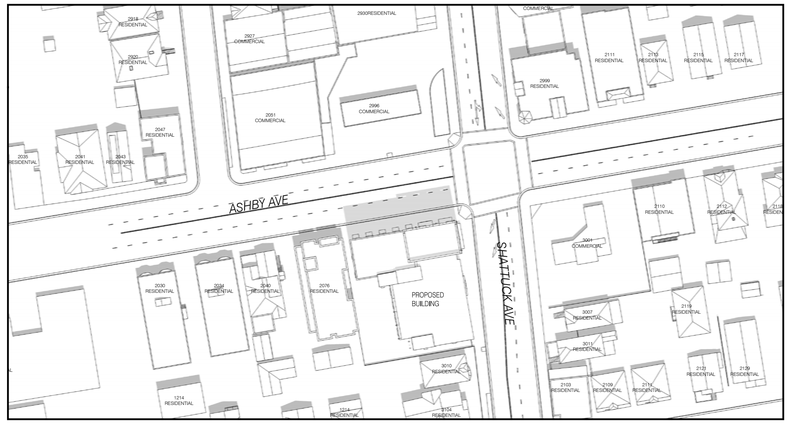
5 SHADOW STUDY AXONOMETRIC - JULY 8: 2 HRS AFTER SUNRISE

1:100 @ 11X17 1:50 @ 24X36



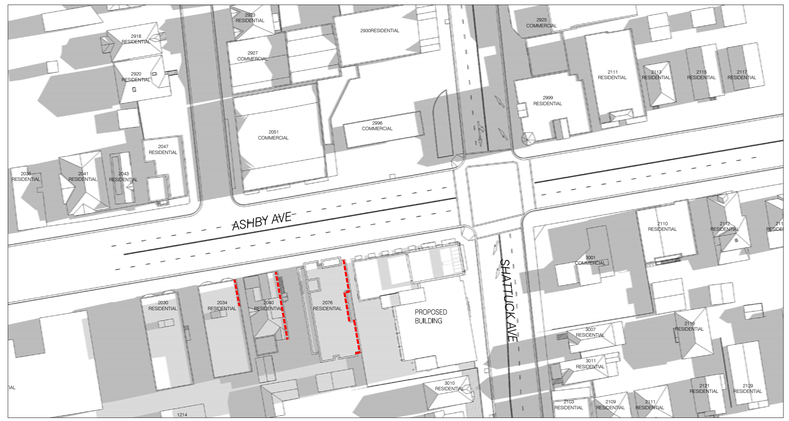
4 SHADOW STUDY AXONOMETRIC - JULY 8: 2-HRS BEFORE SUNSET

NTS



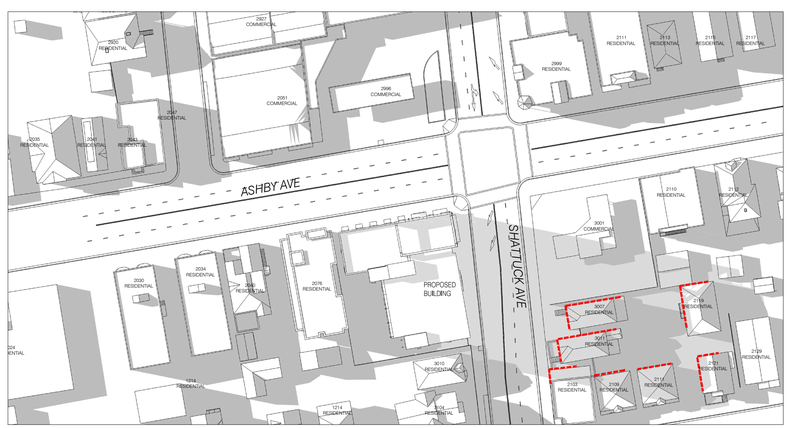
3 SHADOW STUDY - JULY 8: NOON

1:130 @ 11X17 1:65 @ 24X36



2 SHADOW STUDY - JULY 8: 2 HRS AFTER SUNRISE

1:130 @ 11X17 1:65 @ 24X36



1 SHADOW STUDY - JULY 8: 2-HRS BEFORE SUNSET

1:130 @ 11X17 1:65 @ 24X36

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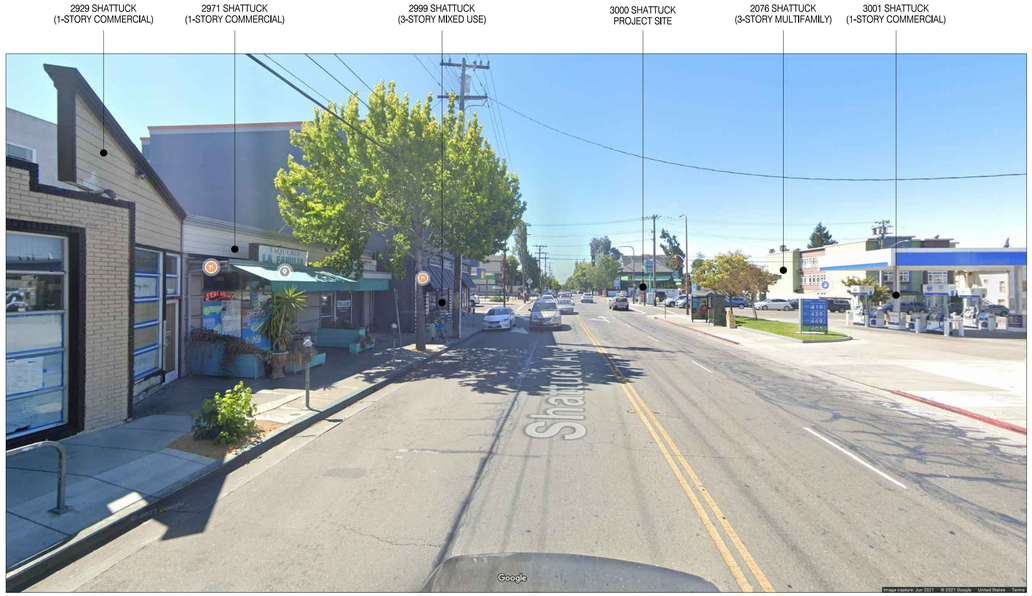
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SHEET:

SHADOW STUDIES
JULY 8TH

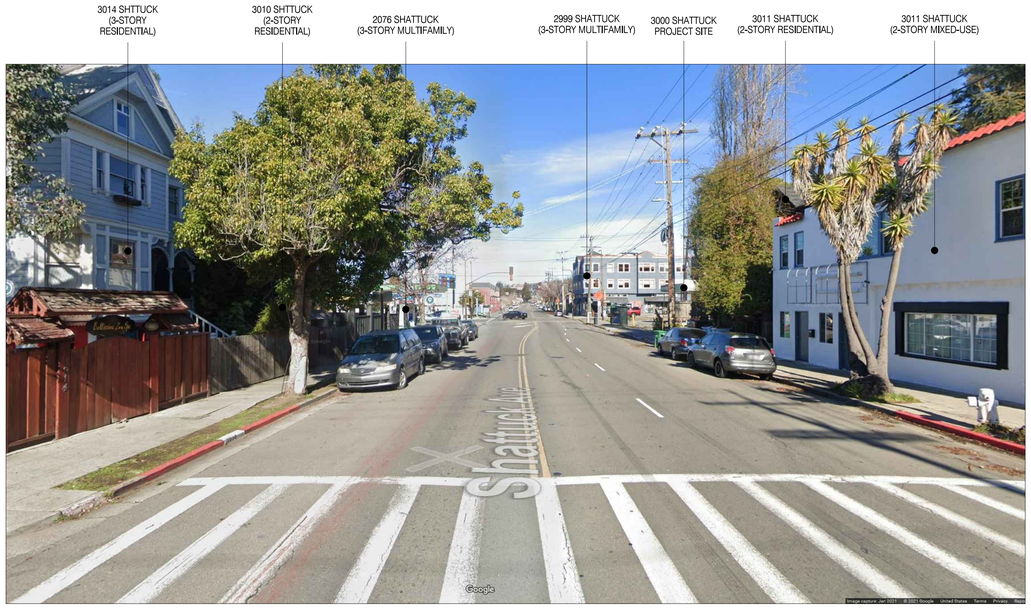
A0.4C



4 - VIEW FROM SHATTUCK LOOKING SOUTH



2 - VIEW FROM ASHBY LOOKING WEST



3 - VIEW FROM SHATTUCK LOOKING NORTH



1 - GOOGLE EARTH BIRD'S EYE CONTEXT VIEW

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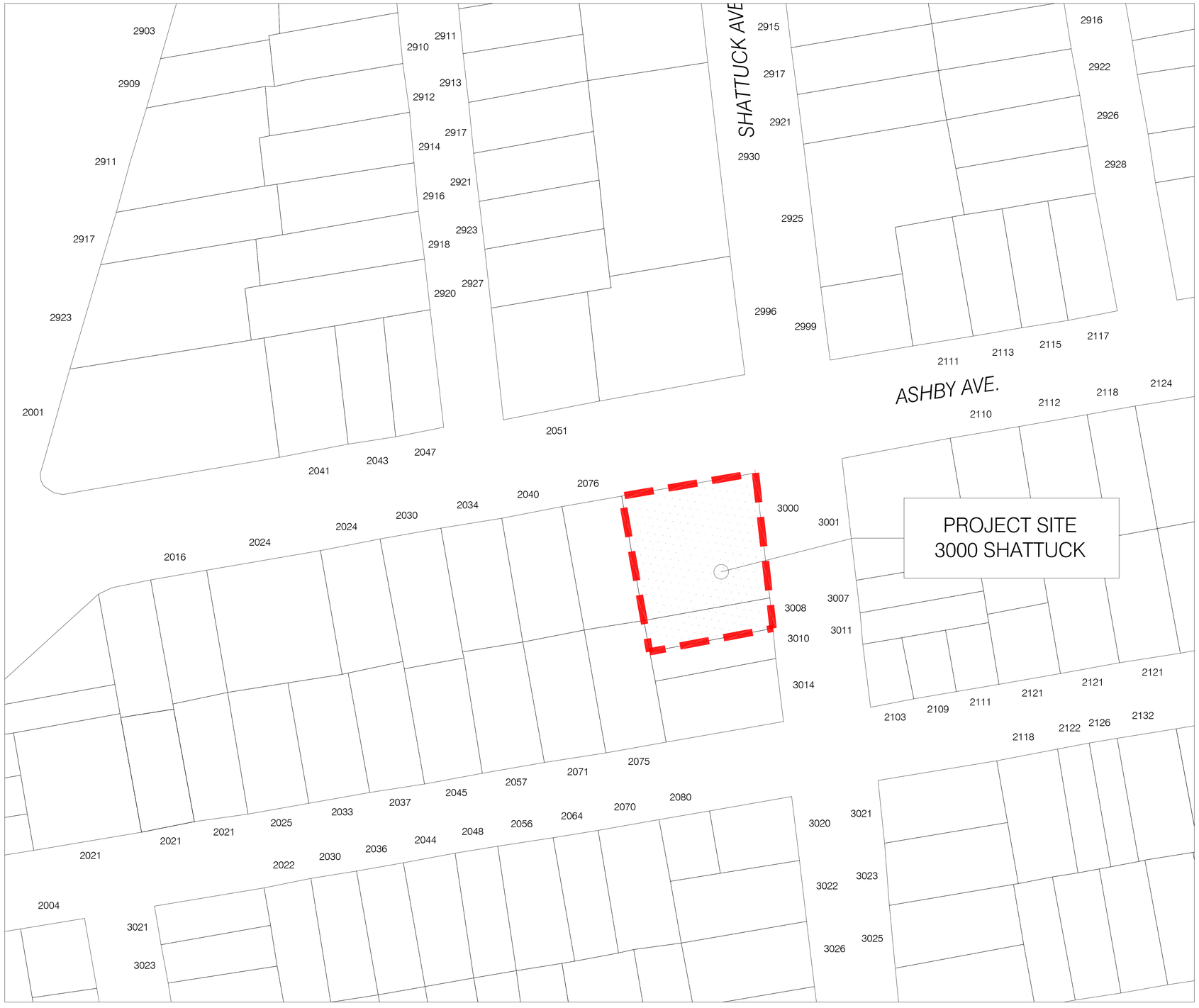
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SHEET:

SITE CONTEXT
PHOTOS

A0.5



1 - VICINITY MAP
NTS

N

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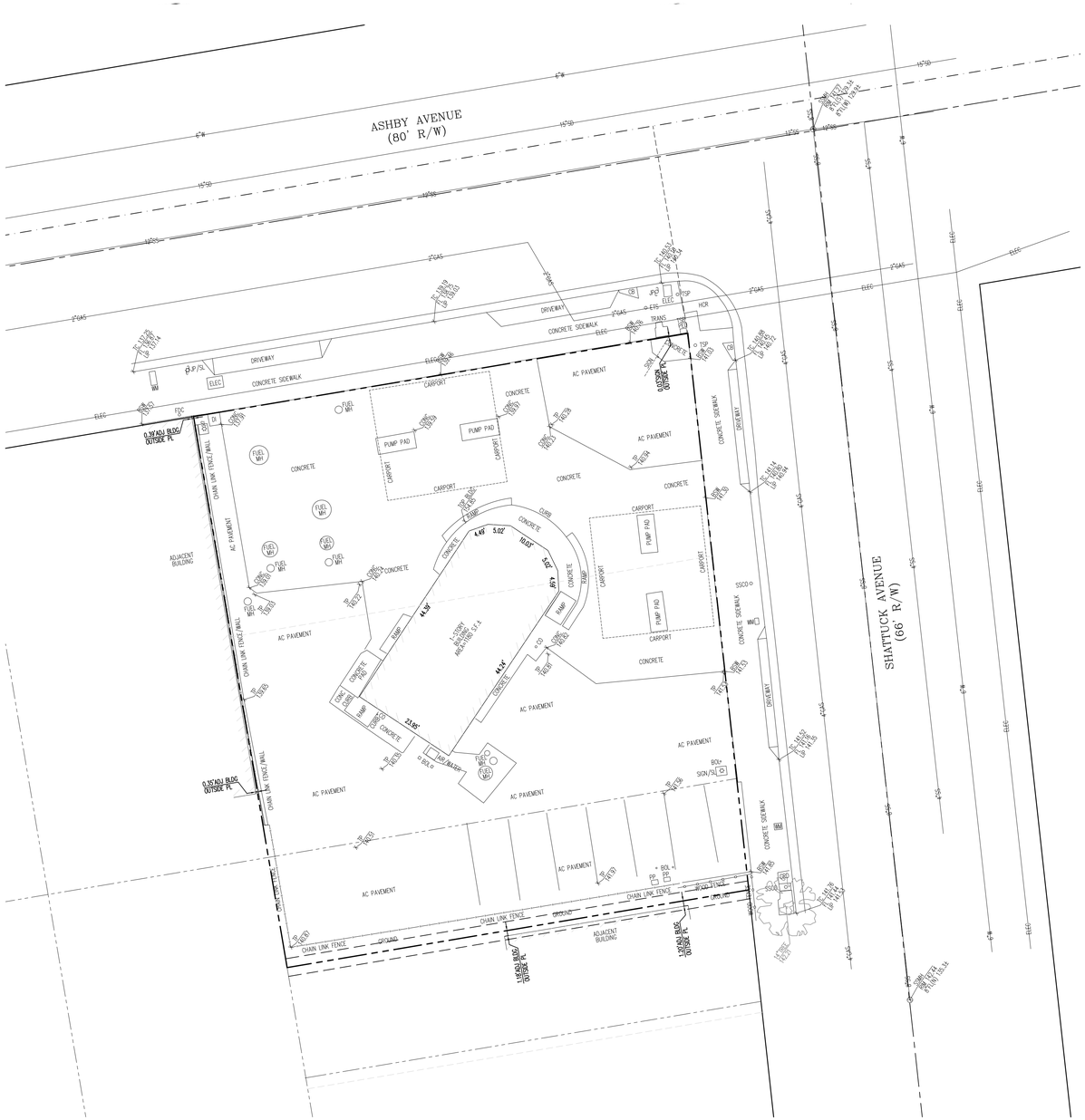
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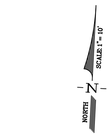
JOB: 2104

SHEET:

VICINITY MAP

A0.6





GRAPHIC SCALE
10 0 5 10 20
(IN FEET)
1 inch = 10 ft.

LEGEND

SYMBOLS	DESCRIPTION
	BOUNDARY OF SUBJECT PROPERTU
	RIGHT OF WAY LINE
	INTERIOR PROPERTY LINE
	MONUMENT LINE
	CENTERLINE
	TIE LINE
	OLD LOT LINE
	EASEMENT LINE
WM	WATER METER
SSMH	SANITARY SEWER MAN HOLE
JP	JOINT POLE
SL	STREET LIGHT
CB	CATCH BASIN
FDC	FIRE DEPARTMENT CONNECTOR
ELEC	ELECTRIC BOX
ETS	ELECTROLYSIS TEST SYSTEM
DI	DRAIN INLET
TRANS	TRANSFORMER
SSCO	SANITARY SEWER CLEAN OUT
TSP	TRAFFIC SIGNAL POLE
HCR	HANDICAP RAMP
PP	POWER POLE
TSB PED	TRAFFIC SIGNAL BOX PEDESTAL
AC PAVEMENT	ASPHALT CONCRETE
BOL	BOLLARD
FUEL MH	FUEL MAN HOLE
CONC	BOLLARD
GRD	FUEL MAN HOLE
BSW 65.60	BACK OF SIDEWALK ELEVATION
CONC 65.60	TOP OF CONCRETE ELEVATION
LIP 65.60	LIP OF GUTTER ELEVATION
TC 65.64	TOP OF CURB ELEVATION
TP 65.64	TOP OF PAVEMENT ELEVATION
FL 65.64	FLOW LINE ELEVATION
	TREE
SS	SANITARY SEWER LINE
W	WATER LINE
SD	STORM DRAIN LINE
GAS	STORM DRAIN LINE
ELEC	STORM DRAIN LINE

ALTA/NSPS
LAND TITLE SURVEY

OF

3000 SHATTUCK AVENUE
CITY OF BERKELEY, ALAMEDA COUNTY, CALIFORNIA
MARCH 2022

PREPARED BY

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

1 – SURVEY / EXISTING CONDITIONS

3/64" = 1'-0" @ 24X36 3/32' = 1'-0" @ 11X17

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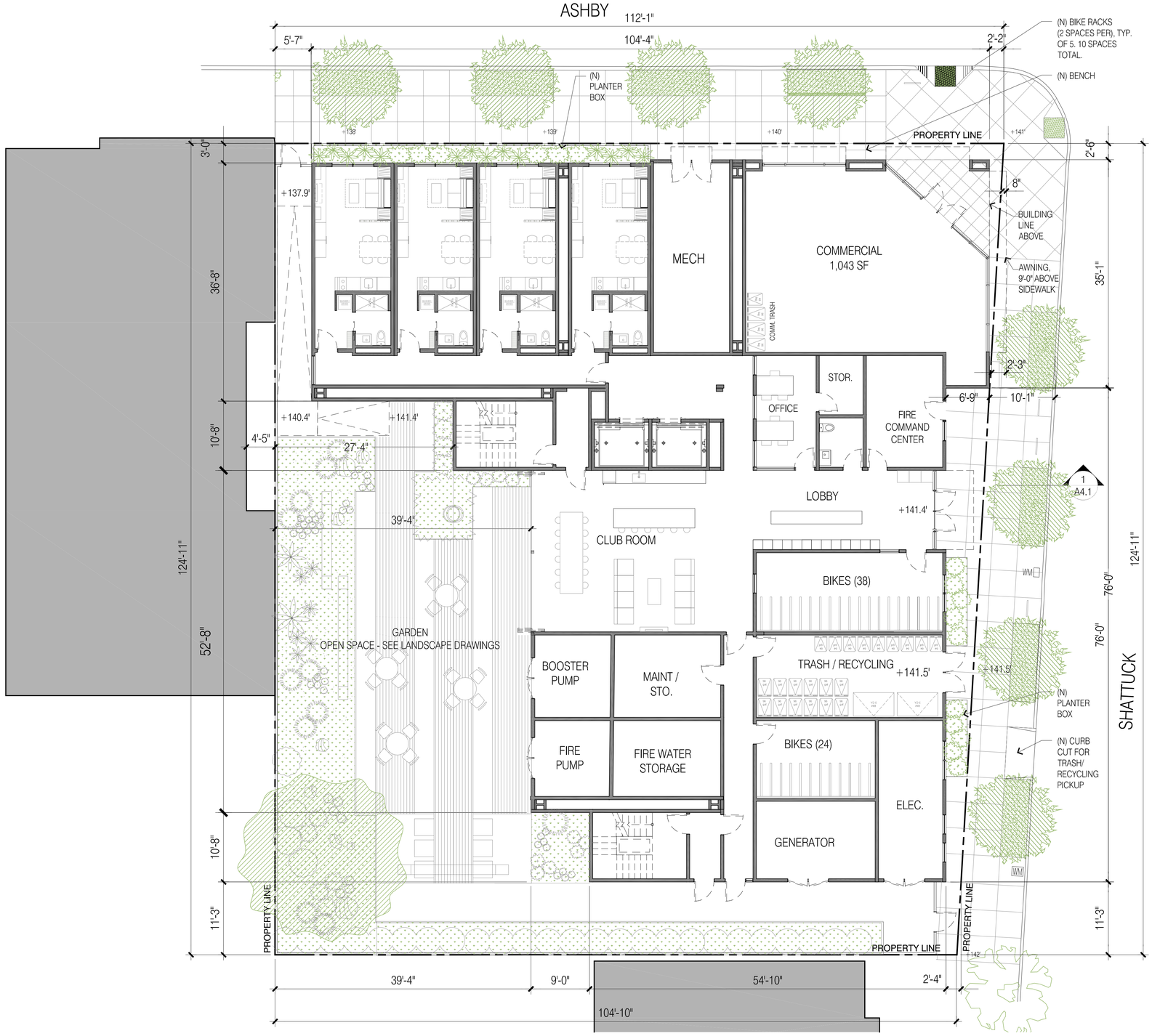
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SHEET:

SURVEY /
EXISTING CONDITIONS

A1.1



1 - GROUND LEVEL PLAN

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

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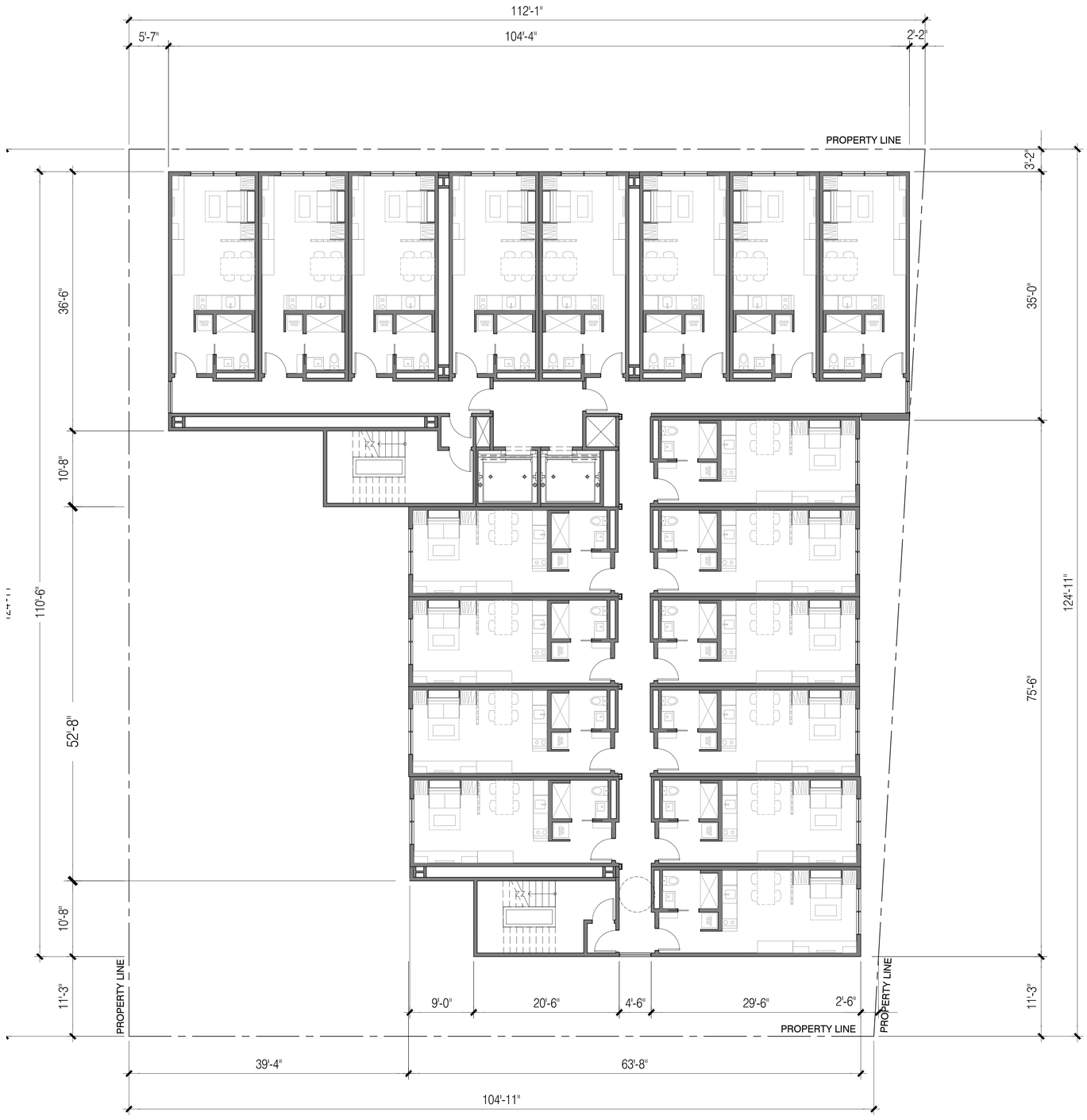
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SHEET:

PLAN AT GROUND LEVEL

A2.1



1 - PLAN AT LEVEL 2

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

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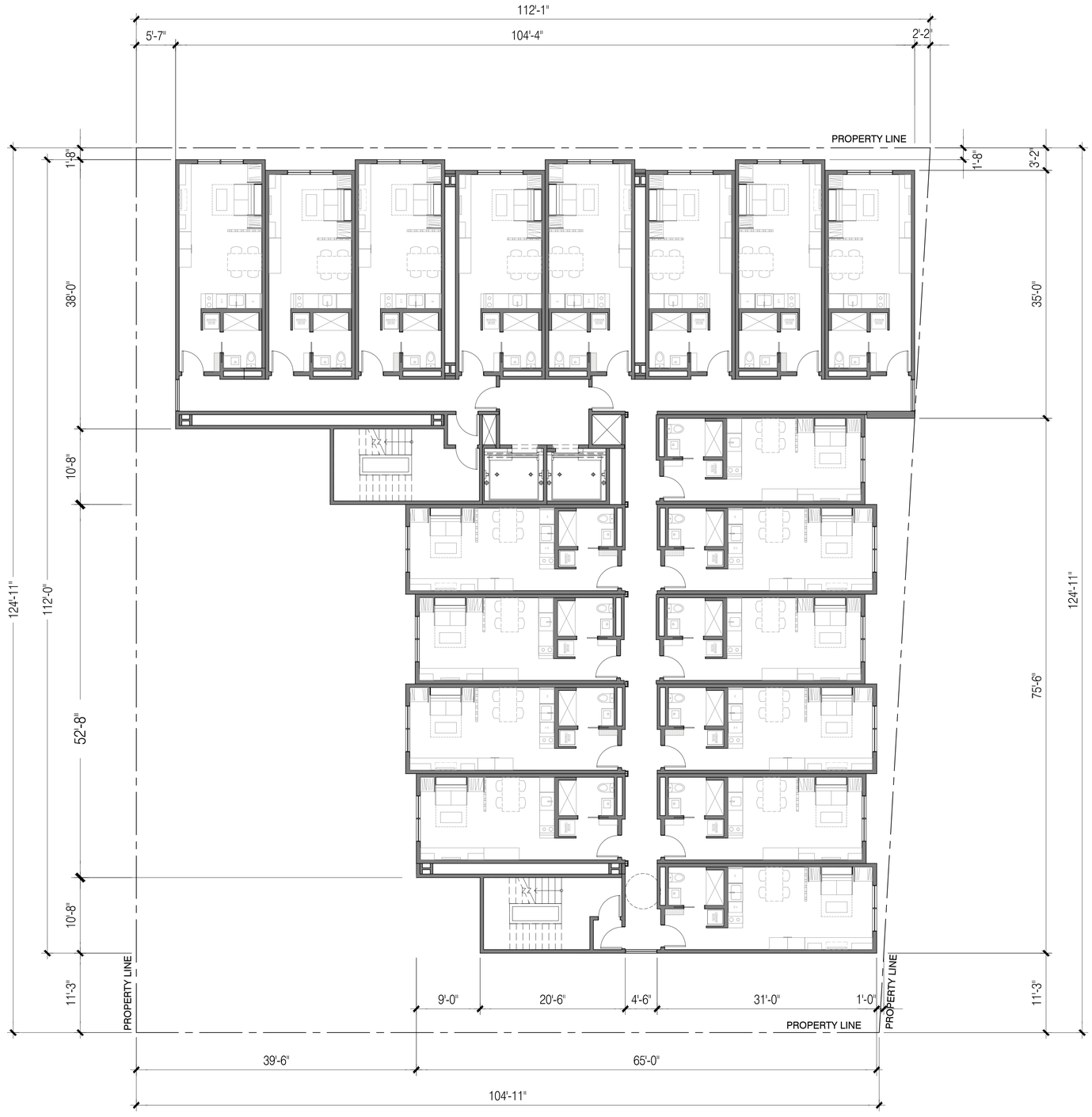
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JOB: 2104

SHEET:

PLAN AT LEVEL 2

A2.2



1
-

FLOORS 3-10 PLANS

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

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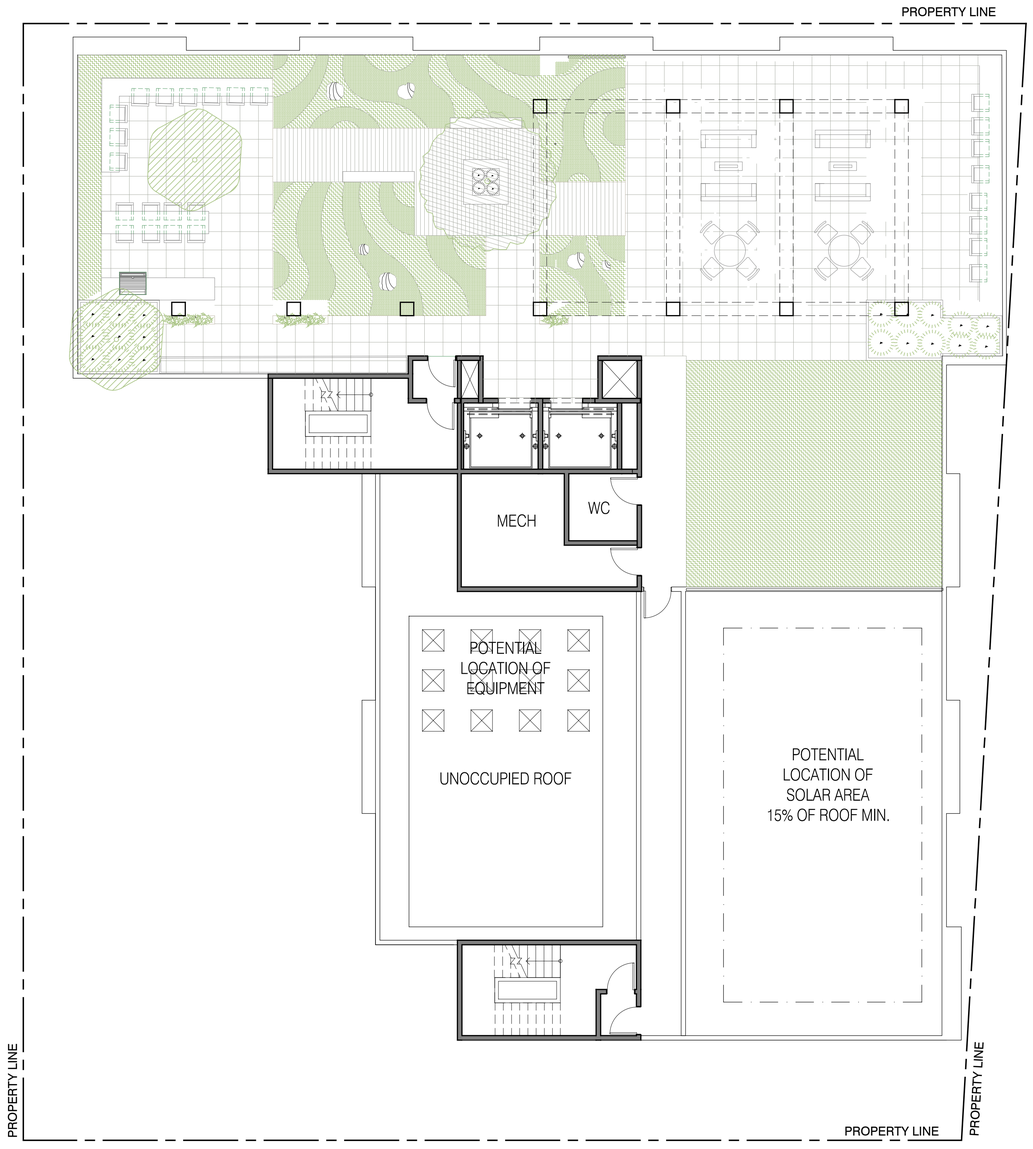
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JOB: 2104

SHEET:

PLANS
FLOORS 3-10

A2.3



1 - PLAN AT ROOF DECK LEVEL

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

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JOB: 2104

SHEET:

PLAN AT
ROOF DECK LEVEL

A2.4



1 - EAST ELEVATION

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

0 4 8 16

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SHEET:

BUILDING ELEVATIONS

A3.1



1 - NORTH ELEVATION

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

0 4 8 16

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JOB: 2104

SHEET:

BUILDING ELEVATIONS

A3.2



1 - WEST ELEVATION

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

0 4 8 16

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SHEET:

BUILDING ELEVATIONS

A3.3



1 - SOUTH ELEVATION

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

0 4 8 16

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SHEET:

BUILDING ELEVATIONS

A3.4



2 - STREET STRIP ELEVATION @ ASHBY AVENUE

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

0 4 8 16 32



1 - STREET STRIP ELEVATION @ SHATTUCK AVENUE

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

0 4 8 16 32

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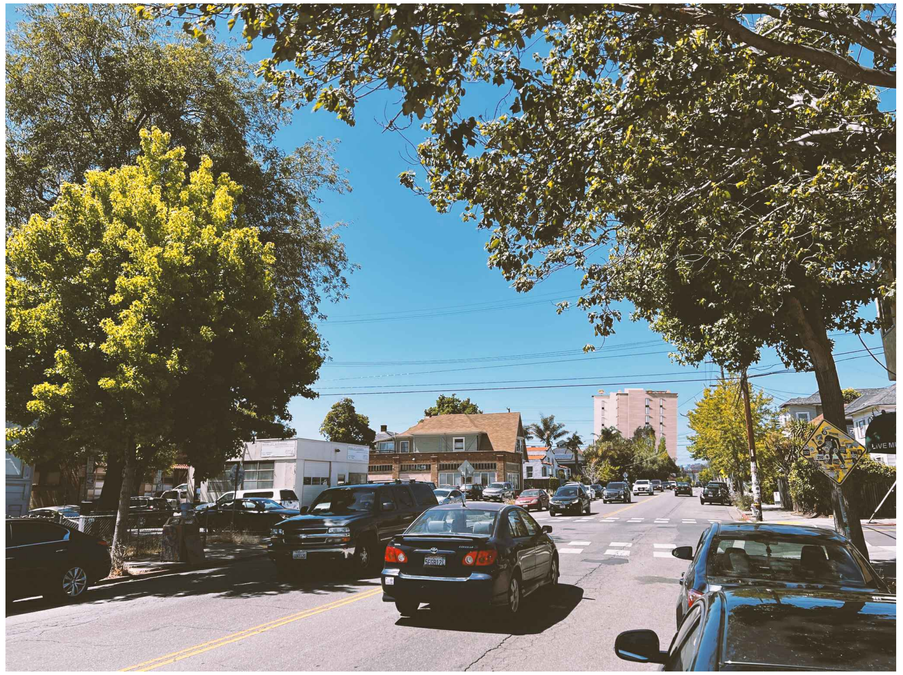
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SHEET:

STREET STRIP ELEVATIONS

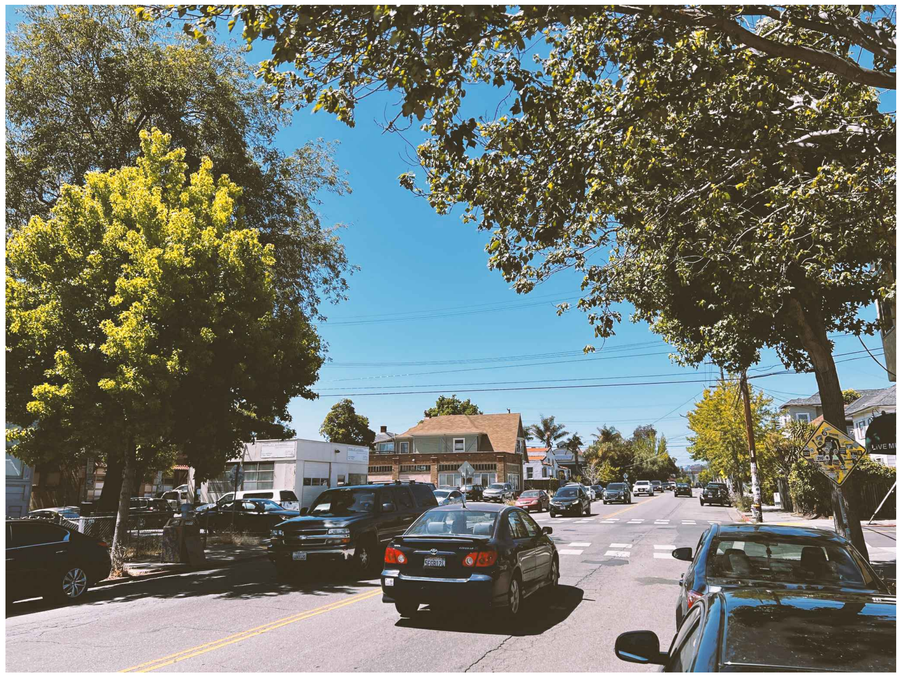
A3.5



4 - SHATTUCK LOOKING NORTH - AFTER



2 - SHATTUCK LOOKING SOUTH - AFTER



3 - SHATTUCK LOOKING NORTH - BEFORE



1 - SHATTUCK LOOKING SOUTH - BEFORE

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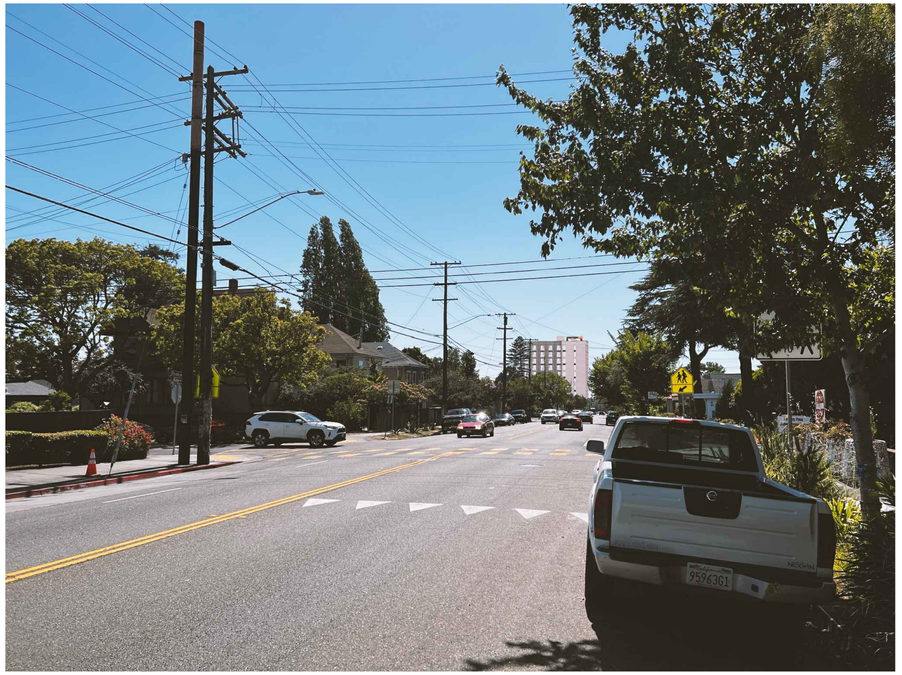
SHEET:

PHOTO CONTEXT VIEWS

A3.6



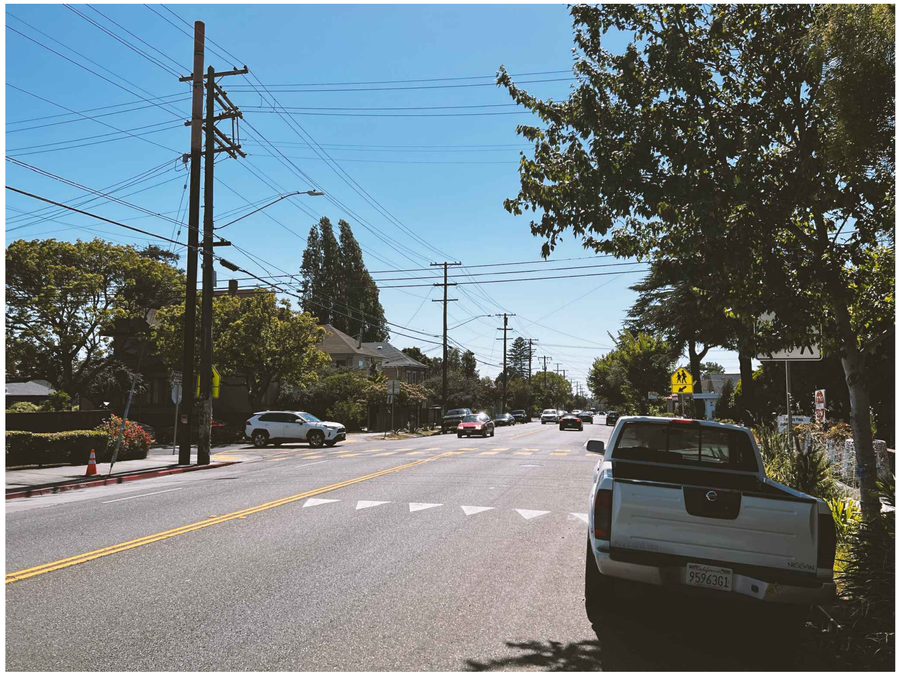
4
-
ASHBY LOOKING EAST - AFTER



2
-
ASHBY LOOKING WEST - AFTER



3
-
ASHBY LOOKING EAST - BEFORE



1
-
ASHBY LOOKING WEST - BEFORE

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SHEET:

PHOTO CONTEXT VIEWS

A3.7



1
-

VIEW ALONG SHATTUCK LOOKING SOUTH WEST

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SHEET:

PERSPECTIVE VIEWS

A3.8

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1 - VIEW ALONG ASHBY LOOKING SOUTH WEST

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SHEET:

PERSPECTIVE VIEWS

A3.9



1
-

VIEW ALONG SHATTUCK LOOKING NORTH WEST

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PERSPECTIVE VIEWS

A3.10

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1
-
VIEW ALONG ASHBY LOOKING EAST

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PERSPECTIVE VIEWS

A3.11



1
-

DETAIL AT SIDEWALK LEVEL

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PERSPECTIVE VIEWS

A3.12



1
-

RETAIL ENTRY CLOSE-UP VIEW

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PERSPECTIVE VIEWS

A3.13



1
-

DETAIL AT SIDEWALK LOOKING EAST

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SHEET:

PERSPECTIVE VIEWS

A3.14



1
-

DETAIL AT SIDEWALK LOOKING NORTHWEST

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SHEET:

PERSPECTIVE VIEWS

A3.15



1
-

LOBBY ENTRY CLOSE-UP VIEW

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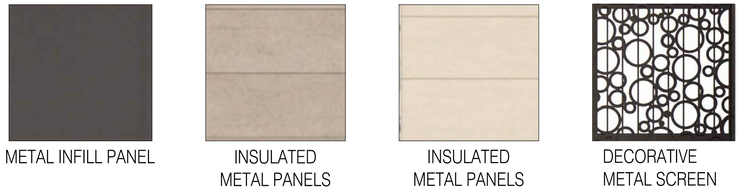
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SHEET:

PERSPECTIVE VIEWS

A3.16





1 - NORTH ELEVATION

3/32"=1'-0" @ 11X17 3/16" = 1'-0" @ 24X36

0 4 8 16

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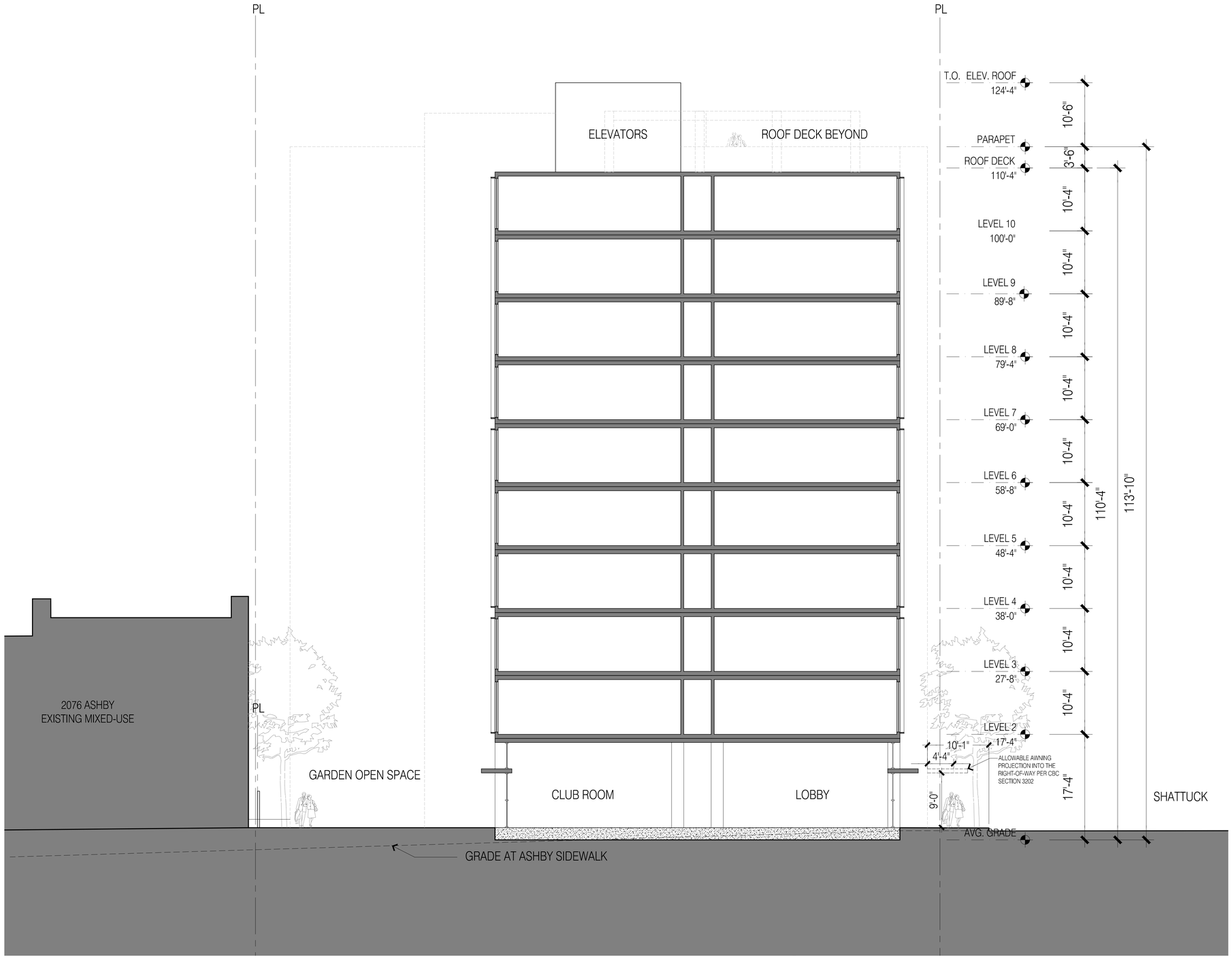
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SHEET:

BUILDING MAT

MAT



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

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BUILDING SECTION

A4.1

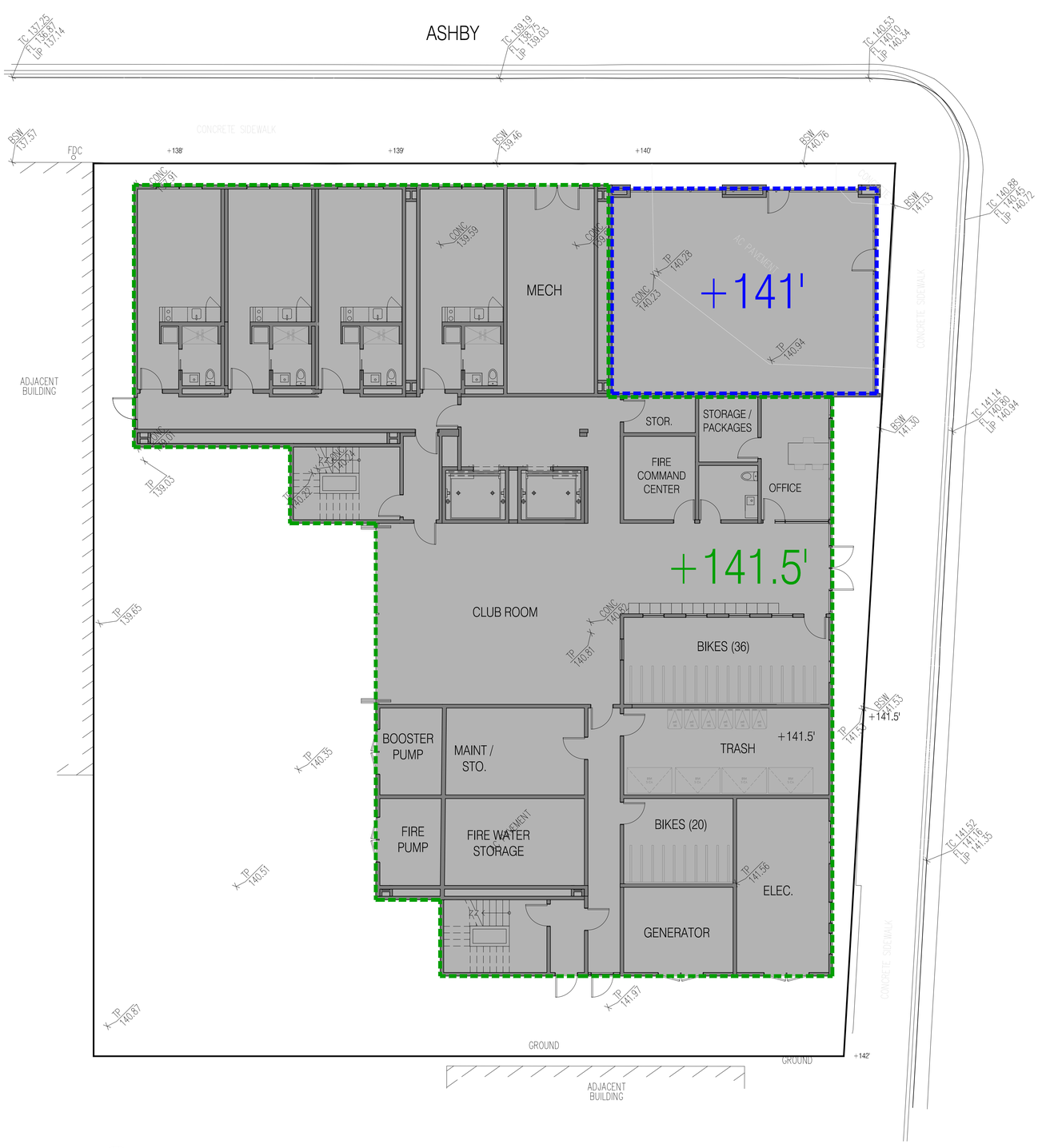
CUT AND FILL CALCULATIONS

	CUT/FILL AREA	AVERAGE CUT/FILL DEPTH (FT)	TOTAL VOLUME (CY)
PROPOSED BUILDING	8,502	2	630

EARTHWORK NOTES:

1. EARTHWORK QUATNITY IS A ROUGH ESTIMATE BASED ON A BUILDING PAD ELEVATION 12" BELOW FF OF GROUND FLOOR LEVEL. QUANTITIES MAY VARY DUE TO FINAL STRUCTURAL FOUNDATIONS AND PAVEMENT THICKNESS.

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



1 / - GROUND LEVEL PLAN

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

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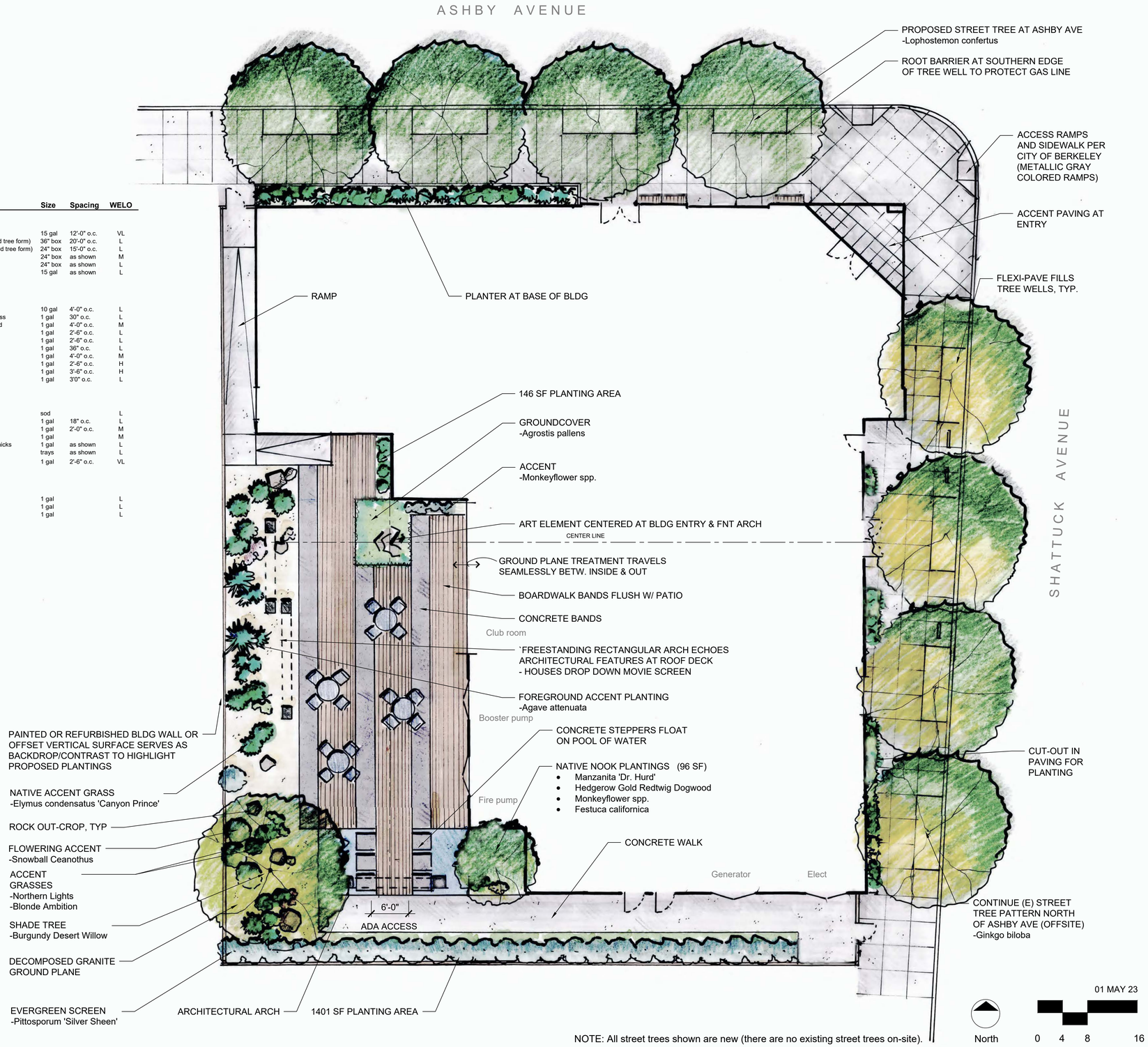
CONCEPTUAL GRADING PLAN

A5.1

Plant List

Index	Latin Name	Common Name	Size	Spacing	WELO
Trees					
AM	Arctostaphylos manzanita 'Dr. Hurd'	Manzanita	15 gal	12'-0" o.c.	VL
CL	Chilopsis linearis 'Burgundy'	Burgundy Desert Willow (standard tree form)	36" box	20'-0" o.c.	L
CR	Ceanothus 'Ray Hartman'	Ray Hartman Ceanothus (standard tree form)	24" box	15'-0" o.c.	L
GB	Ginkgo biloba	Ginkgo	24" box	as shown	M
LC	Lophstemon confertus	Brisbane Box	24" box	as shown	L
MC	Myrica californica	Pacific Wax Myrtle	15 gal	as shown	L
Shrubs					
AA	Agave attenuata 'Ray of Light'	Ray of Light Foxtail Agave	10 gal	4'-0" o.c.	L
BG	Bouteloua gracilis 'Blonde Ambition'	Blonde Ambition Blue Grama Grass	1 gal	30" o.c.	L
CS	Cornus sericea, C. Stolonifera 'Hedgerow Gol	Hedgerow Gold Redtwig Dogwood	1 gal	4'-0" o.c.	M
DA	Diplacus aurantiacus	Orange Bush Monkeyflower	1 gal	2'-6" o.c.	L
DP	Diplacus puniceus, Mimulus puniceus	Red Bush Monkeyflower	1 gal	2'-6" o.c.	L
EC	Elymus condensatus 'Canyon Prince'	Canyon Prince' Blue Rye Grass	1 gal	36" o.c.	L
FC	Festuca californica	California Fescue	1 gal	4'-0" o.c.	M
JE	Juncus effusus	Soft Rush	1 gal	2'-6" o.c.	H
JP	Juncus patens	Common Rush	1 gal	3'-6" o.c.	H
MR	Muhlenbergia rigens	Deer Grass	1 gal	3'0" o.c.	L
Groundcovers					
AP	Agrostis pallens	West Coast Native Bunchgrass	sod		L
CF	Calamagrostis foliosa	Mendocino Reed Grass	1 gal	18" o.c.	L
DC	Deschampsia cespitosa 'Northern Lights'	Northern Lights Tufted Hairgrass	1 gal	2'-0" o.c.	M
HA	Heuchera americana 'Green Spice'	Green Spice Coral Bells	1 gal		M
SK	Sempervivum 'Krebs 2'	Krebs Desert Bloom Hens and Chicks	1 gal	as shown	L
SR	Sedum rupestre 'Angelina'	Angelina Stonecrop	trays	as shown	L
ZC	Epilobium canum (Zauschneria californica)	California Fuschia	1 gal	2'-6" o.c.	VL
Rooftop Sedums					
SC1	Sedum spathulifolium 'Purpureum'	Red Pacific Stonecrop	1 gal		L
SC2	Sedum spathulifolium 'Cape Blanco'	Cape Blanco Pacific Stonecrop	1 gal		L
SC3	Sedum divergens	Pacific Stonecrop	1 gal		L

Note: *At least 80% of all plantings will be California natives.*



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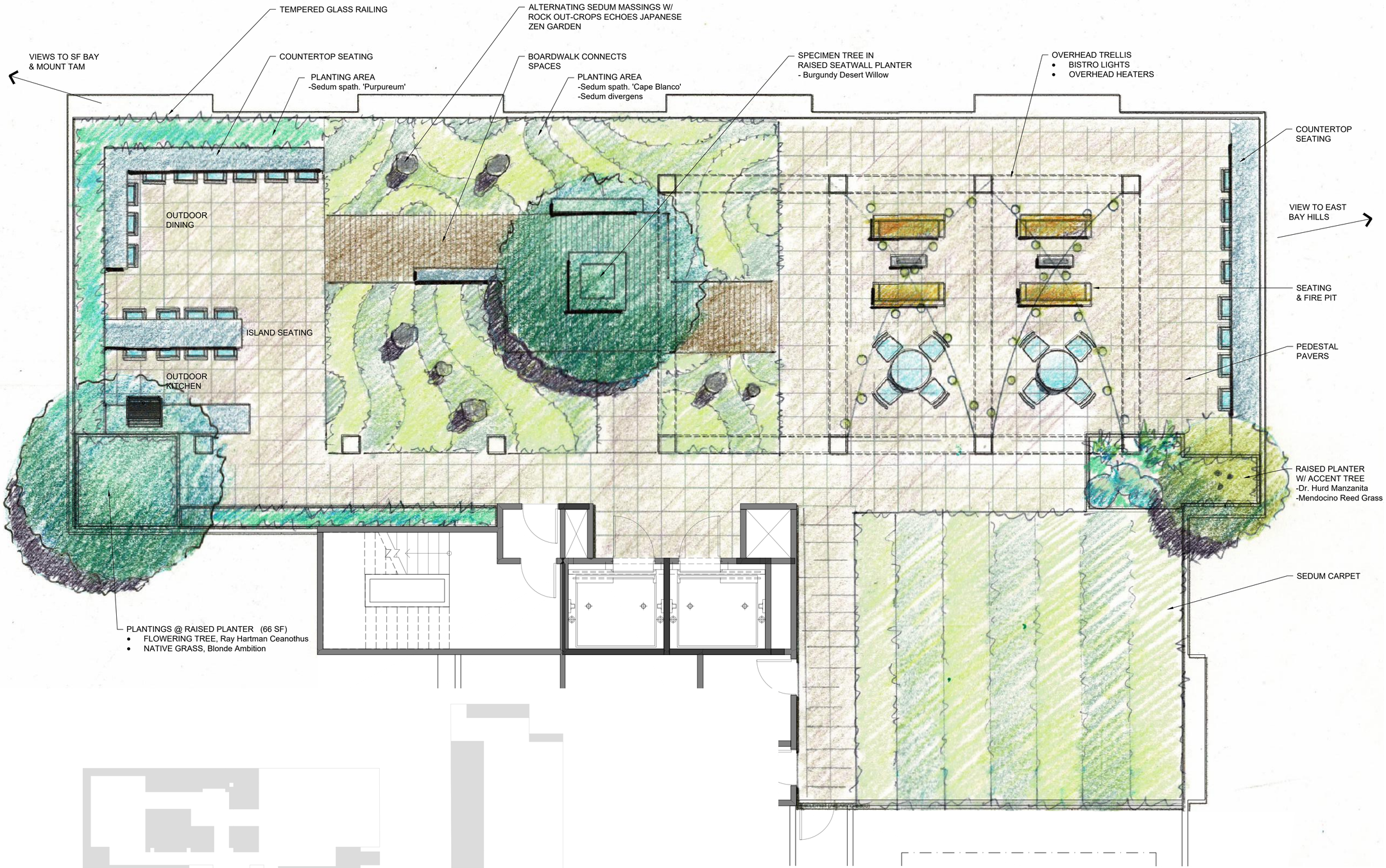
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JOB: 2104

SHEET:

GROUND LEVEL LANDSCAPE PLAN

L1.0



ROOF DECK TOTAL AREA = 4,488 SF

ROOF DECK PLANTING AREA = 1,830 SF

ROOF DECK LANDSCAPE % = 40%

GROUND LEVEL TOTAL AREA = 3,391 SF

GROUND LEVEL PLANTING AREA = 1,356 SF

GROUND LEVEL LANDSCAPE % = 40%

North

0 2 4 8

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ROOF DECK
GROUND LEVEL

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JOB 2104

SHEET

LANDSCAPE IMAGERY

L2.0

PLAN NOTES LEGEND

1. 1" WATER METER FOR IRRIGATION TO BE PROVIDED BY UTILITY EBMUD. MAXIMUM IRRIGATION DEMAND: ( )GPM AT ( )PSI STATIC PRESSURE AT WATER METER LOCATION.
2. INSTALL A 1" IRRIGATION BACKFLOW PREVENTER AT THIS APPROXIMATE LOCATION.
3. APPROXIMATE LOCATION OF BOOSTER PUMP BY OTHERS. PRESSURE ON DISCHARGE SIDE OF BOOSTER PUMP SHALL BE 95 PSI.
4. IRRIGATION CONTROLLER "C". MOUNT ON INTERIOR WALL AT THIS LOCATION AS DETAILED AND AS DIRECTED BY ARCHITECT. CONNECT TO 120 VOLT A.C. ELECTRICAL SERVICE INSTALLED AT THIS LOCATION UNDER ELECTRICAL CONTRACT. IRRIGATION CONTRACTOR SHALL COORDINATE LOCATION OF ELECTRICAL SERVICE PRIOR TO CONSTRUCTION.
5. IRRIGATION MASTER VALVE AND FLOW SENSOR.
6. INSTALL A 1" PRESSURE REDUCING VALVE FOR MAIN SERVICING SITE LEVEL. SET PRESSURE TO BE 50 PSI.
7. 1.25" COPPER PIPE STUB-OUT FOR IRRIGATION FROM MECHANICAL ROOM TO THIS APPROXIMATE LOCATION TO SERVICE SITE LEVEL PLANTERS TO BE PROVIDED AND INSTALLED IN-STRUCTURE UNDER PLUMBING CONTRACT. COORDINATE INSTALLATION OF PIPE WITH GENERAL/PLUMBING CONTRACTOR(S) PRIOR TO CONSTRUCTION.
8. 1.25" ELECTRICAL CONDUIT AND SPLICE BOX FOR 2-WIRE CABLE TO BE PROVIDED AND INSTALLED FROM IRRIGATION CONTROLLER "C" TO THIS LOCATION UNDER ELECTRICAL CONTRACT WORK BY A LICENSED ELECTRICAL CONTRACTOR. COORDINATE INSTALLATION OF CONDUIT WITH GENERAL/ELECTRICAL CONTRACTOR(S) PRIOR TO CONSTRUCTION.
9. 1.25" COPPER PIPE STUB-OUT FOR IRRIGATION FROM MECHANICAL ROOM TO THIS APPROXIMATE LOCATION TO SERVICE ROOF LEVEL PLANTERS TO BE PROVIDED AND INSTALLED IN-STRUCTURE UNDER PLUMBING CONTRACT. COORDINATE INSTALLATION OF PIPE WITH GENERAL/PLUMBING CONTRACTOR(S) PRIOR TO CONSTRUCTION.
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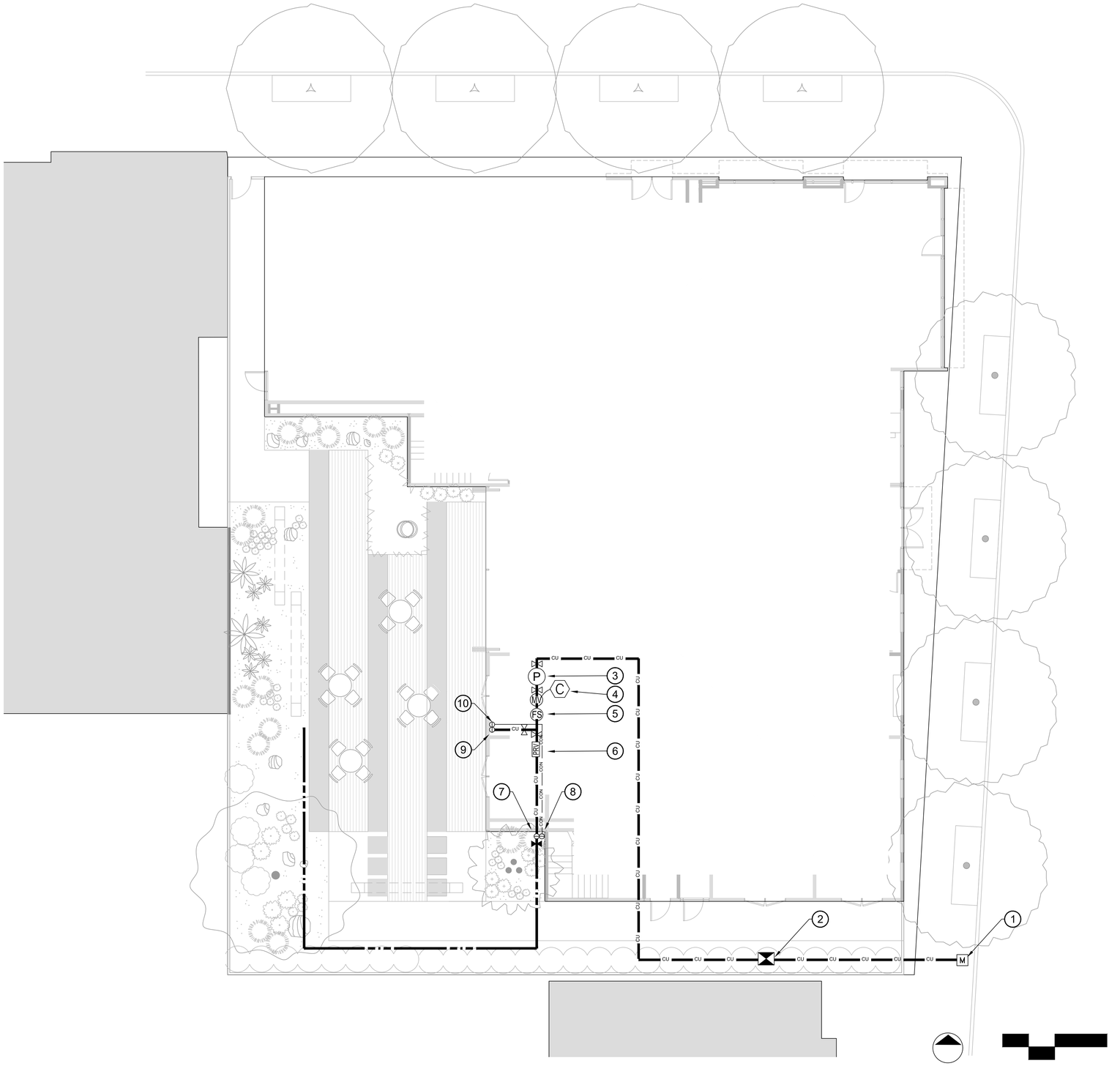
NOTES:

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3. UNSIZED LATERAL LINE PIPING LOCATED DOWN STREAM OF 1" PIPING SHALL BE 3/4" IN SIZE (TYPICAL).
4. SIZING OF LATERAL PIPE SHALL BE AS FOLLOWS:

   0.75" 0-6 GPM
   1" 7-12 GPM

5. SIZING OF LATERAL PIPE FOR DRIPLINE (12" O.C. GRID WITH 0.6 GPH OR LESS EMITTERS) SHALL BE AS FOLLOWS:

   0.75 0-500 FT
   1" 501-1100 FT



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JOB: 2104

SHEET:

GROUND LEVEL IRRIGATION PLAN

I1.0

PLAN NOTES LEGEND

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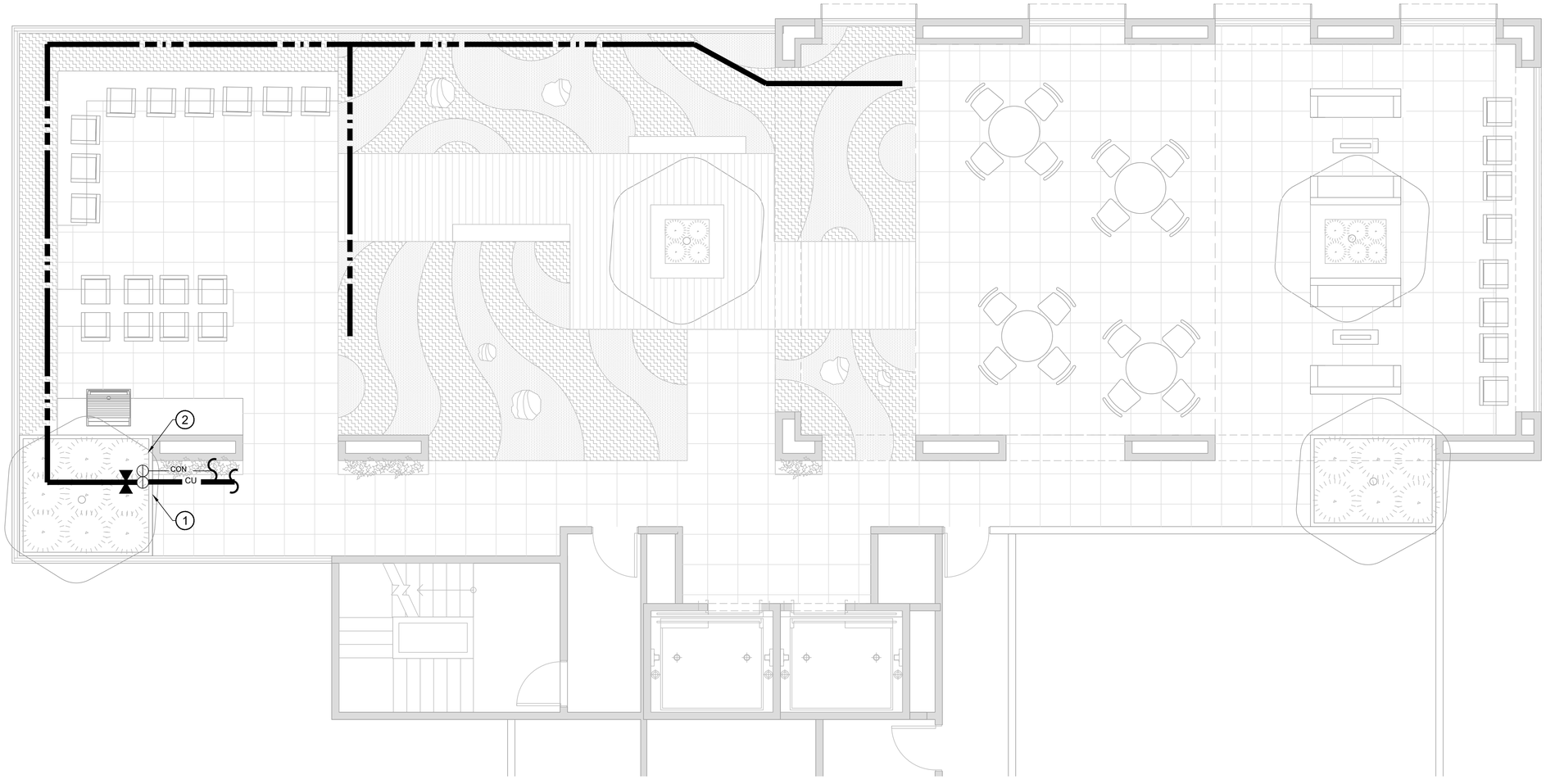
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JOB: 2104

SHEET:

ROOF DECK
IRRIGATION PLAN

I1.1

IRRIGATION NOTES

1. THESE IRRIGATION DRAWINGS ARE DIAGRAMMATIC AND INDICATIVE OF THE WORK TO BE INSTALLED. ALL PIPING, VALVES, AND OTHER IRRIGATION COMPONENTS MAY BE SHOWN WITHIN PAVED AREAS FOR GRAPHIC CLARITY ONLY AND ARE TO BE INSTALLED WITHIN PLANTING AREAS. DUE TO THE SCALE OF THE DRAWINGS, IT IS NOT POSSIBLE TO INDICATE ALL OFFSETS, FITTINGS, SLEEVES, CONDUIT, AND OTHER ITEMS WHICH MAY BE REQUIRED. INVESTIGATE THE STRUCTURAL AND FINISHED CONDITION AFFECTING THE CONTRACT WORK INCLUDING OBSTRUCTIONS, GRADE DIFFERENCES OR AREA DIMENSIONAL DIFFERENCES. IN THE EVENT OF FIELD DISCREPANCY WITH CONTRACT DOCUMENTS, PLAN THE INSTALLATION WORK ACCORDINGLY BY NOTIFICATION AND APPROVAL OF THE OWNER'S AUTHORIZED REPRESENTATIVE AND ACCORDING TO THE CONTRACT SPECIFICATIONS. NOTIFY AND COORDINATE IRRIGATION CONTRACT WORK WITH APPLICABLE CONTRACTORS FOR THE LOCATION AND INSTALLATION OF PIPE, CONDUIT OR SLEEVES THROUGH OR UNDER WALLS, ROADWAYS, PAVING AND STRUCTURES BEFORE CONSTRUCTION. IN THE EVENT THESE NOTIFICATIONS ARE NOT PERFORMED, THE CONTRACTOR ASSUMES FULL RESPONSIBILITY FOR REQUIRED REVISIONS.

2. THE CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE CODES, STANDARDS, AND REGULATIONS. ALL WORK AND MATERIALS SHALL BE IN FULL ACCORDANCE WITH THE LATEST RULES AND REGULATIONS OF THE NATIONAL ELECTRIC CODE; THE UNIFORM PLUMBING CODE, PUBLISHED BY THE WESTERN PLUMBING OFFICIALS ASSOCIATION; AND OTHER STATE OR LOCAL LAWS OR REGULATIONS. NOTHING IN THESE DRAWINGS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THESE CODES OR REGULATIONS. THE CONTRACTOR SHALL FURNISH WITHOUT ANY EXTRA CHARGE, ANY ADDITIONAL MATERIAL AND LABOR WHEN REQUIRED BY THE COMPLIANCE WITH THESE CODES AND REGULATIONS.

3. THE CONTRACTOR SHALL COORDINATE INSTALLATION OF IRRIGATION SYSTEM WITH LAYOUT AND INSTALLATION OF THE PLANT MATERIALS TO INSURE THAT THERE WILL BE COMPLETE AND UNIFORM IRRIGATION COVERAGE OF PLANTING IN ACCORDANCE WITH THESE DRAWINGS, AND CONTRACT DOCUMENTS. THE IRRIGATION LAYOUT SHALL BE CHECKED BY THE CONTRACTOR AND OWNER'S AUTHORIZED REPRESENTATIVE PRIOR TO CONSTRUCTION TO DETERMINE IF ANY CHANGES, DELETIONS, OR ADDITIONS ARE REQUIRED. IRRIGATION SYSTEM SHALL BE INSTALLED AND TESTED PRIOR TO INSTALLATION OF PLANT MATERIAL.

4. THE INTENT OF THIS IRRIGATION SYSTEM IS TO PROVIDE THE MINIMUM AMOUNT OF WATER REQUIRED TO SUSTAIN GOOD PLANT HEALTH.

5. IT IS THE RESPONSIBILITY OF THE MAINTENANCE CONTRACTOR AND/OR OWNER TO PROGRAM THE IRRIGATION CONTROLLER(S) TO PROVIDE THE MINIMUM AMOUNT OF WATER NEEDED TO SUSTAIN GOOD PLANT HEALTH. THIS INCLUDES MAKING ADJUSTMENTS TO THE PROGRAM FOR SEASONAL WEATHER CHANGES, PLANT MATERIAL, WATER REQUIREMENTS, MOUNDS, SLOPES, SUN, SHADE AND WIND EXPOSURE.

6. IT IS THE RESPONSIBILITY OF A LICENSED ELECTRICAL CONTRACTOR TO PROVIDE 120 VOLT A.C. (2.5 AMP DEMAND PER CONTROLLER) ELECTRICAL SERVICE TO THE CONTROLLER LOCATION(S). IT IS THE RESPONSIBILITY OF THE IRRIGATION CONTRACTOR TO COORDINATE THE ELECTRICAL SERVICE STUB-OUT TO THE CONTROLLER(S). PROVIDE PROPER GROUNDING PER CONTROLLER MANUFACTURER'S INSTRUCTIONS AND IN ACCORDANCE WITH LOCAL CODES.

7. INSTALL NEW BATTERIES IN THE IRRIGATION CONTROLLER(S) TO RETAIN PROGRAM IN MEMORY DURING TEMPORARY POWER FAILURES. USE QUANTITY, TYPE AND SIZE REQUIRED AS PER CONTROLLER MANUFACTURER'S INSTRUCTIONS.

8. SCHEDULE A MEETING WHICH INCLUDES REPRESENTATIVES OF THE IRRIGATION CONTROLLER MANUFACTURER, THE MAINTENANCE CONTRACTOR, THE OWNER AND THE IRRIGATION CONTRACTOR AT THE SITE FOR INSTRUCTION ON THE PROPER PROGRAMMING AND OPERATION OF THE IRRIGATION CONTROLLER.

9. INSTALL 2-WIRE CABLE ALONG THE MAIN LINE. CONTACT CONTROLLER REPRESENTATIVE FOR A PRE-CONSTRUCTION MEETING.

10. INSTALL 2-WIRE CABLE WITHIN 1.25" CONDUIT WITH LONG SWEEPS IN AND OUT OF EACH VALVE BOX. SEAL ALL CONDUIT OPENINGS WITH WATERPROOF FOAM.

11. INSTALL A 14"X19" GREY ELECTRICAL PULL BOX EVERY 200' AND AT EVERY CHANGE IN DIRECTION. ONLY SPLICE TWO WIRE CABLE AT THREE WAY WIRE CONNECTIONS.

12. IRRIGATION CONTROL WIRES: SOLID COPPER WITH U.L. APPROVAL FOR DIRECT BURIAL IN GROUND. SIZE #14AWG WIRE WITH A JACKETED 2-CONDUCTOR. PREFERRED WIRE MAKE AND MODEL IS THE PAIGE IRRIGATION WIRE, SPEC P7072D. ALL SPLICING SHALL BE MADE WITH 3-M DBR/Y-6 WATERPROOF SPLICE KIT.

13. DECODER GROUNDING SHALL BE PROVIDED EVERY 600 FEET, AT THE CONTROLLER AND AT THE LAST DECODER OR AT THE END OF THE 2 WIRE PATH. GROUND WITH A 5/8" X 8' COPPER CLAD GROUNDING ROD. #6 COPPER WIRE TO SURGE DEVICE/DECODER. INCLUDE A SURGE ARRESTOR AT EACH GROUNDING LOCATION. A SPLIT BOLT CONNECTION TO BE USED TO CONNECT THE SURGE DEVICE TO THE GROUND WIRE WITH A DBR/Y-6 WATERPROOF CONNECTOR.

14. SPLICING OF JACKETED 2-WIRE IS PERMITTED IN VALVE BOXES ONLY. LEAVE A 24" LONG COIL OF WIRE AT EACH SPLICE AND A 24" LONG EXPANSION LOOP IN ALL PULL BOXES.

15. INSTALL BLACK PLASTIC VALVE BOXES WITH BOLT DOWN, NON HINGED COVER MARKED "IRRIGATION CONTROL VALVE". BOX BODY SHALL HAVE KNOCK OUTS. ACCEPTABLE VALVE BOX MANUFACTURER'S INCLUDE NDS, CARSON OR APPROVED EQUAL.

16. INSTALL REMOTE CONTROL VALVE BOXES 12" FROM WALK, CURB, BUILDING OR LANDSCAPE FEATURE. AT MULTIPLE VALVE BOX GROUPS, INSTALL EACH BOX AN EQUAL DISTANCE FROM THE WALK, CURB, BUILDING OR LANDSCAPE FEATURE AND PROVIDE 12" BETWEEN BOX TOPS. ALIGN THE SHORT SIDE OF RECTANGULAR VALVE BOXES PARALLEL TO WALK, CURB, BUILDING OR LANDSCAPE FEATURE.

17. VALVE LOCATIONS SHOWN ARE DIAGRAMMATIC. INSTALL IN GROUND COVER/SHRUB AREAS.

18. THE CONTRACTOR SHALL LABEL CONTROL LINE WIRE AT EACH REMOTE CONTROL VALVE WITH A 2 1/4" X 2 3/4" POLYURETHANE I.D. TAG, INDICATING IDENTIFICATION NUMBER OF VALVE (CONTROLLER AND STATION NUMBER). ATTACH LABEL TO CONTROL WIRE. THE CONTRACTOR SHALL PERMANENTLY STAMP ALL VALVE BOX LIDS WITH APPROPRIATE IDENTIFICATION AS NOTED IN CONSTRUCTION DETAILS.

19. FLUSH AND ADJUST IRRIGATION OUTLETS AND NOZZLES FOR OPTIMUM PERFORMANCE AND TO PREVENT OVER SPRAY ONTO WALKS, ROADWAYS, AND/OR BUILDINGS. SELECT THE BEST DEGREE OF THE ARC AND RADIUS TO FIT THE EXISTING SITE CONDITIONS AND THROTTLE THE FLOW CONTROL AT EACH VALVE TO OBTAIN THE OPTIMUM OPERATING PRESSURE FOR EACH CONTROL ZONE.

20. LOCATE BUBBLERS ON UPHILL SIDE OF PLANT OR TREE.

21. INSTALL A HUNTER HCV SERIES, KBI CV SERIES, OR APPROVED EQUAL SPRING LOADED CHECK VALVE IN SPRINKLER RISER ASSEMBLIES WHERE LOW OUTLET DRAINAGE WILL CAUSE EROSION AND/OR EXCESS WATER.

22. WHERE IT IS NECESSARY TO EXCAVATE ADJACENT TO EXISTING TREES, USE CAUTION TO AVOID INJURY TO TREES AND TREE ROOTS. EXCAVATE BY HAND IN AREAS WHERE TWO (2) INCH AND LARGER ROOTS OCCUR. BACK FILL TRENCHES ADJACENT TO TREE WITHIN TWENTY-FOUR (24) HOURS. WHERE THIS IS NOT POSSIBLE, SHADE THE SIDE OF THE TRENCH ADJACENT TO THE TREE WITH WET BURLAP OR CANVAS.

23. NOTIFY LOCAL JURISDICTIONS FOR INSPECTION AND TESTING OF INSTALLED BACKFLOW PREVENTION DEVICE.

24. THE IRRIGATION SYSTEM DESIGN IS BASED ON THE MINIMUM OPERATING PRESSURE SHOWN ON THE IRRIGATION DRAWINGS. VERIFY WATER PRESSURE PRIOR TO CONSTRUCTION. REPORT ANY DIFFERENCE BETWEEN THE WATER PRESSURE INDICATED ON THE DRAWINGS AND THE ACTUAL PRESSURE READING AT THE IRRIGATION POINT OF CONNECTION TO THE OWNER'S AUTHORIZED REPRESENTATIVE.

25. IRRIGATION DEMAND: REFER TO PLANS.

26. PIPE SIZING SHOWN ON THE DRAWINGS IS TYPICAL. AS CHANGES IN LAYOUT OCCUR DURING STAKING AND CONSTRUCTION THE SIZE MAY NEED TO BE ADJUSTED ACCORDINGLY.

27. PIPE THREAD SEALANT COMPOUND SHALL BE RECTOR SEAL #5.

28. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR MINOR CHANGES IN THE IRRIGATION LAYOUT DUE TO OBSTRUCTIONS NOT SHOWN ON THE IRRIGATION DRAWINGS SUCH AS LIGHTS, FIRE HYDRANTS, SIGNS, ELECTRICAL ENCLOSURES, ETC.

29. WHEN WORK OF THIS SECTION HAS BEEN COMPLETED AND SUCH OTHER TIMES AS MAY BE DIRECTED, REMOVE ALL TRASH, DEBRIS, SURPLUS MATERIALS AND EQUIPMENT FROM SITE.

30. CONTRACTOR SHALL BE RESPONSIBLE FOR SUPPLEMENTAL HAND WATERING OF ALL PLANT MATERIAL WITHIN DRIPLINE AREAS UNTIL THE PLANTS ARE SUFFICIENTLY ESTABLISHED.

31. VERIFY LOCATIONS OF ALL IRRIGATION COMPONENTS INSTALLED WITHIN A VALVE BOX WITH LANDSCAPE ARCHITECT PRIOR TO INSTALLATION. DO NOT INSTALL UNTIL LANDSCAPE ARCHITECT PROVIDES ACCEPTABLE LOCATIONS.

IRRIGATION COORDINATION NOTES

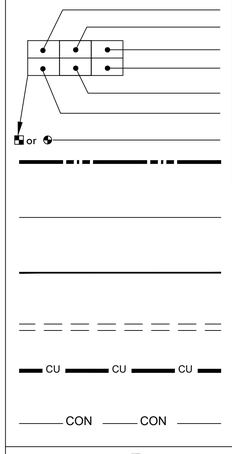
1. COPPER PIPING WITHIN STRUCTURE SHALL BE PROVIDED, ROUTED, AND INSTALLED BY PLUMBING CONTRACTOR. EXIT OF PIPE TO PLANTER SHALL BE A MINIMUM OF 6" BELOW FINISH GRADE.

2. IRRIGATION SLEEVING AND/OR CONDUIT IN STRUCTURE TO BE PROVIDED AND INSTALLED UNDER STRUCTURAL WORK.

3. ELECTRICAL CONTRACTOR SHALL PROVIDE CONDUIT, PULL BOXES AND WIRE IN STRUCTURE. THE DRAWINGS INDICATE REQUIRED WIRE QUANTITIES FROM A GIVEN PLANTER LOCATION, THROUGH STRUCTURE, TO THE CONTROLLER LOCATION. 14 GAUGE WIRE SHALL BE USED FOR CONTROL WIRING AND 12 GAUGE FOR COMMON GROUND. FINAL CONNECTION OR WIRING TO REMOTE CONTROL VALVES AND CONTROLLER SHALL BE COMPLETED BY IRRIGATION CONTRACTOR.

IRRIGATION LEGEND

SYMBOL	MODEL NUMBER	DESCRIPTION	NOZZLE GPM	OPERATING PSI	OPERATING RADIUS (FEET)
⧮	PCB-25	HUNTER BUBBLER (SHRUB)	0.25	30	TRICKLE
■	PCB-25	HUNTER BUBBLER (TREE) MIN. 2 PER TREE. REFER TO BUBBLER DETAIL FOR QUANTITY OF BUBBLERS PER TREE SIZE.	0.25	30	TRICKLE
●+	WLT-0500-T	NDS SCH 40 BALL VALVE OR APPROVED EQUAL			
◙	ECO-ID	HUNTER ECO-INDICATOR			
◔	ICV-101/AS-40	HUNTER REMOTE CONTROL VALVE WITH 40 PSI PRESSURE REGULATOR			
◪	ICZ-101-40	HUNTER REMOTE CONTROL VALVE WITH A 40 PSI PRESSURE REGULATOR AND A 1" FILTER.			
◂▸	44-LRC	RAIN BIRD 1" TWO-PIECE QUICK COUPLING VALVE (YELLOW LOCKING RUBBER COVER)			
<>	QB44RCAR10	BUCKNER 1" TWO-PIECE QUICK COUPLING VALVE (ANTI-ROTATION)			
⋈	T-FP600A-LF-1"	NIBCO 1" BRASS BALL VALVE			
PRV	500XLHLR	WILKINS PRESSURE REDUCING VALVE			
MV	WT-MV-100G-SNO	WeatherTRAK 1" BRASS MASTER VALVE (NORMALLY OPEN)			
FS	WTFLOW-HD-P-100	WeatherTRAK 1" FLOW SENSOR			
⧓	975XL2SEU-1"	WILKINS REDUCED PRESSURE BACKFLOW ASSEMBL.			
C	WTPRO3-C-H2048-SWM	WeatherTRAK ET PRO3 2-WIRE 48 STATION CONTROLLER IN A STAINLESS STEEL WALL MOUNTED ENCLOSURE.			
—	WT2W-H2O-1VD	WEATHERTRAK DECODER (1 PER VALVE)			
—	WT2W-H2O-2VD	WEATHERTRAK DECODER - TWO STATION			
—	WT2W-H2O-MV	WEATHERTRAK MASTER VALVE DECODER			
—	WT2W-H2O-FS	WEATHERTRAK FLOW SENSOR DECODER			
—	WT2W-H2O-PS	WEATHERTRAK PUMP START DECODER			
—	WT2W-H20-SA	WEATHERTRAK SURGE ARRESTOR (1 EVERY 500 FEET ALONG MAIN) REFER TO DETAILS FOR INSTALLATION INSTRUCTIONS.			
—	CIMXL-5YA	5 YEAR EXTENSION OF WeatherTRAK Central.			
	NOT SHOWN ON PLANS	ROUTE TWO WIRE CABLE TO ALL REMOTE CONTROL VALVES. SIZE #14AWG WIRE WITH A JACKETED 2-CONDUCTOR. PREFERRED WIRE MAKE AND MODEL IS PAIGE ELECTRIC WIRE P7072D. ALL SPLICING SHALL BE MADE WITH 3-M DBR/Y-6 WATERPROOF SPLICE KITS OR APPROVED EQUAL. INSTALL 2 WIRE CABLE WITHIN 1.25" SCH 40 ELECTRICAL CONDUIT. PULL BOXES SHALL BE LOCATED EVERY 200' NO SPLICES ARE ALLOWED BETWEEN VALVES. REFER TO DETAIL FOR INSTALLATION INSTRUCTIONS.			
R	WT-WRS	WIRELESS RAIN SENSOR SYSTEM. AUTOMATICALLY SHUTS THE SYSTEM OFF AS SOON AS IT STARTS RAINING.			



CONTROLLER AND STATION NUMBER

REMOTE CONTROL VALVE SIZE (IN INCHES)

FLOW (GPM)

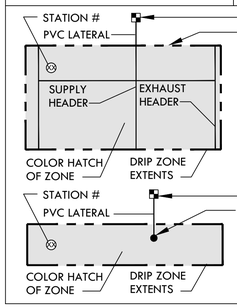
WATER USE CLASSIFICATION OF ZONE

APPLICATION RATE (IN/HR) or DRIPLINE SPACING

AREA (SQ. FT.)

ASSOCIATED REMOTE CONTROL VALVE

MAIN LINE:	1.25" THROUGHOUT: 1120-SCHEDULE 40 PVC PLASTIC PIPE WITH SCHEDULE 40 PVC SOLVENT WELD FITTINGS. 18" COVER.
LATERAL LINE:	3/4" AND LARGER: 1120-SCHEDULE 40 PVC PLASTIC PIPE WITH SCHEDULE 40 PVC SOLVENT WELD FITTINGS. 12" COVER.
DRIPLINE LATERAL LINE:	3/4" AND LARGER: 1120-SCHEDULE 40 PVC PLASTIC PIPE WITH SCHEDULE 40 PVC SOLVENT WELD FITTINGS. 12" COVER.
SLEEVING:	SCHEDULE 40 PVC PLASTIC PIPE. COVER TO BE AS INDICATED IN SPECIFICATIONS OR AS INDICATED ABOVE FOR PIPE DEPTH OF COVER.
MAIN LINE:	1.25" THROUGHOUT: TYPE 'K' COPPER PIPE WITH WROUGHT FITTINGS. SHOWN FOR REFERENCE ONLY, SEE PLUMBING PLANS FOR ROUTING THROUGH STRUCTURE.
ELECTRICAL CONDUIT:	SHOWN FOR REFERENCE ONLY, SEE ELECTRICAL PLANS FOR ROUTING THROUGH STRUCTURE.



DRIPLINE REMOTE CONTROL VALVE

DRIP ZONE:

HUNTER HDL SERIES DRIPLINE WITH BUILT IN PRESSURE COMPENSATION AND CHECK VALVE, PART #HDL-06-12-250-CV. USE PLD FITTINGS. TUBING TO BE INSTALLED 4" BELOW GRADE IN A 12" O.C. GRID ACCORDING TO DETAILS. SIZE EXHAUST HEADERS AS FOLLOWS: 1": 0-10 GPM, 1.25": 11-20 GPM. ALL EXHAUST HEADERS SHALL BE 1" SCH 40 PVC OR 1" SCH 40 FLEXIBLE PVC. USE SCH. 40 PVC SOLVENT WELD FITTINGS. EXTEND PVC HEADERS TO THE ENDS OF ALL DRIP ZONES TO BALANCE FLOW IF REQUIRED. SEE DETAILS FOR FURTHER INFORMATION.

DRIPLINE REMOTE CONTROL VALVE

APPROXIMATE CONNECTION POINT BETWEEN DRIPLINE TUBING AND PVC SUPPLY WHEN DRIP ZONE IS LESS THAN 3 GPM AND NO PVC SUPPLY/EXHUST HEADERS ARE NEEDED. REFER TO DRIPLINE TUBING CONNECTION DETAIL FOR MORE INFORMATION.

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Berkeley, CA

03.09.2021 REVISED BASE PLANS
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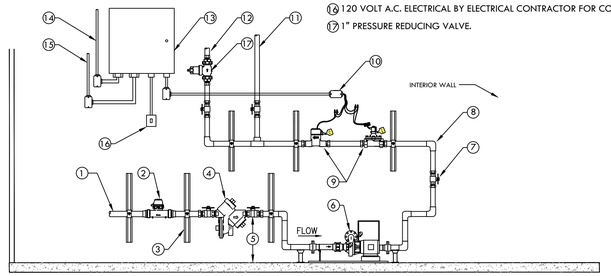
JOB: 2104

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IRRIGATION NOTES AND LEGEND

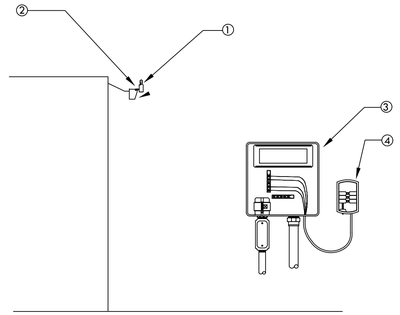
I1.2

① 1.25" COPPER MAIN LINE TO FOR IRRIGATION FROM DOMESTIC LINE WITHIN EQUIPMENT ROOM. SHOWN ON MEP PLANS.
② SUB-METER FOR IRRIGATION.
③ UNI-STRUT SUPPORT BRACKET, THREADED EXTENSIONS AND CLAMPS, LENGTH AS REQUIRED. PROVIDE A MINIMUM OF 6" SEPARATION FOR THE VALVES AND PIPE FROM THE WALL.
④ 1" WILKENS REDUCED PRESSURE BACKFLOW ASSEMBLY.
⑤ MIN. 18" ± FROM FINISH FLOOR.
⑥ WATER BOOSTER PUMP FOR IRRIGATION BY OTHERS.
⑦ 1.25" BRASS BALL VALVE.
⑧ ALL FITTINGS AND PIPING FOR WATER LINES WITHIN EQUIPMENT ROOM SHALL BE COPPER WITH WROT FITTINGS OR BRASS NIPPLES.
⑨ MASTER VALVE AND FLOW SENSOR. PROVIDE A MINIMUM LENGTH OF 10" UPSTREAM OF FLOW SENSOR AND 5" DOWNSTREAM OF ANY FITTING.
⑩ 1" ELECTRICAL CONDUIT WITH JUNCTION BOXES FOR CONTROL WIRES FOR FLOW SENSOR & MASTER VALVE.
⑪ 1.25" COPPER MAIN LINE ROUTED THROUGH STRUCTURE TO STUB-OUT LOCATION(S) AT ROOF LEVEL. INSTALLED BY PLUMBING CONTRACTOR. (REFER TO MEP PLAN FOR EXACT ROUTING THRU BUILDING)
⑫ 1.25" COPPER MAIN LINE ROUTED THROUGH STRUCTURE TO STUB-OUT LOCATION(S) AT SITE LEVEL. INSTALLED BY PLUMBING CONTRACTOR. (REFER TO MEP PLAN FOR EXACT ROUTING THRU BUILDING)
⑬ IRRIGATION CONTROLLER BY IRRIGATION CONTRACTOR. MINIMUM 42" ABOVE FINISHED FLOOR.
⑭ 1.25" ELECTRICAL CONDUIT WITH REQUIRED JUNCTION BOXES ROUTED THROUGH STRUCTURE FROM CONTROLLER LOCATION TO STUB-OUT LOCATION(S) AT ROOF LEVEL. INSTALLED BY ELECTRICAL CONTRACTOR.
⑮ 1.25" ELECTRICAL CONDUIT WITH REQUIRED JUNCTION BOXES ROUTED THROUGH STRUCTURE FROM CONTROLLER LOCATION TO STUB-OUT LOCATION(S) AT ROOF LEVEL. INSTALLED BY ELECTRICAL CONTRACTOR.
⑯ 120 VOLT A.C. ELECTRICAL BY ELECTRICAL CONTRACTOR FOR CONTROLLER.
⑰ 1" PRESSURE REDUCING VALVE.



NOTES:
1. THIS LAYOUT IS TO PROVIDE INFORMATION ON EQUIPMENT AND TYPICAL DISTANCES REQUIRED BETWEEN THE EQUIPMENT. IT IS DIAGRAMMATIC AND WILL NEED TO BE ADJUSTED ACCORDING TO AVAILABLE FLOOR SPACE AND OTHER EQUIPMENT INSTALLED WITHIN THE ENCLOSURE. OFFSETS AND FITTINGS WILL BE REQUIRED FOR THESE ADJUSTMENTS.
2. MAINTAIN 6" OF CLEARANCE FROM BUILDING WALLS FOR EASE OF MAINTENANCE FOR ALL COPPER PIPING, VALVES, AND FITTINGS.
3. SEAL ALL PIPE PENETRATIONS THROUGH WALLS/STRUCTURE AS REQUIRED (BY PLUMBING CONTRACTOR). SEE PLUMBING/WATERPROOFING DRAWINGS.
4. ALL FITTINGS AND PIPING FOR WATER LINES WITHIN EQUIPMENT ROOM SHALL BE COPPER WITH WROT FITTINGS OR BRASS NIPPLES.

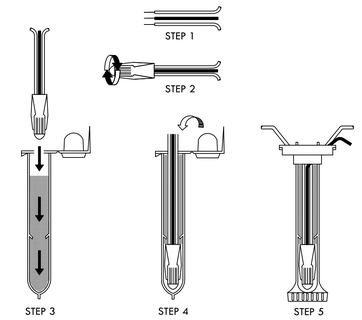
1 IRRIGATION EQUIPMENT LAYOUT DIAGRAM DETAIL
SCALE: NONE



NOTE: MAXIMUM LINE OF SIGHT FROM RAIN SENSOR TO RECEIVER IS 300 FT. DISTANCE IS LESS IF OBSTRUCTIONS EXIST. SENSOR MUST BE INSTALLED IN "CLEAR SPACE" WHERE IT IS EXPOSED TO UNOBSTRUCTED RAINFALL AND IS CLEAR OF IRRIGATION SPRAY.

① WIRELESS RAIN SENSOR TRANSMITTER (GUTTER MOUNTED)
② MOUNT RAIN SENSOR ON BUILDING WALL. ARCHITECT TO APPROVE LOCATION
③ CONTROLLER
④ RAIN SENSOR RECEIVER

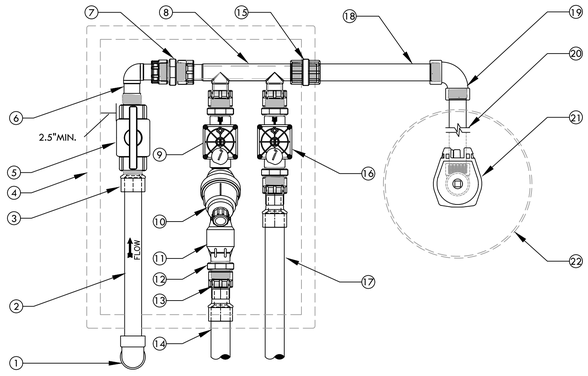
2 WIRELESS RAIN SENSOR-GUTTER MOUNT
SCALE: NONE



NOTE:
MAXIMUM # OF WIRES PER CONNECTOR:
- 3-#14 GAUGE
- 2-#12 GAUGE

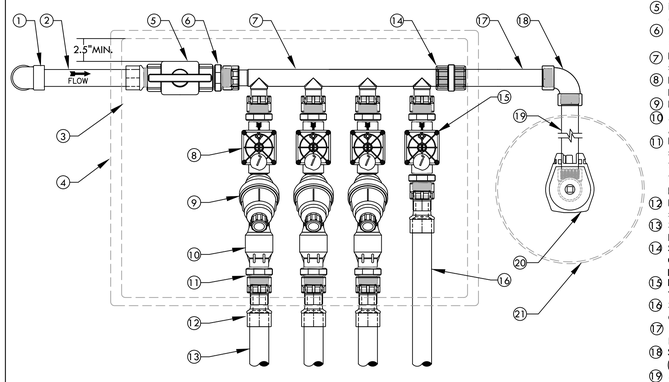
INSTRUCTIONS:
1. STRIP WIRES APPROXIMATELY 1/2" FROM ENDS TO EXPOSE WIRE.
2. TWIST CONNECTOR AROUND WIRES CLOCKWISE UNTIL HAND TIGHT, DO NOT OVERTIGHTEN.
3. INSERT WIRE ASSEMBLY TO BOTTOM OF GEL-FILLED TUBE. CHECK TO MAKE SURE CONNECTOR HAS BEEN PUSHED PAST LOCKING FINGERS AND IS SEATED AT THE BOTTOM OF THE TUBE.
4. PLACE WIRES WHICH EXIT TUBE IN WIRE EXIT HOLES AND CLOSE CAP UNTIL IT SNAPS.
5. INSPECT FINAL SPLICE ASSEMBLY THAT IT IS SECURED.

3 WEATHERPROOF WIRE SPLICE ASSEMBLY
SCALE: NONE



① SCH 40 PVC 90° ELBOW (SxS) FROM PVC MAIN LINE BELOW.
② SCH 40 PVC PIPE. LENGTH AS REQUIRED.
③ SCH 80 PVC MALE ADAPTER.
④ CARSON 1220 RECTANGULAR PLASTIC VALVE BOX WITH LID. INSTALL PER REMOTE CONTROL VALVE DETAIL.
⑤ NDS 1"LO-TORQ BALL VALVE THREADED (PART #LT-1000-T)
⑥ DURA 1" MIPT x 1" SWIVEL 90° (PART #306-009)
⑦ DURA 1"x1" THREADED ADAPTER (PART #08303) 4 TOTAL.
⑧ DURA 1" MULTI-PORT MANIFOLD (PART #301-010-2)
⑨ DRIP REMOTE CONTROL VALVE. REFER TO LEGEND FOR MODEL.
⑩ FILTER. REFER TO LEGEND FOR MODEL.
⑪ 40 PSI REGULATOR. REFER TO LEGEND FOR MODEL.
⑫ DURA 1" x 3/4" MALE ADAPTER (PART #08303-131). ONLY REQUIRED WITH 3/4" OUTLET REGULATORS. USE 1"x1" DURA THREAD ADAPTER ON 1" REGULATORS
⑬ DURA 1" SLIP X 1" SWIVEL (PART #329-011) 2 TOTAL.
⑭ SCHEDULE 40 PVC LATERAL TO DRIP IRRIGATION
⑮ SCHEDULE 80 PVC THREADED FEMALE COUPLING TO SERVICE QCV. IF NO QCV INSTALL A DURA 1" CAP (PART #348-010)
⑯ BUBBLER OR SPRINKLER REMOTE CONTROL VALVE. REFER TO LEGEND FOR MODEL.
⑰ SCHEDULE 40 PVC LATERAL TO BUBBLER OR SPRAY IRRIGATION.
⑱ SCHEDULE 80 PVC NIPPLE (LENGTH AS REQUIRED).
⑲ SCHEDULE 80 PVC 90° ELBOW (TxT).
⑳ SCHEDULE 80 PVC NIPPLE (LENGTH AS REQUIRED).
㉑ QUICK COUPLING VALVE. INSTALL PER DETAIL.
㉒ 10" ROUND BOX. INSTALL PER DETAIL.

4 TWO REMOTE VALVE MANIFOLD DETAIL WITH QUICK COUPLING VALVE (1" VALVES ONLY)
SCALE: NONE



① SCH 40 PVC 90° ELBOW (SxS) FROM PVC MAIN LINE BELOW.
② SCH 40 PVC PIPE. LENGTH AS REQUIRED.
③ SCH 80 PVC MALE ADAPTER.
④ CARSON 1220 RECTANGULAR PLASTIC VALVE BOX WITH LID. INSTALL PER REMOTE CONTROL VALVE DETAIL.
⑤ NDS 1"LO-TORQ BALL VALVE THREADED (PART #LT-1000-T)
⑥ DURA 1"x1" THREADED ADAPTER (PART #08303) 6 TOTAL.
⑦ DURA 1" MULTI-PORT MANIFOLD (PART #301-010-4)
⑧ DRIP REMOTE CONTROL VALVE. REFER TO LEGEND FOR MODEL.
⑨ FILTER. REFER TO LEGEND FOR MODEL.
⑩ 40 PSI REGULATOR. REFER TO LEGEND FOR MODEL.
⑪ DURA 1" x 3/4" MALE ADAPTER (PART #08303-131) 3 TOTAL. ONLY REQUIRED WITH 3/4" OUTLET REGULATORS. USE 1"x1" DURA THREAD ADAPTER ON 1" REGULATORS
⑫ DURA 1" SLIP X 1" SWIVEL (PART #329-011) 4 TOTAL.
⑬ SCHEDULE 40 PVC LATERAL TO DRIP IRRIGATION.
⑭ SCHEDULE 80 PVC THREADED FEMALE COUPLING TO SERVICE QCV. IF NO QCV INSTALL A DURA 1" CAP (PART #348-010)
⑮ BUBBLER OR SPRINKLER REMOTE CONTROL VALVE. REFER TO LEGEND FOR MODEL.
⑯ SCHEDULE 40 PVC LATERAL TO BUBBLERS OR SPRAY IRRIGATION.
⑰ SCHEDULE 80 PVC NIPPLE (LENGTH AS REQUIRED).
⑱ SCHEDULE 80 PVC 90° ELBOW (TxT).
⑲ SCHEDULE 80 PVC NIPPLE (LENGTH AS REQUIRED).
⑳ QUICK COUPLING VALVE. INSTALL PER DETAIL.
㉑ 10" ROUND BOX. INSTALL PER DETAIL.

5 FOUR REMOTE VALVE MANIFOLD DETAIL WITH QUICK COUPLING VALVE (1" VALVES ONLY)
SCALE: NONE

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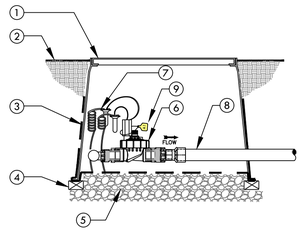
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SHEET:

IRRIGATION DETAIL

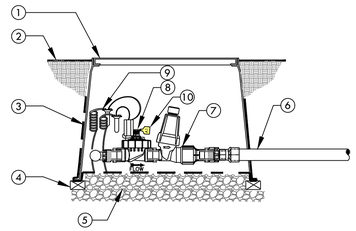
I1.3



1. CARSON 1220 RECTANGULAR VALVE BOX FOR FOUR VALVES OR CARSON 1419 FOR TWO VALVES
2. FINISH GRADE
3. 19 GAUGE 1/2" SQUARE WIRE MESH. WRAP UP THE SIDES OF THE BOX
4. BRICK-1 EACH CORNER
5. PEA GRAVEL OR 3/4" DRAIN ROCK- 4" DEEP BELOW VALVE (NO SOIL IN VALVE BOX)
6. REMOTE CONTROL VALVE WITH FLOW CONTROL AND MANUAL BLEED. REFER TO TWO OR FOUR VALVE MANIFOLD DETAIL FOR INSTALLATION INSTRUCTIONS
7. VALVE CONTROL WIRE- PROVIDE 3M-DBY SEAL PACKS AT ALL SPLICES AND 24" OF EXCESS UF WIRE IN A 1" DIAMETER COIL
8. SCH 40 PVC LATERAL LINE TO BUBBLERS OR SPRAY
9. VALVE I.D. TAG (WITH CONTROL AND STATION NUMBER).

1 BUBBLER OR SPRAY REMOTE CONTROL VALVE IN TWO OR FOUR VALVE MANIFOLD

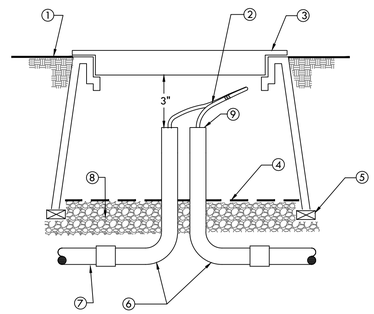
SCALE: NONE



1. CARSON 1220 RECTANGULAR VALVE BOX FOR FOUR VALVES OR CARSON 1419 FOR TWO VALVES
2. FINISH GRADE
3. 19 GAUGE 1/2" SQUARE WIRE MESH. WRAP UP THE SIDES OF THE BOX
4. BRICK-1 EACH CORNER
5. PEA GRAVEL OR 3/4" DRAIN ROCK- 4" DEEP BELOW VALVE (NO SOIL IN VALVE BOX)
6. SCH 40 PVC LATERAL LINE TO DRIPLINE OR DRIP.
7. DRIP FILTER AND REGULATOR
8. REMOTE CONTROL VALVE WITH FLOW CONTROL AND MANUAL BLEED. REFER TO TWO OR FOUR VALVE MANIFOLD DETAIL FOR INSTALLATION INSTRUCTIONS
9. VALVE CONTROL WIRE- PROVIDE 3M-DBY SEAL PACKS AT ALL SPLICES AND 24" OF EXCESS UF WIRE IN A 1" DIAMETER COIL
10. VALVE I.D. TAG (WITH CONTROL AND STATION NUMBER).

2 DRIP REMOTE CONTROL VALVE IN TWO OR FOUR VALVE MANIFOLD

SCALE: NONE

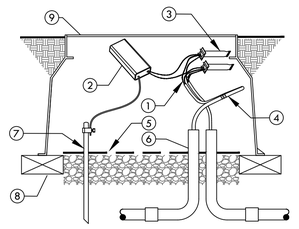


1. FINISH GRADE
2. 24" LOOP OF TWO WIRE CABLE.
3. GREY RECTANGULAR PLASTIC VALVE BOX WITH BOLT DOWN LID. HEAT BRAND "PB" INTO LID.
4. 18 GAUGE 1/2" [13mm] SQUARE STAINLESS STEEL WIRE MESH.
5. BRICK-ONE ON EACH CORNER
6. SCHEDULE 40 PVC SWEEP ELLS
7. SCHEDULE 40 U.L. LISTED PVC CONDUIT
8. PEA GRAVEL OR 3/4" [20mm] DRAIN ROCK - 4" [102mm] DEEP BELOW VALVE (NO SOIL IN VALVE BOX).
9. SEAL ALL CONDUIT OPENINGS WITH WATERPROOF FOAM.

3 IRRIGATION TWO WIRE PULL BOX

SCALE: NONE

NOTE:
TWO WIRE DECODER SYSTEMS MUST BE PROPERLY GROUNDED IN ORDER TO PROTECT AGAINST LIGHTNING SURGES. THE COMMUNICATION CABLE MUST BE GROUNDED NO FURTHER THAN 500' FROM ANY DECODER. THE SURGE DEVICE MUST BE A WEATHERTRAK MODEL WT2W-LSP. THE MINIMUM DISTANCE BETWEEN THE SURGE ARRESTOR AND THE GROUND ROD SHOULD BE 3' (91.4CM). WEATHERTRAK RECOMMENDS A SPLIT BOLT CONNECTION TO BE USED TO CONNECT THE SURGE DEVICE TO THE GROUND WIRE WITH A 3M DBY-6 WATERPROOF CONNECTOR.

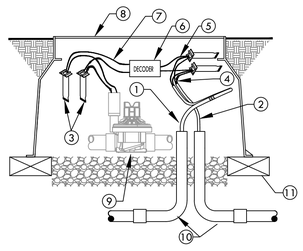


1. 2-WIRE PATH JACKETED/ TWISTED FROM CONTROLLER. ALLOW A 24" SLACK PER DECODER
2. LIGHTNING ARRESTOR (MODEL WT2W-LSP), 1 EVERY 500' FROM STARTING FROM CONTROLLER.
3. 3M DBR/Y-6 OR APPROVED EQUAL WATERPROOF SPLICE KIT (4 TOTAL)
4. 2-WIRE PATH JACKETED/ TWISTED TO NEXT DECODER
5. 18 GAUGE 1/2" [13mm] SQUARE STAINLESS STEEL WIRE MESH.
6. 1.25" CONDUIT FOR 2 WIRE CABLE WITH LONG SWEEPS IN AND OUT OF EACH VALVE BOX. SEAL ALL CONDUIT OPENINGS WITH WATERPROOF FOAM.
7. INSTALL 5/8" DIAMETER COPPER GROUND ROD OF 8' LENGTH.
8. BRICK-ONE ON EACH CORNER
9. GREY RECTANGULAR PLASTIC VALVE BOX WITH BOLT DOWN LID. HEAT BRAND "GR" INTO LID.

4 LIGHTNING ARRESTOR

SCALE: NONE

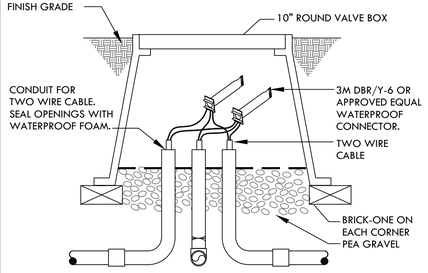
NOTE:
1. ALL DECODERS SHALL HAVE A VALVE NUMBER ADDRESSED AT CONTROLLER PRIOR TO INSTALLATION.
2. USE U.F. SAFETY CABLE STRIPPER BY KING INNOVATION (MODEL NUMBER 46200) FOR ALL TWO-WIRE SPLICE CONNECTIONS.



1. #14AWG TWO WIRE CABLE FROM CONTROLLER. REFER TO IRRIGATION NOTES FOR MODEL NUMBER OF WIRE. ALLOW A 24" SLACK PER DECODER. USE ELECTRICAL TAPE TO HOLD SLACK CABLES TOGETHER.
2. TWO WIRE CABLE TO NEXT DECODER
3. 3M DBR/Y-6 OR APPROVED EQUAL WATERPROOF SPLICE KIT (4 TOTAL)
4. A MAXIMUM OF 4" OF WIRE SHALL BE STRIPPED FROM TWO WIRE CABLE WHEN SPLICING AT DECODERS.
5. CONNECT CORRECT DECODER WIRES TO TWO WIRE CABLES.
6. DECODER
7. CONNECT CORRECT DECODER WIRES TO VALVE SOLENOID WIRES
8. VALVE BOX. REFER TO REMOTE CONTROL VALVE DETAIL FOR INSTALLATION INSTRUCTIONS.
9. REMOTE CONTROL VALVE. REFER TO REMOTE CONTROL VALVE DETAIL FOR INSTALLATION INSTRUCTIONS.
10. 1.25" CONDUIT FOR 2 WIRE CABLE WITH LONG SWEEPS IN AND OUT OF EACH VALVE BOX. SEAL ALL CONDUIT OPENINGS WITH WATERPROFF FOAM.
11. BRICK-ONE ON EACH CORNER

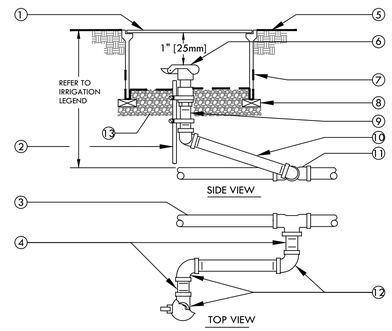
5 DECODER WIRING IN CONDUIT

SCALE: NONE



6 2-WIRE SPLICE BOX AT MAIN LINE TEE OR 3 WAY WIRE BRANCH

SCALE: NONE

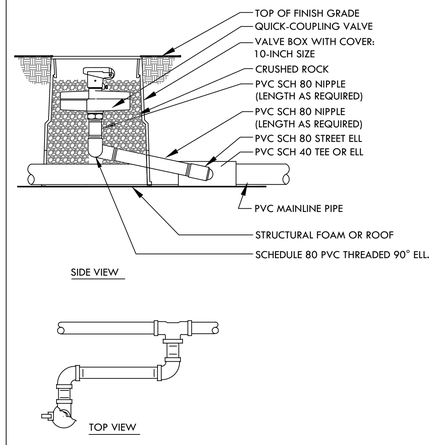


1. 10" ROUND PLASTIC VALVE BOX WITH BOLT DOWN LID.
2. 1 1/4" x 1 1/4" x 3/16" [30mm x 30mm x 5mm] ANGLE IRON 30" [760mm] LONG W/2 STAINLESS STEEL STRAPS (ONE AROUND QCV).
3. PVC MAIN LINE.
4. 3" [75mm] LONG SCHEDULE 80 PVC THREADED NIPPLE.
5. FINISH GRADE.
6. QUICK COUPLING VALVE.
7. 19 GAUGE 1/2" [13mm] SQUARE WIRE MESH.
8. BRICK - 2 TOTAL.
9. SCHEDULE 80 PVC THREADED NIPPLE.
10. 10" [250mm] LONG SCHEDULE 80 PVC THREADED NIPPLE.
11. UPC APPROVED SCHEDULE 40 PVC TEE OR ELBOW.
12. SCHEDULE 80 PVC THREADED 90° ELL.
13. PEA GRAVEL OR 3/4" DRAIN ROCK- 4" [100mm] DEEP BELOW VALVE (NO SOIL IN VALVE BOX).

NOTE:
NIPPLES AND FITTINGS TO BE SAME SIZE AS VALVE IPT INLET THREAD SIZE.

7 QUICK COUPLING VALVE

SCALE: NONE



NOTE:
1. NIPPLES AND FITTINGS TO BE SAME SIZE AS VALVE IPT INLET THREAD SIZE.
2. TRIM VALVE BOX LENGTH AS NECESSARY TO BE FLUSH WITH TOP OF PLANTING TILES.
3. IF NECESSARY SLOT SIDES VALVE BOX TO ALLOW PASSAGE OF PIPE THROUGH BOTTOM OF VALVE BOX.

8 QUICK COUPLING VALVE-ON STRUCTURE

SCALE: NONE

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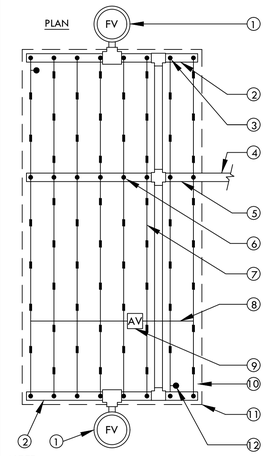
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JOB: 2104

SHEET:

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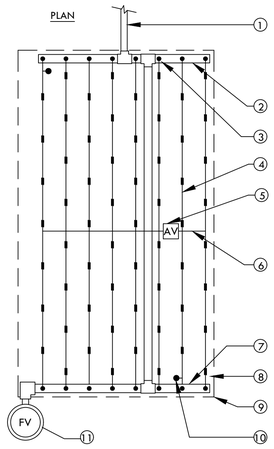
I1.4



1. FLUSH VALVE PLUMBED TO FLUSH MANIFOLD AT LOW POINT
2. 1" FLEXIBLE PVC IPS HOSE FLUSH MANIFOLD.
3. MANIFOLD-TO-ELBOW CONNECTION (TYP).
4. PVC LATERAL LINE FROM VALVE. MINIMUM SIZE TO BE 1" UNLESS OTHERWISE NOTED.
5. PVC SUPPLY MANIFOLD. EXTEND TO END OF ZONE/EXHAUST HEADER.
6. MANIFOLD-TO-TEE CONNECTION.
7. DRIPLINE LATERAL.
8. AIR/VACUUM RELIEF LATERAL, BLANK POLY TUBING CENTERED ON MOUND OR BERM.
9. AIR/VACUUM RELIEF PLUMBED TO BLANK 5/8" POLY TUBING AT EACH HIGH POINT.
10. PERIMETER LATERALS 2" [50mm] TO 4" [100mm] FROM EDGE.
11. AREA PERIMETER.
12. DRIPLINE OPERATION INDICATOR LOCATED AT THE ENDS OF EACH DRIPLINE ZONE.

NOTE:
1. THE TOTAL LENGTH OF ALL INTERCONNECTED DRIP LINE OFF A SINGLE PVC SUPPLY LINE CONNECTION OR A SINGLE RUN OF DRIPLINE SHALL NOT EXCEED 300 FT.
2. INSTALL DRIPLINE 2-4" BELOW GRADE AND STAKE DOWN EVERY 4' OR AS REQUIRED.

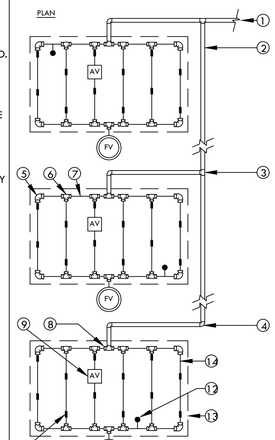
1 HLD DRIPLINE CENTER FEED LAYOUT
SCALE: NONE



1. PVC LATERAL LINE FROM VALVE. MINIMUM SIZE TO BE 1" UNLESS OTHERWISE NOTED.
2. PVC FLUSH MANIFOLD. MINIMUM SIZE TO BE 1" UNLESS OTHERWISE NOTED.
3. MANIFOLD-TO-ELBOW CONNECTION (TYP).
4. DRIPLINE LATERAL.
5. AIR/VACUUM RELIEF VALVE PLUMBED TO BLANK 5/8" TUBING AT EACH HIGH POINT.
6. AIR/VACUUM RELIEF LATERAL, BLANK 5/8" POLY TUBING CENTERED ON MOUND OR BERM.
7. 1" FLEXIBLE PVC IPS HOSE FLUSH MANIFOLD.
8. PERIMETER LATERALS 2" [50mm] TO 4" [100mm] FROM EDGE.
9. AREA PERIMETER.
10. DRIP OPERATION INDICATOR LOCATED AT THE ENDS OF EACH DRIPLINE ZONES.
11. FLUSH VALVE PLUMBED TO FLUSH MANIFOLD AT LOW POINT.

NOTE:
1. THE TOTAL LENGTH OF ALL INTERCONNECTED DRIP LINE OFF A SINGLE PVC SUPPLY LINE CONNECTION OR A SINGLE RUN OF DRIPLINE SHALL NOT EXCEED 300 FT.
2. INSTALL DRIPLINE 2-4" BELOW GRADE AND STAKE DOWN EVERY 4' OR AS REQUIRED.

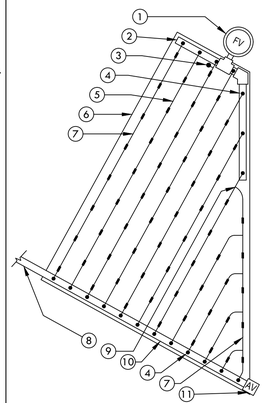
2 HLD DRIPLINE END FEED LAYOUT
SCALE: NONE



1. PVC LATERAL LINE FROM VALVE. MINIMUM SIZE TO BE 1" UNLESS OTHERWISE NOTED.
2. PVC FLUSH MANIFOLD. MINIMUM SIZE TO BE 1" UNLESS OTHERWISE NOTED.
3. PVC TEE (SxSxS).
4. PVC ELL (SxS).
5. HUNTER PLD-ELBOW (PLD-ELB)
6. HUNTER PLD-TEE (PLD-TEE).
7. BLANK 5/8" [16mm] POLY TUBING AT SUPPLY AND FLUSH END OF EACH ISLAND.
8. REFER TO DRIPLINE TO PVC CONNECTION DETAIL.
9. AIR/VACUUM RELIEF VALVE PLUMBED TO TUBING AT HIGH POINT.
10. DRIPLINE LATERAL.
11. MANUAL FLUSH VALVE PLUMBED TO TUBING AT LOW POINT.
12. DRIPLINE OPERATION INDICATOR LOCATED AT THE ENDS OF EACH DRIPLINE ZONE.
13. ISLAND PERIMETER.
14. PERIMETER LATERALS 2" [50mm] TO 4" [100mm] FROM EDGE.

NOTE:
1. THE TOTAL LENGTH OF A SINGLE DRIP LINE RUN SHALL NOT EXCEED 300 FT.
2. INSTALL DRIPLINE 2-4" BELOW GRADE AND STAKE DOWN EVERY 4' OR AS REQUIRED.

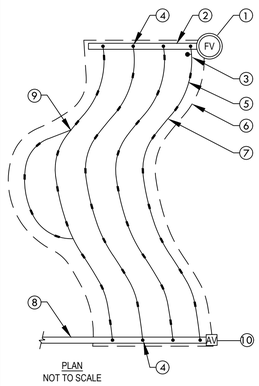
3 HLD DRIPLINE ISLAND LAYOUT
SCALE: NONE



1. FLUSH VALVE PLUMBED TO FLUSH MANIFOLD AT LOW POINT
2. 1" SCH 40 PVC OR FLEXIBLE PVC IPS HOSE FLUSH MANIFOLD.
3. DRIPLINE OPERATION INDICATOR LOCATED AT THE ENDS OF EACH DRIPLINE ZONE.
4. MANIFOLD-TO-ELBOW CONNECTION.
5. DRIPLINE LATERAL.
6. AREA PERIMETER.
7. PERIMETER LATERALS 2" [50mm] TO 4" [100mm] FROM EDGE.
8. PVC LATERAL LINE FROM VALVE. MINIMUM SIZE TO BE 1" UNLESS OTHERWISE NOTED.
9. HUNTER PLD-TEE (PLD-TEE)
10. PVC SUPPLY MANIFOLD.
11. HUNTER PLD AIR/VACUUM RELIEF VALVE (PLD-AVR) PLUMBED TO SUPPLY MANIFOLD AT HIGH POINT.

NOTE:
1. THE TOTAL LENGTH OF ALL INTERCONNECTED DRIP LINE OFF A SINGLE PVC SUPPLY LINE CONNECTION OR A SINGLE RUN OF DRIPLINE SHALL NOT EXCEED 300 FT.
2. INSTALL DRIPLINE 2-4" BELOW GRADE AND STAKE DOWN EVERY 4' OR AS REQUIRED.

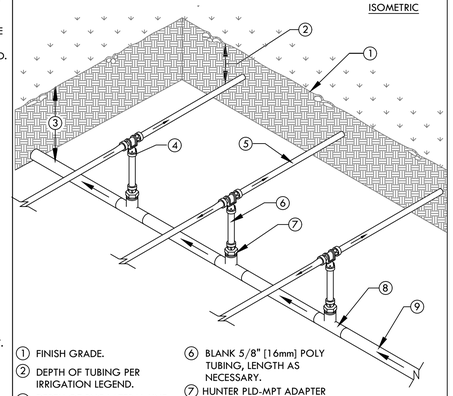
4 HLD DRIPLINE TRIANGULAR LAYOUT
SCALE: NONE



1. FLUSH VALVE PLUMBED TO FLUSH MANIFOLD AT LOW POINT
2. 1" SCH 40 PVC OR FLEXIBLE PVC IPS HOSE FLUSH/EXHAUST MANIFOLD.
3. DRIPLINE OPERATION INDICATOR LOCATED AT THE ENDS OF EACH DRIPLINE ZONE.
4. MANIFOLD-TO-ELBOW CONNECTION.
5. DRIPLINE LATERAL.
6. AREA PERIMETER.
7. PERIMETER LATERALS 2" [50mm] TO 4" [100mm] FROM EDGE.
8. PVC SUPPLY LINE/HEADER FROM VALVE. MINIMUM SIZE TO BE 1" UNLESS OTHERWISE NOTED.
9. HUNTER PLD-TEE (PLD-TEE)
10. HUNTER PLD AIR/VACUUM RELIEF VALVE (PLD-AVR) PLUMBED TO SUPPLY MANIFOLD AT HIGH POINT.

NOTE:
1. THE TOTAL LENGTH OF ALL INTERCONNECTED DRIP LINE OFF A SINGLE PVC SUPPLY LINE CONNECTION OR A SINGLE RUN OF DRIPLINE SHALL NOT EXCEED 300 FT.
2. INSTALL DRIPLINE 2-4" BELOW GRADE AND STAKE DOWN EVERY 4' OR AS REQUIRED.

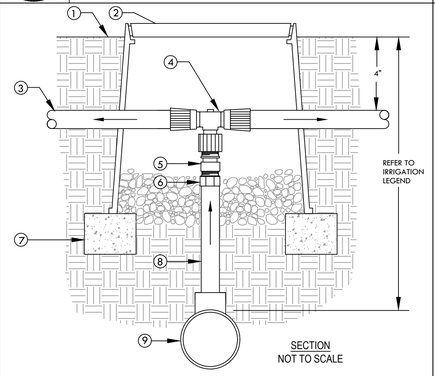
5 HLD DRIPLINE ODD CURVE LAYOUT
SCALE: NONE



1. FINISH GRADE.
2. DEPTH OF TUBING PER IRRIGATION LEGEND.
3. DEPTH OF PVC LATERAL LINE PER IRRIGATION LEGEND
4. HUNTER PLD-TEE (PLD-TEE)
5. DRIPLINE TUBING.
6. BLANK 5/8" [16mm] POLY TUBING, LENGTH AS NECESSARY.
7. HUNTER PLD-MPT ADAPTER (PLD-050)
8. PVC TEE (SxSxT) WITH 1/2" [13mm] FPT OUTLET.
9. PVC LATERAL LINE FROM REMOTE CONTROL VALVE.

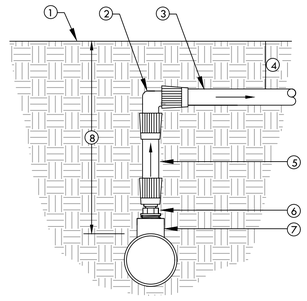
NOTE:
THE TOTAL LENGTH OF A SINGLE DRIP LINE RUN SHALL NOT EXCEED 300 FT.

6 HLD DRIPLINE CENTER FEED MANIFOLD
SCALE: NONE



1. FINISH GRADE
2. CARSON 708 OR EQUAL. COLOR: BLACK. USE PURPLE FOR RECYCLED WATER SYSTEMS.
3. DRIPLINE TUBING
4. HUNTER PLD-TEE X 1/2" FPT ADAPTER
5. TORO 1/2" CHECK VALVE (PCV-500)
6. 1/2" SCH 40 MALE ADAPTER.
7. BRICK (1 OF 2)
8. 1/2" SCH 40 PVC (LENGTH AS REQUIRED)
9. PVC LATERAL LINE SUPPLY. MINIMUM SIZE TO BE 1" UNLESS SIZED DIFFERENTLY ON DRAWINGS. USE SCH 40 PVC 1"x1"x1/2" TEE OR 90° ELBOW.

7 DRIPLINE TO PVC CONNECTION
SCALE: NONE



1. FINISH GRADE
2. HUNTER PLD-ELBOW (PLD-ELB)
3. DRIPLINE TUBING
4. DEPTH OF TUBING PER IRRIGATION LEGEND.
5. BLANK 5/8" [16mm] POLY TUBING, LENGTH AS NECESSARY.
6. HUNTER PLD-MPT ADAPTER (PLD-050)
7. SCH 40 PVC TEE (SxSxT) WITH 1/2" FPT OUTLET.
8. DEPTH OF PVC LATERAL LINE PER IRRIGATION LEGEND

8 DRIPLINE MANIFOLD TO ELBOW CONNECTION
SCALE: NONE

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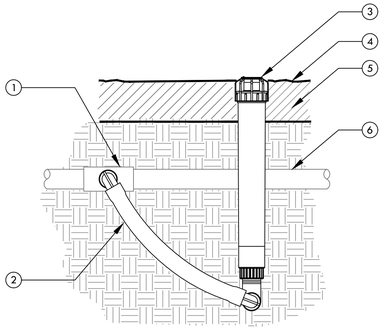
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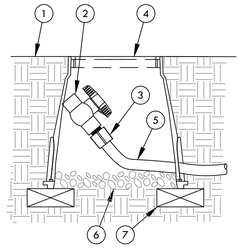
IRRIGATION DETAIL

I1.5



1. UPC APPROVED SCHEDULE 40 PVC TEE, ELBOW OR BARB x THREAD DRIP FITTING TEE OR ELBOW WITH 3/4" OUTLET.
2. 1/2" X 3/4" X 6" HUNTER SWING JOINT (SJ-7506)
3. ECO INDICATOR
4. FINISHED GRADE
5. MULCH
6. PVC LATERAL PIPE OR DRIPLINE

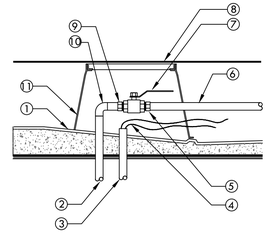
1 DRIPLINE OPERATION INDICATOR
SCALE: NONE



NOTE:
ALLOW A MINIMUM OF PVC HOSE IN VALVE BOX IN ORDER TO DIRECT FLUSHED WATER OUTSIDE VALVE BOX.

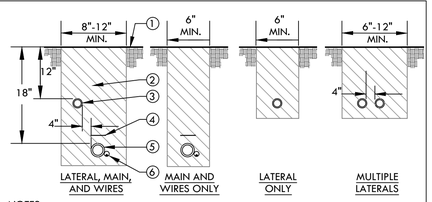
1. FINISH GRADE
2. 1/2" SCH 40 THREADED BALL VALVE.
3. 1/2" SCH 40 MALE ADAPTER.
4. 6" ROUND PLASTIC VALVE BOX.
5. 1" IPS PVC HOSE FROM EXHAUST HEADER.
6. PEA GRAVEL SUMP (6" DEEP).
7. BRICK (1 OF 2)

2 DRIPLINE-FLUSH POINT
SCALE: NONE



1. SLOPED ROOF BELOW PEDESTAL SYSTEM
2. COPPER PIPE THROUGH STRUCTURE PROVIDED BY PLUMBING CONTRACTOR. WATERPROOF ALL PENETRATIONS.
3. CONDUIT FOR CONTROL WIRES THROUGH STRUCTURE PROVIDED BY ELECTRICAL CONTRACTOR. WATERPROOF ALL PENETRATIONS
4. TWO-WIRE CABLE OR CONTROL WIRES
5. SCH 40 PVC MALE ADAPTER.
6. PVC MAIN LINE TO REMOTE CONTROL VALVES.
7. BRONZE BALL VALVE.
8. ROOF DECK PAVERS
9. COPPER MALE ADAPTER.
10. COPPER 90° ELBOW.
11. 10" ROUND PLASTIC VALVE BOX. CUT BOX TO FIT BELOW PEDESTAL PAVER SYSTEM

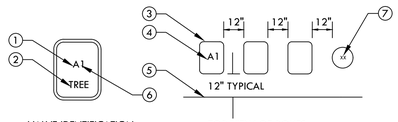
3 ON STRUCTURE STUB-OUT WITH BRONZE BALL VALVE
SCALE: NONE



NOTES:
1. ALL MAIN SUPPLY LINES AND LATERAL LINES SHALL BE PLACED IN SLEEVES UNDER PAVED SURFACES. INSTALL LOW VOLTAGE WIRES WITHIN A SEPARATE CONDUIT UNDER PAVED SURFACES. DO NOT TAPE WIRES WITHIN CONDUIT.
2. REUSE SALVAGED EXCAVATED FILL AND COMPACT TO ORIGINAL DENSITY IN LANDSCAPE AREAS. ALL OTHER AREAS SHALL BE AT 95% COMPACTION. BACKFILL MATERIAL SHALL BE THE EARTH EXCAVATED FROM THE TRENCHES, FREE FROM ROCKS (ANYTHING LARGER THAN 2"), CONCRETE CHUNKS, AND OTHER FOREIGN OR COARSE MATERIALS.
3. WHEN 12" POP-UP SPRINKLER HEADS ARE USED, INCREASE THE DEPTH OF LATERAL TO 18" AT THE SPRINKLER LOCATION ONLY.

1. FINISH GRADE.
2. CLEAN BACKFILL MATERIAL.
3. LATERAL LINE.
4. 3" DETECTABLE WARNING TAPE OVER MAIN LINE. INSTALL 3" ABOVE MAIN LINE. USE CHRISTY MODEL #TA-DT-3-BIRR FOR POTABLE IRRIGATION SYSTEMS OR #TA-DT-3-PRW FOR RECYCLED IRRIGATION WATER SYSTEMS
5. MAIN LINE.
6. TWO WIRE CABLE IN CONDUIT

4 TRENCHING
SCALE: NONE



VALVE IDENTIFICATION

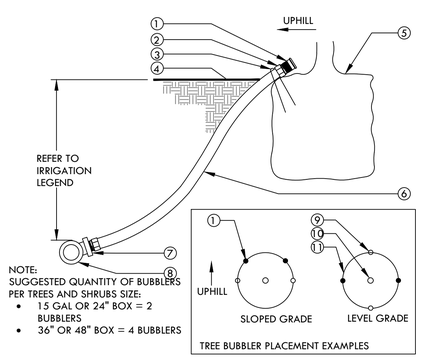
1. CONTROLLER ID.
2. ALL TREE VALVES TO HAVE TREE BRANDED INTO LID.
3. RECTANGULAR VALVE BOX.
4. HEAT BRAND VALVE TYPE PER TABLE OR CONTROLLER ID AND STATION NUMBER INTO LID.
5. EDGE OF LAWN, WALK, FENCE, CURB, ETC.
6. STATION NUMBER.
7. ROUND VALVE BOX FOR QCV AND GATE VALVE. HEAT BRAND VALVE TYPE INTO INTO LID PER TABLE.

TOP VIEW OF BOXES

ITEMS TO BRAND:	BRAND CODE
GATE VALVE	GV
PRESSURE REDUCER	PRV
MASTER VALVE	MV
FLOW SENSOR	FS
HYDROMETER	HM
MAIN LINE AIR RELIEF	ARV
REMOTE CONTROL VALVE	A___
QUICK COUPLER	QC
SPLICE BOX	SB
PULL BOX	PB
LIGHTNING ARRESTOR	LA
GROUND ROD	GR

INSTRUCTIONS:
1. CENTER VALVE BOX OVER REMOTE CONTROL VALVE TO FACILITATE SERVICING VALVE.
2. SET BOXES 1" ABOVE FINISH GRADE OR MULCH COVER IN GROUND COVER/SHRUB AREA AND FLUSH WITH FINISH GRADE IN TURF AREA.
3. SET RCV AND VALVE BOX ASSEMBLY IN GROUND COVER/SHRUB AREA WHERE POSSIBLE. INSTALL IN LAWN ONLY IF GROUND COVER DOES NOT EXIST ADJACENT TO LAWN.
4. SET BOXES PARALLEL TO EACH OTHER AND PERPENDICULAR TO EDGE OF LAWN, WALK, FENCE, CURB, ETC.
5. AVOID HEAVILY COMPACTING SOIL AROUND VALVE BOXES TO PREVENT COLLAPSE AND DEFORMATION OF VALVE BOX SIDES.
6. INSTALL EXTENSION BY VALVE BOX MANUFACTURER AS REQUIRED TO COMPLETELY ENCLOSE ASSEMBLY FOR EASY ACCESS.

5 VALVE BOX INSTALLATION
SCALE: NONE



NOTE:
SUGGESTED QUANTITY OF BUBBLERS PER TREES AND SHRUBS SIZE:
- 15 GAL OR 24" BOX = 2 BUBBLERS
- 36" OR 48" BOX = 4 BUBBLERS

TREE BUBBLER PLACEMENT EXAMPLES

1. BUBBLER (TO BE INSTALLED ON TOP OF ROOTBALL).
2. 1/2" SCH. 40 MALE ADAPTER (2 TOTAL).
3. 6" STAPLE.
4. FINISH GRADE.
5. TREE OR SHRUB ROOTBALL.
6. 1/2" IPS FLEXIBLE PVC. USE WELD-ON 795 SOLVENT CEMENT OR EQUAL WHEN BONDING PVC HOSE TO FITTINGS.
7. PVC TEE (SST), ELBOW (ST) OR FEMALE ADAPTER.
8. PVC LATERAL LINE.
9. TREE STAKES.
10. TREE.
11. EDGE OF ROOTBALL (TYPICAL).

6 TREE BUBBLER
SCALE: NONE

WATER USE ESTIMATION

WATER TYPE	POTABLE
SITE ETO=	39.7

REGULAR LANDSCAPE AREAS

HYDROZONE #	HYDROZONE NAME	PLANT WATER USE TYPE	PLANT FACTOR (PF)	IRRIGATION METHOD	IRRIGATION EFFICIENCY	ETAF (PF/IE)	AREA (SQ. FT) (HA)	ETAF X AREA (HA)	ETWU (GAL/YR)	ACRE FEET/ YEAR	HCF/ YEAR	PERCENTAGE OF LANDSCAPE
GROUND LEVEL	GC/SHRUBS	LOW	0.3	DRIP	0.81	0.370	1,692	627	15,425	0.05	20.62	53%
ROOF	GC/SHRUBS	LOW	0.3	DRIP	0.81	0.370	1,008	373	9,189	0.03	12.29	32%
TREES	TREES	MOD	0.5	BUBBLER	0.81	0.617	480	296	7,293	0.02	9.75	15%
					TOTALS		3,180	1,296	31,907	0.10	42.66	100%

SPECIAL LANDSCAPE AREAS

HYDROZONE #	HYDROZONE NAME											
3						1	0					0%
						TOTALS	0					0%

MAWA	GALLONS/YR	35,223
	ACRE FEET/YR	0.11
	HCF/YR	47.09
ETWU	GALLONS/YR	31,907
	ACRE FEET/YR	0.10
	HCF/YR	42.66

MAWA FORMULA
MAXIMUM APPLIED WATER ALLOWANCE (MAWA) GALLONS PER YEAR
MAWA = (ETo)(0.62)[(LA x 0.45) + (0.55 x SLA)]
ETo = REFERENCE EVAPOTRANSPIRATION
0.55= ET ADJUSTMENT FACTOR
LA=LANDSCAPED AREA (SQUARE FEET)
0.62 = CONVERSION FACTOR (GALLONS/SQ.FT/YR)

ETWU FORMULA
ESTIMATED TOTAL WATER USE (ETWU) GALLONS PER YEAR
ETWU= ((ETO)(.62)(ETAF x LA))
ETo = REFERENCE EVAPOTRANSPIRATION
PF = PLANT FACTOR FOR HYDROZONES
HA = HYDROZONE AREA (SQ.FT)
0.62 = CONVERSION FACTOR (GALLONS/SQ.FT/YR)
IE = IRRIGATION EFFICIENCY (0.81)-BUBBLER/DRIP
IE = IRRIGATION EFFICIENCY (0.75)-ROTORS/SPRAY

SITE IRRIGATION EFFICIENCY	SITE PLANT FACTOR	MAWA COMPLIANT
81.0%	0.33	YES

ETAF Calculations

REGULAR LANDSCAPE AREAS	
TOTAL ETAF x AREA	1,296
TOTAL AREA	3,180
AVG. ETAF	40.76%

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JOB: 2104

SHEET:

IRRIGATION DETAIL

I1.6

Voluminous Attachment

Revised Addendum to the Initial Study-Negative Declaration

Attachment 1, Exhibit C to this report is on file and available for review at the City Clerk Department, or can be accessed from the City of Berkeley Website.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley's Website
http://www.berkeleyca.gov

Attachment 2

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CITY OF BERKELEY - CITY CLERK
2023 MAY 25 AM 11:40

Via Email

May 19, 2023

City Clerk Department
Attn: Mark Numainville, City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704
clerk@cityofberkeley.info

Re: Appeal of Zoning Adjustments Board Approval of the Addendum to the 2018 Initial Study-Negative Declaration for the 3000 Shattuck Avenue Project (State Clearinghouse # 2017062025) (Administrative Use Permit # ZP2022-0046)

Dear Mr. Numainville:

I am writing on behalf of the Laborers International Union of North America, Local Union 304 and its members living in the City of Berkeley ("LiUNA"), regarding the project known as 3000 Shattuck Avenue (Administrative Use Permit # ZP2022-0046), including all actions related or referring to the proposed development of a 10-story (114 feet) mixed-use building utilizing a Density Bonus, with 166 dwellings, including 17 Very Low-Income units, and 1,043 square-feet of commercial space, located at 3000 Shattuck Avenue in the City of Berkeley, California (the "Project").

The Project was approved by the Zoning Adjustments Board ("ZAB") at a public hearing on May 11, 2023. LiUNA wishes to appeal the ZAB's approval to the City Council for further review pursuant to Berkeley Municipal Code Section 23.410.030. LiUNA is concerned by the City's improper use of an Addendum which, if approved, would violate the California Environmental Quality Act ("CEQA"). This letter incorporates by reference and adopts in their entirety the May 5, 2023 letter and exhibits submitted by LiUNA (attached as **Exhibit A**) and the May 9, 2023 letter and exhibits submitted by East Bay Residents for Responsible Development (attached as **Exhibit B**).

In November 2018, the City approved the Project and adopted an Initial Study and Negative Declaration ("2018 IS-ND") for a prior iteration of the Project, which included 44 units and was 5 stories high ("2018 Project"). Now, the City has approved an Addendum to allow the development of a 10-story building with 166 units ("2023 Project"). The 2018 IS-ND did not consider the significant environmental impacts that would result from the increased scale of the new Project nor did it consider new information of substantial importance which LiUNA and

others have presented regarding the Project's significant environmental effects.

The use of an Addendum here is improper under CEQA. CEQA prohibits the use of an addendum if a revised Project may have one or more significant impacts that were not discussed in the originating negative declaration. To comply with CEQA, the City should prepare either a mitigated negative declaration ("MND") or an environmental impact report ("EIR") to properly analyze and mitigate the impacts of the proposed Project. LiUNA is specifically concerned by the following issues related to the Project:

1. **Indoor air quality:** Interior composite wood materials will off-gas indoor air emissions of formaldehyde, a known human carcinogen, resulting in significant health risks to future residents. Neither the Addendum nor the 2018 IS-ND have considered or mitigated this significant impact. Therefore, this issue must be addressed by an MND or an EIR.

2. **Hazardous materials:** The Project site is listed on the State Water Resources Control Board's Geotracker database and is therefore included on a Cortese List pursuant to California Government Code Section 65962.5. The Addendum states that the site's cleanup case is "closed." However, the site was closed because it met commercial/industrial screening levels, a determination which was based on the assumption that the land use at the site would remain unchanged from its current use as a gas station. The site has not been independently determined to meet environmental safety levels for residential development. This is a previously undisclosed significant impact which must be addressed by an MND or an EIR.

3. **ROG emissions:** The Project may result in potentially significant Reactive Organic Gas ("ROG") emissions which exceed the Bay Area Air Quality Management District ("BAAQMD") threshold of significance. These impacts were not considered by the 2018 IS-ND and thus constitute a significant impact which must be addressed by an MND or an EIR.

4. **Construction and demolition emissions:** The Addendum underestimates the Project's air emissions by inexplicably altering the estimated length of Project construction times and failing to account for emissions from the Project's demolition activities. These significant omissions are not supported by substantial evidence and must be addressed by an MND or an EIR.

5. **Trucking emissions:** The Addendum and the 2018 IS-ND fail to analyze or disclose the potentially significant air quality impacts that will result from the trucking of modular units to the Project site. This is a significant air quality impact which must be addressed by an MND or an EIR.

6. **Detriment to the General Welfare:** Pursuant to Berkeley Municipal Code Section 22.20.020(F):

> development projects create individual and cumulative impacts, including changes in, and in many cases deterioration of, the visual environment; an increase in noise, air and water pollution levels; new and increased traffic and parking impacts; power, sewer and other utility demand and consumption; loss of valuable open space; and increased demands on parks, schools, libraries, police, fire and public facilities, services and amenities;...

When such impacts are not mitigated, Municipal Code Section 22.20.020(G) goes on to state that these and other "impacts generated by development projects, unless mitigated, are detrimental to the City's public health, safety and general welfare...." Here, the Addendum violates the Municipal Code because it fails to mitigate the Project's detrimental impacts to air quality.

CONCLUSION

The use of an Addendum to approve the proposed Project violates CEQA. An Addendum is not appropriate "if the proposed modification may produce a significant environmental effect that had not previously been studied." (*Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.

Based on the foregoing, there is a fair argument that the Project will have numerous significant environmental impacts which have not been previously considered. These impacts were not adequately analyzed or mitigated by the Addendum nor by the 2018 IS-ND.

LiUNA therefore respectfully requests that the City Council grant its appeal and overturn the ZAB's approval of the Addendum. Thereafter, the City should return the Project to the Planning and Development Department for further consideration of its environmental impacts, including the necessary preparation and public review of either an MND or an EIR.

Sincerely,



Adam Frankel
LOZEAU | DRURY LLP

EXHIBIT A

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Via Email

May 5, 2023

Land Use Planning Division
Attn: Samantha Updegrave (Zoning Adjustments Board Secretary)
1947 Center Street, 2nd Floor
Berkeley, CA 94704
zab@cityofberkeley.info

Re: Proposed Addendum to the 2018 Initial Study-Negative Declaration for the 3000 Shattuck Avenue Project (State Clearinghouse # 2017062025) (Administrative Use Permit # ZP2022-0046) (Zoning Adjustments Board, Meeting of May 11, 2023, Agenda Item No. 5)

Dear Honorable Members of the Zoning Adjustments Board:

I am writing on behalf of the Laborers International Union of North America, Local Union 304 and its members living in the City of Berkeley ("LiUNA"), regarding the project known as 3000 Shattuck Avenue (Administrative Use Permit # ZP2022-0046), including all actions related or referring to the proposed development of a 10-story (114 feet) mixed-use building utilizing a Density Bonus, with 166 dwellings, including 17 Very Low-Income units, and 1,043 square-feet of commercial space, located at 3000 Shattuck Avenue in the City of Berkeley, California (the "Project").

LiUNA is concerned by the City's improper use of an Addendum which, if approved, would violate the California Environmental Quality Act ("CEQA"). In November 2018, the City approved the Project and adopted an Initial Study and Negative Declaration ("2018 IS-ND") for a prior iteration of the Project, which included 44 units and was 5 stories high ("2018 Project"). Now, the City proposes an Addendum to allow the development of a 10-story building with 166 units ("2023 Project"). The 2018 IS-ND did not consider the significant environmental impacts that would result from the increased scale of the new Project nor did it consider new information of substantial importance which LiUNA has presented regarding the Project's significant environmental effects.

The use of an Addendum here is improper under CEQA. CEQA prohibits the use of an addendum if a revised Project may have one or more significant impacts that were not discussed in the originating negative declaration. To comply with CEQA, the City should prepare either a

mitigated negative declaration ("MND") or an environmental impact report ("EIR") to properly analyze and mitigate the impacts of the proposed Project.

LEGAL REVIEW OF CEQA ADDENDUM

a. The Addendum Disregards Established Legal Precedent and Violates CEQA

A CEQA addendum must adhere to the courts' guidance informing when, and under what circumstances, its use is legally permissible. The courts have established a detailed, two-step inquiry for reviewing legal challenges to a CEQA addendum. This deliberative process is outlined in two important court decisions arising from the same case, *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016). The first decision was issued by the California Supreme Court and will be referred to here as "*San Mateo Gardens I.*"[1] A subsequent decision in the same case was issued by the Court of Appeal and will be referred to here as "*San Mateo Gardens II.*"[2]

The first step in this two-step analysis is for the reviewing court to determine whether **substantial evidence** supports the lead agency's determination that the original CEQA document, in this case the 2018 IS-ND, "retains some informational value." (*San Mateo Gardens I* at p. 952.) If the court finds that the original document "retains some informational value," it must hold that CEQA's subsequent review provisions apply (*San Mateo Gardens II* at 604-605.)

But this determination is "only the first step" in the court's analysis. (*San Mateo Gardens I* at 956.) "[T]he next—and critical—step is to determine whether the agency has properly determined how to comply with its obligations under those provisions." (*San Mateo Gardens I* at 953.) "[W]hen a project is initially approved by negative declaration, a "major revision" to the initial negative declaration will necessarily be required if the proposed modification *may* produce a significant environmental effect that had not previously been studied. (San Mateo Gardens I, 1 Cal. 5th 937, 958, citing CEQA Guidelines, § 15162.) "Indeed, if the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR." (*Id.*)

The *San Mateo Gardens II* opinion helpfully outlines the analysis required during this second stage of review:

> [O]nce we have determined that the [CEQA] subsequent review provisions apply to a project approved through a negative declaration, **our application of the standard of review changes and is *less deferential to the agency.*** It is less deferential because a negative declaration requires a major revision—i.e., a subsequent EIR or mitigated negative declaration—whenever there is substantial evidence to support a fair argument that proposed changes 'might have a significant environmental impact not previously

[1] 1 Cal.5th 937 (2016).
[2] 11 Cal.App.5th 596 (2017).

> considered in connection with the project as originally approved.' (quoting *San Mateo Gardens I* at 959 [additional citations omitted].)
>
> Proposed changes might have a significant environmental impact when there is some competent evidence to suggest such an impact, even if other evidence suggests otherwise. (See *Friends of "B" Street* (1980) 106 Cal.App.3d 988, 1002.) This means that an agency's determination that a major revision to a negative declaration is not required will necessarily lack substantial evidence when **a fair argument exists that the project might have a previously unstudied significant environmental impact.** (*San Mateo Gardens II* at 607-608 [emph. added].)

Under the "fair argument" standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency's decision. (14 CCR § 15064(f)(1); *Pocket Protectors,* 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.) The "fair argument" standard creates a "low threshold" favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.)

The "fair argument" standard is virtually the opposite of the typical deferential standard accorded to agencies. As a leading CEQA treatise explains:

> This 'fair argument' standard is very different from the standard normally followed by public agencies in their decision making. Ordinarily, public agencies weigh the evidence in the record and reach a decision based on a preponderance of the evidence. [Citation]. The fair argument standard, by contrast, prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact.

(Kostka & Zischke, *Practice Under the California Environmental Quality Act*, §6.37 (2d ed. Cal. CEB 2021).) The Courts have explained that "it is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency's determination. Review is de novo, with *a preference for resolving doubts in favor of environmental review.*" (*Pocket Protectors*, 124 Cal.App.4th at 928 (emphasis in original).)

In proposing the Addendum, the City seeks to make substantial revisions to the 2018 Project without performing a legally sufficient environmental review or offering appropriate mitigation for the Project's potentially significant environmental effects. The expert evidence which LiUNA presents today constitutes substantial evidence of a fair argument that the expanded Project will have significant environmental effects which the Addendum has not adequately addressed. Therefore, to comply with CEQA, the City should refrain from approving the Addendum and undertake the necessary efforts to prepare an MND or EIR for the Project.

DISCUSSION

I. The Project Will Have Significant Indoor Air Quality Impacts.

Certified Industrial Hygienist, Francis "Bud" Offermann, PE, CIH, has conducted a review of the proposed Project and relevant documents regarding the Project's indoor air emissions. Mr. Offermann concludes that the Project will likely expose future residents of the Project to significant impacts related to indoor air quality, and in particular, emissions of the cancer-causing chemical formaldehyde. Mr. Offermann is a leading expert on indoor air quality and has published extensively on the topic. Mr. Offermann's expert comments and CV are attached as **Exhibit A**.

Mr. Offermann explains that many composite wood products used in building materials and furnishings commonly found in offices, warehouses, residences, and hotels contain formaldehyde-based glues which off-gas formaldehyde over a very long time period. He states that "[t]he primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims." (Ex. A., pp. 2-3.)

Formaldehyde is a known human carcinogen. Mr. Offermann estimates that future residents of the Project would be exposed to a cancer risk of 120 per million. (Ex. A., p. 4.) This calculation assumes that all materials would be compliant with the California Air Resources Board's ("CARB") Phase 2 formaldehyde airborne toxics control measure ("Phase 2 Formaldehyde ATCM"). (*Id.*, p. 3.) These potential exposure levels exceed the Bay Area Air Quality Management District's ("BAAQMD") CEQA significance threshold for airborne cancer risks of 10 per million. (*Id.*, p. 2.)

Mr. Offermann concludes that these significant environmental impacts should be analyzed in an MND or EIR and that mitigation measures should be imposed to reduce the risk of formaldehyde exposure. (*Id.*, p. 5.) Mr. Offermann identifies mitigation measures that are available to reduce these significant health risks, including the installation of air filters and a requirement that the Applicant use only composite wood materials (e.g., hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins, or ultra-low emitting formaldehyde (ULEF) resins, for all of the buildings' interior spaces. (*Id.*, pp. 11-13.)

Mr. Offermann's comments constitute new information of substantial importance related to the presence of a significant environmental effect which was not discussed by the 2018 IS-ND. Furthermore, they provide substantial evidence of a fair argument that the Project will likely cause significant impacts on human health and indoor air quality. The City must therefore prepare an MND or an EIR to fully evaluate and mitigate these likely impacts to future Project residents.

II. The Increased Size and Height of the Project May Cause Significant Noise Impacts on the Adjacent Residents.

The Addendum asserts that noise impacts from the expanded Project would be less than significant. However, it provides no quantified analysis of the Project's noise impacts to support this assertion. This is a clear oversight. For instance, the significantly increased height of the expanded building will likely require the use of larger construction equipment which may generate more significant noise impacts than would have resulted from construction of the original project. Additionally, operational noise impacts will be distinct from those of the original project because of the building's increased height and the differing angles from which sound will travel to surrounding receptors. The City must prepare an EIR or an MND to fully evaluate the Project's noise impacts and analyze if, and to what extent, these impacts will be greater than those that would have been generated by the original project.

III. The Project's Additional Height May Have Significant Visual Impacts From its Increased Shadow Effects.

The Addendum concedes that "the modified Project could result in potentially greater impacts associated with the increased building height." (Addendum, p. 12.) These potential impacts would be especially significant for the surrounding residences which will experience increased shadow effects from the building's significantly increased height, which itself is much higher than any of the area's surrounding structures. Appendix G of the CEQA Guidelines asks whether a Project would "[s]ubstantially degrade the existing visual character or quality of the site and its surroundings." (CEQA Guidelines, Appen. G, § I, subd. (d).) Here, there is substantial evidence of a fair argument that a Project may have significant aesthetic impacts, thus requiring the preparation of either an MND or an EIR. (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 938.)

CONCLUSION

The use of an Addendum to approve the proposed Project violates CEQA. An Addendum is not appropriate "if the proposed modification may produce a significant environmental effect that had not previously been studied" (*San Mateo Gardens*, 1 Cal.5th at 958). Based on the foregoing, there is a fair argument that the Project will have significant health and indoor air quality impacts which have not been previously considered, and that it may have significant noise and aesthetic impacts. These impacts were not adequately analyzed or mitigated by the Addendum.

LiUNA therefore respectfully requests that the Zoning Adjustments Board refrain from taking any action on the Project and instead return the Project to the Planning and Development Department for further consideration of its environmental impacts, including the necessary preparation and public review of either an MND or an EIR.

Sincerely,

Adam Frankel
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EXHIBIT A

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Date: April 26, 2023

To: Michael Lozeau
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, California 94612

From: Francis J. Offermann PE CIH

Subject: Indoor Air Quality: 3000 Shattuck Avenue Project, Berkeley, CA
(IEE File Reference: P-4704)

Pages: 19

Indoor Air Quality Impacts

NOTE: This Indoor Air Quality letter contains similar comments as the letter I wrote for 2900-2920 Shattuck Avenue Project, but is specific for a separate adjacent project, 3000 Shattuck Avenue Project.

Indoor air quality (IAQ) directly impacts the comfort and health of building occupants, and the achievement of acceptable IAQ in newly constructed and renovated buildings is a well-recognized design objective. For example, IAQ is addressed by major high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014). Indoor air quality in homes is particularly important because occupants, on average, spend approximately ninety percent of their time indoors with the majority of this time spent at home (EPA, 2011). Some segments of the population that are most susceptible to the effects of poor IAQ, such as the very young and the elderly, occupy their homes almost continuously. Additionally, an increasing number of adults are working from home at least some of the time during the workweek.

Indoor air quality also is a serious concern for workers in hotels, offices and other business establishments.

The concentrations of many air pollutants often are elevated in homes and other buildings relative to outdoor air because many of the materials and products used indoors contain and release a variety of pollutants to air (Hodgson et al., 2002; Offermann and Hodgson, 2011). With respect to indoor air contaminants for which inhalation is the primary route of exposure, the critical design and construction parameters are the provision of adequate ventilation and the reduction of indoor sources of the contaminants.

Indoor Formaldehyde Concentrations Impact. In the California New Home Study (CNHS) of 108 new homes in California (Offermann, 2009), 25 air contaminants were measured, and formaldehyde was identified as the indoor air contaminant with the highest cancer risk as determined by the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), No Significant Risk Levels (NSRL) for carcinogens. The NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed population of 100,000 (i.e., ten in one million cancer risk) and for formaldehyde is 40 μg/day. The NSRL concentration of formaldehyde that represents a daily dose of 40 μg is 2 $\mu g/m^3$, assuming a continuous 24-hour exposure, a total daily inhaled air volume of 20 m^3, and 100% absorption by the respiratory system. All of the CNHS homes exceeded this NSRL concentration of 2 $\mu g/m^3$. The median indoor formaldehyde concentration was 36 $\mu g/m^3$, and ranged from 4.8 to 136 $\mu g/m^3$, which corresponds to a median exceedance of the 2 $\mu g/m^3$ NSRL concentration of 18 and a range of 2.3 to 68.

Therefore, the cancer risk of a resident living in a California home with the median indoor formaldehyde concentration of 36 $\mu g/m^3$, is 180 per million as a result of formaldehyde alone. The CEQA significance threshold for airborne cancer risk is 10 per million, as established by the Bay Area Air Quality Management District (BAAQMD, 2017).

Besides being a human carcinogen, formaldehyde is also a potent eye and respiratory irritant. In the CNHS, many homes exceeded the non-cancer reference exposure levels (RELs) prescribed by California Office of Environmental Health Hazard Assessment

(OEHHA, 2017b). The percentage of homes exceeding the RELs ranged from 98% for the Chronic REL of 9 $\mu g/m^3$ to 28% for the Acute REL of 55 $\mu g/m^3$.

The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.

In January 2009, the California Air Resources Board (CARB) adopted an airborne toxics control measure (ATCM) to reduce formaldehyde emissions from composite wood products, including hardwood plywood, particleboard, medium density fiberboard, and also furniture and other finished products made with these wood products (California Air Resources Board 2009). While this formaldehyde ATCM has resulted in reduced emissions from composite wood products sold in California, they do not preclude that homes built with composite wood products meeting the CARB ATCM will have indoor formaldehyde concentrations below cancer and non-cancer exposure guidelines.

A follow up study to the California New Home Study (CNHS) was conducted in 2016-2018 (Singer et. al., 2019), and found that the median indoor formaldehyde in new homes built after 2009 with CARB Phase 2 Formaldehyde ATCM materials had lower indoor formaldehyde concentrations, with a median indoor concentrations of 22.4 $\mu g/m^3$ (18.2 ppb) as compared to a median of 36 $\mu g/m^3$ found in the 2007 CNHS. Unlike in the CNHS study where formaldehyde concentrations were measured with pumped DNPH samplers, the formaldehyde concentrations in the HENGH study were measured with passive samplers, which were estimated to under-measure the true indoor formaldehyde concentrations by approximately 7.5%. Applying this correction to the HENGH indoor formaldehyde concentrations results in a median indoor concentration of 24.1 $\mu g/m^3$, which is 33% lower than the 36 $\mu g/m^3$ found in the 2007 CNHS.

Thus, while new homes built after the 2009 CARB formaldehyde ATCM have a 33% lower median indoor formaldehyde concentration and cancer risk, the median lifetime cancer risk is still 120 per million for homes built with CARB compliant composite wood

products. This median lifetime cancer risk is more than 12 times the OEHHA 10 in a million cancer risk threshold (OEHHA, 2017a).

With respect to 3000 Shattuck Avenue Project, Berkeley, CA, the buildings consist of residential spaces and commercial spaces.

The residential occupants will potentially have continuous exposure (e.g. 24 hours per day, 52 weeks per year). These exposures are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in residential construction.

Because these residences will be constructed with CARB Phase 2 Formaldehyde ATCM materials, and be ventilated with the minimum code required amount of outdoor air, the indoor residential formaldehyde concentrations are likely similar to those concentrations observed in residences built with CARB Phase 2 Formaldehyde ATCM materials, which is a median of 24.1 $\mu g/m^3$ (Singer et. al., 2020).

Assuming that the residential occupants inhale 20 m^3 of air per day, the average 70-year lifetime formaldehyde daily dose is 482 µg/day for continuous exposure in the residences. This exposure represents a cancer risk of 120 per million, which is more than 12 times the CEQA cancer risk of 10 per million. For occupants that do not have continuous exposure, the cancer risk will be proportionally less but still substantially over the CEQA cancer risk of 10 per million (e.g. for 12/hour/day occupancy, more than 6 times the CEQA cancer risk of 10 per million).

The employees of the commercial spaces are expected to experience significant indoor exposures (e.g., 40 hours per week, 50 weeks per year). These exposures for employees are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in offices, warehouses, residences and hotels.

Because the commercial spaces will be constructed with CARB Phase 2 Formaldehyde

ATCM materials, and be ventilated with the minimum code required amount of outdoor air, the indoor formaldehyde concentrations are likely similar to those concentrations observed in residences built with CARB Phase 2 Formaldehyde ATCM materials, which is a median of 24.1 $\mu g/m^3$ (Singer et. al., 2020)

Assuming that the employees of commercial spaces work 8 hours per day and inhale 20 m^3 of air per day, the formaldehyde dose per work-day at the offices is 161 µg/day.

Assuming that these employees work 5 days per week and 50 weeks per year for 45 years (start at age 20 and retire at age 65) the average 70-year lifetime formaldehyde daily dose is 70.9 µg/day.

This is 1.77 times the NSRL (OEHHA, 2017a) of 40 µg/day and represents a cancer risk of 17.7 per million, which exceeds the CEQA cancer risk of 10 per million. This impact should be analyzed in an environmental impact report ("EIR"), and the agency should impose all feasible mitigation measures to reduce this impact. Several feasible mitigation measures are discussed below and these and other measures should be analyzed in an EIR.

In addition, we note that the average outdoor air concentration of formaldehyde in California is 3 ppb, or 3.7 $\mu g/m^3$, (California Air Resources Board, 2004), and thus represents an average pre-existing background airborne cancer risk of 1.85 per million. Thus, the indoor air formaldehyde exposures describe above exacerbate this pre-existing risk resulting from outdoor air formaldehyde exposures.

Appendix A, Indoor Formaldehyde Concentrations and the CARB Formaldehyde ATCM, provides analyses that show utilization of CARB Phase 2 Formaldehyde ATCM materials will not ensure acceptable cancer risks with respect to formaldehyde emissions from composite wood products.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of

formaldehyde the meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

The following describes a method that should be used, prior to construction in the environmental review under CEQA, for determining whether the indoor concentrations resulting from the formaldehyde emissions of specific building materials/furnishings selected exceed cancer and non-cancer guidelines. Such a design analyses can be used to identify those materials/furnishings prior to the completion of the City's CEQA review and project approval, that have formaldehyde emission rates that contribute to indoor concentrations that exceed cancer and non-cancer guidelines, so that alternative lower emitting materials/furnishings may be selected and/or higher minimum outdoor air ventilation rates can be increased to achieve acceptable indoor concentrations and incorporated as mitigation measures for this project.

Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment

This formaldehyde emissions assessment should be used in the environmental review under CEQA to assess the indoor formaldehyde concentrations from the proposed loading of building materials/furnishings, the area-specific formaldehyde emission rate data for building materials/furnishings, and the design minimum outdoor air ventilation rates. This assessment allows the applicant (and the City) to determine, before the conclusion of the environmental review process and the building materials/furnishings are specified, purchased, and installed, if the total chemical emissions will exceed cancer and non-cancer guidelines, and if so, allow for changes in the selection of specific material/furnishings and/or the design minimum outdoor air ventilations rates such that cancer and non-cancer guidelines are not exceeded.

1.) Define Indoor Air Quality Zones. Divide the building into separate indoor air quality zones, (IAQ Zones). IAQ Zones are defined as areas of well-mixed air. Thus, each

ventilation system with recirculating air is considered a single zone, and each room or group of rooms where air is not recirculated (e.g. 100% outdoor air) is considered a separate zone. For IAQ Zones with the same construction material/furnishings and design minimum outdoor air ventilation rates. (e.g. hotel rooms, apartments, condominiums, etc.) the formaldehyde emission rates need only be assessed for a single IAQ Zone of that type.

2.) Calculate Material/Furnishing Loading. For each IAQ Zone, determine the building material and furnishing loadings (e.g., m^2 of material/m^2 floor area, units of furnishings/m^2 floor area) from an inventory of all potential indoor formaldehyde sources, including flooring, ceiling tiles, furnishings, finishes, insulation, sealants, adhesives, and any products constructed with composite wood products containing urea-formaldehyde resins (e.g., plywood, medium density fiberboard, particleboard).

3.) Calculate the Formaldehyde Emission Rate. For each building material, calculate the formaldehyde emission rate (µg/h) from the product of the area-specific formaldehyde emission rate (µg/m^2-h) and the area (m^2) of material in the IAQ Zone, and from each furnishing (e.g. chairs, desks, etc.) from the unit-specific formaldehyde emission rate (µg/unit-h) and the number of units in the IAQ Zone.

NOTE: As a result of the high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014), most manufacturers of building materials furnishings sold in the United States conduct chemical emission rate tests using the California Department of Health "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers," (CDPH, 2017), or other equivalent chemical emission rate testing methods. Most manufacturers of building furnishings sold in the United States conduct chemical emission rate tests using ANSI/BIFMA M7.1 Standard Test Method for Determining VOC Emissions (BIFMA, 2018), or other equivalent chemical emission rate testing methods.

CDPH, BIFMA, and other chemical emission rate testing programs, typically certify that a material or furnishing does not create indoor chemical concentrations in excess of the

maximum concentrations permitted by their certification. For instance, the CDPH emission rate testing requires that the measured emission rates when input into an office, school, or residential model do not exceed one-half of the OEHHA Chronic Exposure Guidelines (OEHHA, 2017b) for the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017). These certifications themselves do not provide the actual area-specific formaldehyde emission rate (i.e., $\mu g/m^2$-h) of the product, but rather provide data that the formaldehyde emission rates do not exceed the maximum rate allowed for the certification. Thus, for example, the data for a certification of a specific type of flooring may be used to calculate that the area-specific emission rate of formaldehyde is less than 31 $\mu g/m^2$-h, but not the actual measured specific emission rate, which may be 3, 18, or 30 $\mu g/m^2$-h. These area-specific emission rates determined from the product certifications of CDPH, BIFA, and other certification programs can be used as an initial estimate of the formaldehyde emission rate.

If the actual area-specific emission rates of a building material or furnishing is needed (i.e. the initial emission rates estimates from the product certifications are higher than desired), then that data can be acquired by requesting from the manufacturer the complete chemical emission rate test report. For instance if the complete CDPH emission test report is requested for a CDHP certified product, that report will provide the actual area-specific emission rates for not only the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017), but also all of the cancer and reproductive/developmental chemicals listed in the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), all of the toxic air contaminants (TACs) in the California Air Resources Board Toxic Air Contamination List (CARB, 2011), and the 10 chemicals with the greatest emission rates.

Alternatively, a sample of the building material or furnishing can be submitted to a chemical emission rate testing laboratory, such as Berkeley Analytical Laboratory (https://berkeleyanalytical.com), to measure the formaldehyde emission rate.

4.) Calculate the Total Formaldehyde Emission Rate. For each IAQ Zone, calculate the total formaldehyde emission rate (i.e. $\mu g/h$) from the individual formaldehyde emission

rates from each of the building material/furnishings as determined in Step 3.

5.) Calculate the Indoor Formaldehyde Concentration. For each IAQ Zone, calculate the indoor formaldehyde concentration ($\mu g/m^3$) from Equation 1 by dividing the total formaldehyde emission rates (i.e. $\mu g/h$) as determined in Step 4, by the design minimum outdoor air ventilation rate (m^3/h) for the IAQ Zone.

$$C_{in} = \frac{E_{total}}{Q_{oa}} \quad \text{(Equation 1)}$$

where:

C_{in} = indoor formaldehyde concentration ($\mu g/m^3$)

E_{total} = total formaldehyde emission rate ($\mu g/h$) into the IAQ Zone.

Q_{oa} = design minimum outdoor air ventilation rate to the IAQ Zone (m^3/h)

The above Equation 1 is based upon mass balance theory, and is referenced in Section 3.10.2 "Calculation of Estimated Building Concentrations" of the California Department of Health "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers", (CDPH, 2017).

6.) Calculate the Indoor Exposure Cancer and Non-Cancer Health Risks. For each IAQ Zone, calculate the cancer and non-cancer health risks from the indoor formaldehyde concentrations determined in Step 5 and as described in the OEHHA Air Toxics Hot Spots Program Risk Assessment Guidelines; Guidance Manual for Preparation of Health Risk Assessments (OEHHA, 2015).

7.) Mitigate Indoor Formaldehyde Exposures of exceeding the CEQA Cancer and/or Non-Cancer Health Risks. In each IAQ Zone, provide mitigation for any formaldehyde exposure risk as determined in Step 6, that exceeds the CEQA cancer risk of 10 per million or the CEQA non-cancer Hazard Quotient of 1.0.

Provide the source and/or ventilation mitigation required in all IAQ Zones to reduce the health risks of the chemical exposures below the CEQA cancer and non-cancer health risks.

Source mitigation for formaldehyde may include:

1.) reducing the amount materials and/or furnishings that emit formaldehyde
2.) substituting a different material with a lower area-specific emission rate of formaldehyde

Ventilation mitigation for formaldehyde emitted from building materials and/or furnishings may include:

1.) increasing the design minimum outdoor air ventilation rate to the IAQ Zone.

NOTE: Mitigating the formaldehyde emissions through use of less material/furnishings, or use of lower emitting materials/furnishings, is the preferred mitigation option, as mitigation with increased outdoor air ventilation increases initial and operating costs associated with the heating/cooling systems.

Further, we are not asking that the builder "speculate" on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers," (CDPH, 2017), and use the procedure described earlier above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Impact. Another important finding of the CNHS, was that the outdoor air ventilation rates in the homes were very low. Outdoor air ventilation is a very important factor influencing the indoor concentrations of air contaminants, as it is the primary removal mechanism of all indoor air generated contaminants. Lower outdoor air exchange rates cause indoor generated air contaminants to accumulate to higher indoor air concentrations. Many homeowners rarely open their windows or doors for ventilation as a result of their concerns for security/safety, noise, dust, and odor concerns (Price, 2007). In

the CNHS field study, 32% of the homes did not use their windows during the 24-hour Test Day, and 15% of the homes did not use their windows during the entire preceding week. Most of the homes with no window usage were homes in the winter field session. Thus, a substantial percentage of homeowners never open their windows, especially in the winter season. The median 24-hour measurement was 0.26 air changes per hour (ach), with a range of 0.09 ach to 5.3 ach. A total of 67% of the homes had outdoor air exchange rates below the minimum California Building Code (2001) requirement of 0.35 ach. Thus, the relatively tight envelope construction, combined with the fact that many people never open their windows for ventilation, results in homes with low outdoor air exchange rates and higher indoor air contaminant concentrations.

According to the Addendum to the 3000 Shattuck Avenue Project Initial Study – Negative Declaration (City of Berkeley, 2023), the Project is close to roads with moderate to high traffic (e.g., Shattuck Avenue, Adeline Street, Ashby Avenue, Russell Street, Newbury Street etc.). As a result the Project site is a sound impacted site.

According to the Addendum to the 3000 Shattuck Avenue Project Initial Study – Negative Declaration (City of Berkeley, 2023), no assessment of the ambient noise levels resulting from the local traffic has been conducted. In order to design the building for this Project such that interior noise levels are acceptable, an acoustic study with actual on site measurements of the existing ambient noise levels and modeled future ambient noise levels needs to be conducted. The acoustic study of the existing ambient noise levels should be conducted over a one-week period and report the dBA CNEL or Ldn. This study will allow for the selection of a building envelope and windows with a sufficient STC such that the indoor noise levels are acceptable. A mechanical supply of outdoor air ventilation to allow for a habitable interior environment with closed windows and doors will also be required. Such a ventilation system would allow windows and doors to be kept closed at the occupant's discretion to control exterior noise within building interiors.

$PM_{2.5}$ Outdoor Concentrations Impact. An additional impact of the nearby motor vehicle traffic associated with this project, are the outdoor concentrations of $PM_{2.5}$. According to the Addendum to the 3000 Shattuck Avenue Project Initial Study – Negative

Declaration (City of Berkeley, 2023), the Project is located in the San Francisco Bay Area Basin, which is a State and Federal non-attainment area for $PM_{2.5}$.

An air quality analyses should be conducted to determine the concentrations of $PM_{2.5}$ in the outdoor and indoor air that people inhale each day. This air quality analyses needs to consider the cumulative impacts of the project related emissions, existing and projected future emissions from local $PM_{2.5}$ sources (e.g. stationary sources, motor vehicles, and airport traffic) upon the outdoor air concentrations at the Project site. If the outdoor concentrations are determined to exceed the California and National annual average $PM_{2.5}$ exceedence concentration of 12 $\mu g/m^3$, or the National 24-hour average exceedence concentration of 35 $\mu g/m^3$, then the buildings need to have a mechanical supply of outdoor air that has air filtration with sufficient removal efficiency, such that the indoor concentrations of outdoor $PM_{2.5}$ particles is less than the California and National $PM_{2.5}$ annual and 24-hour standards.

It is my experience that based on the projected high traffic noise levels, the annual average concentration of $PM_{2.5}$ will exceed the California and National $PM_{2.5}$ annual and 24-hour standards and warrant installation of high efficiency air filters (i.e. MERV 13 or higher) in all mechanically supplied outdoor air ventilation systems.

Indoor Air Quality Impact Mitigation Measures

The following are recommended mitigation measures to minimize the impacts upon indoor quality:

Indoor Formaldehyde Concentrations Mitigation. Use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins (CARB, 2009). CARB Phase 2 certified composite wood products, or ultra-low emitting formaldehyde (ULEF) resins, do not insure indoor formaldehyde concentrations that are below the CEQA cancer risk of 10 per million. Only composite wood products manufactured with CARB approved no-added formaldehyde (NAF) resins, such as resins

made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

Alternatively, conduct the previously described Pre-Construction Building Material/Furnishing Chemical Emissions Assessment, to determine that the combination of formaldehyde emissions from building materials and furnishings do not create indoor formaldehyde concentrations that exceed the CEQA cancer and non-cancer health risks.

It is important to note that we are not asking that the builder "speculate" on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers", (CDPH, 2017), and use the procedure described above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Mitigation. Provide each habitable room with a continuous mechanical supply of outdoor air that meets or exceeds the California 2016 Building Energy Efficiency Standards (California Energy Commission, 2015) requirements of the greater of 15 cfm/occupant or 0.15 cfm/ft^2 of floor area. Following installation of the system conduct testing and balancing to insure that required amount of outdoor air is entering each habitable room and provide a written report documenting the outdoor airflow rates. Do not use exhaust only mechanical outdoor air systems, use only balanced outdoor air supply and exhaust systems or outdoor air supply only systems. Provide a manual for the occupants or maintenance personnel, that describes the purpose of the mechanical outdoor air system and the operation and maintenance requirements of the system.

$PM_{2.5}$ Outdoor Air Concentration Mitigation. Install air filtration with sufficient $PM_{2.5}$ removal efficiency (e.g. MERV 13 or higher) to filter the outdoor air entering the

mechanical outdoor air supply systems, such that the indoor concentrations of outdoor $PM_{2.5}$ particles are less than the California and National $PM_{2.5}$ annual and 24-hour standards. Install the air filters in the system such that they are accessible for replacement by the occupants or maintenance personnel. Include in the mechanical outdoor air ventilation system manual instructions on how to replace the air filters and the estimated frequency of replacement.

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APPENDIX A

INDOOR FORMALDEHYDE CONCENTRATIONS
AND THE
CARB FORMALDEHYDE ATCM

With respect to formaldehyde emissions from composite wood products, the CARB ATCM regulations of formaldehyde emissions from composite wood products, do not assure healthful indoor air quality. The following is the stated purpose of the CARB ATCM regulation - *The purpose of this airborne toxic control measure is to "reduce formaldehyde emissions from composite wood products, and finished goods that contain composite wood products, that are sold, offered for sale, supplied, used, or manufactured for sale in California"*. In other words, the CARB ATCM regulations do not "assure healthful indoor air quality", but rather "reduce formaldehyde emissions from composite wood products".

Just how much protection do the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products? Definitely some, but certainly the regulations do not "*assure healthful indoor air quality*" when CARB Phase 2 products are utilized. As shown in the Chan 2019 study of new California homes, the median indoor formaldehyde concentration was of 22.4 $\mu g/m^3$ (18.2 ppb), which corresponds to a cancer risk of 112 per million for occupants with continuous exposure, which is more than 11 times the CEQA cancer risk of 10 per million.

Another way of looking at how much protection the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products is to calculate the maximum number of square feet of composite wood product that can be in a residence without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy.

For this calculation I utilized the floor area (2,272 ft^2), the ceiling height (8.5 ft), and the number of bedrooms (4) as defined in Appendix B (New Single-Family Residence Scenario) of the Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers, Version 1.1, 2017, California

Department of Public Health, Richmond, CA. https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/EHLB/IAQ/Pages/VOC.aspx.

For the outdoor air ventilation rate I used the 2019 Title 24 code required mechanical ventilation rate (ASHRAE 62.2) of 106 cfm (180 m^3/h) calculated for this model residence. For the composite wood formaldehyde emission rates I used the CARB ATCM Phase 2 rates.

The calculated maximum number of square feet of composite wood product that can be in a residence, without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 15 ft^2 (0.7% of the floor area), or
Particle Board – 30 ft^2 (1.3% of the floor area), or
Hardwood Plywood – 54 ft^2 (2.4% of the floor area), or
Thin MDF – 46 ft^2 (2.0 % of the floor area).

For offices and hotels the calculated maximum amount of composite wood product (% of floor area) that can be used without exceeding the CEQA cancer risk of 10 per million for occupants, assuming 8 hours/day occupancy, and the California Mechanical Code minimum outdoor air ventilation rates are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 3.6 % (offices) and 4.6% (hotel rooms), or
Particle Board – 7.2 % (offices) and 9.4% (hotel rooms), or
Hardwood Plywood – 13 % (offices) and 17% (hotel rooms), or
Thin MDF – 11 % (offices) and 14 % (hotel rooms)

Clearly the CARB ATCM does not regulate the formaldehyde emissions from composite wood products such that the potentially large areas of these products, such as for flooring, baseboards, interior doors, window and door trims, and kitchen and bathroom cabinetry,

could be used without causing indoor formaldehyde concentrations that result in CEQA cancer risks that substantially exceed 10 per million for occupants with continuous occupancy.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde the meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

If CARB Phase 2 compliant or ULEF composite wood products are utilized in construction, then the resulting indoor formaldehyde concentrations should be determined in the design phase using the specific amounts of each type of composite wood product, the specific formaldehyde emission rates, and the volume and outdoor air ventilation rates of the indoor spaces, and all feasible mitigation measures employed to reduce this impact (e.g. use less formaldehyde containing composite wood products and/or incorporate mechanical systems capable of higher outdoor air ventilation rates). See the procedure described earlier (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Alternatively, and perhaps a simpler approach, is to use only composite wood products (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins.

EXHIBIT B

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May 9, 2023

Via Email and US Mail
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Kimberly Gaffney, Vice Chairperson
Igor Tregub, Member
Michael Thompson, Member
Holly Scheider, Member
Shoshana O'Keefe, Member
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Re: Comments on Agenda Item 5: 3000 Shattuck Avenue Project Addendum to the Initial Study Negative Declaration (SCH #2017062025)

Dear Chairperson Duffy, Vice Chairperson Gaffney, Members: Tregub, Thompson, Schneider, O'Keefe, Kahn, Yung, Sanderson, and Ms. Riemer:

On behalf of East Bay Residents for Responsible Development ("East Bay Residents"), we submit these comments on the Addendum to the 3000 Shattuck Avenue Project Initial Study Negative Declaration (SCH #2017062025) prepared by the City of Berkeley (the "City") for the 3000 Shattuck Avenue Project ("Project") proposed by Mark Rhoades of the Rhoades Planning Group and Khan Shazada & Farhat (collectively, "Applicant").[1] The City adopted the IS/ND ("2018 IS/ND") for the original 3000 Shattuck Avenue Project ("original project") and approved the

[1] City of Berkeley, Addendum to the 3000 Shattuck Avenue Project Initial Study – Negative Declaration (Permit No. ZP2015-0229, SCH # 2017062025) (January 2023), https://www.dropbox.com/s/kr0fme3neozjqyf/2023-01-27_CEQA_Addendum%20to%20IS-ND_3000%20Shattuck.pdf?dl=0 (hereinafter "Addendum").

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original project on November 27, 2018.[2] These comments precede the hearing of the City of Berkeley Zoning Adjustment Board ("ZAB") on May 11, 2023 at 7:00 pm.[3]

The Project consists of changes to the original project considered in the 2018 IS/ND. The Project proposes to demolish the existing 1,163-square-foot ("SF") gas station and construct 80,235 sf of residential space including 166 residential units, 1,095 SF of retail space, and zero parking spaces on the 0.31-acre site. Construction of the Project is anticipated to last eighteen (18) months. The Project site is located at 3000 Shattuck Avenue, Berkeley, CA 94705 (APNs 53-1592-1 & 53-1592-2). The Project site is designated as Avenue Commercial in the City's General Plan and is located in the South Area Commercial (C-SA) zoning district. The original project proposed 32,603 SF of residential uses, with 44 units including 4 affordable units. This Project proposes 80,235 SF of residential uses, with 166 units including 17 affordable units. The original project proposed the inclusion of 17 parking spaces for automobiles, this Project proposes zero parking spaces.[4]

We prepared these comments with the assistance of air quality and hazards expert Matt Hagemann and Paul Rosenfeld of Soil Water Air Protection Enterprise (SWAPE), whose technical comments and curriculum vitae are attached hereto as Exhibit A.[5] Our review of the Addendum and 2018 IS/ND demonstrates that the Project fails to comply with CEQA. As explained more fully below, the Addendum fails to accurately disclose the extent of the Project's potentially significant air quality, public health, hazardous contamination, land use, and cumulative impacts which are new or more severe than the impacts analyzed in the 2018 IS/ND. There is substantial evidence to support a fair argument that the Project will result in significant, unmitigated impacts in each of these areas. Further, the Project fails to comply with the City's General Plan and Housing Element. The City may not approve the Project until the City prepares an EIR that adequately analyzes the Project's potentially significant impacts and incorporates all feasible mitigation measures to avoid or minimize these impacts.

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[2] City of Berkeley, 3000 Shattuck Avenue Mixed Use Project Initial Study–Negative Declaration, https://www.dropbox.com/s/ui1snla3csdgpik/IS-ND%20with%20appendices_3000%20Shattuck.pdf?dl=0 (hereinafter "2018 IS/ND").
[3] City of Berkeley Zoning Adjustments Meeting Agenda, May 11, 2023, https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-05-11_ZAB_Agenda_Linked.pdf.
[4] Addendum p. 3.
[5] See **Exhibit A,** Matt Hagemann, P.G., C.Hg., Paul E. Rosenfeld, Ph.D., Comments on the 3000 Shattuck Mixed-Use Project (SCH No. 2017062025) (April 10, 2023) ("SWAPE Comments").
6154-007j

Moreover, the City prepared the Addendum in violation of CEQA and the court's holding in *Friends of College of San Mateo Gardens v. San Mateo County Community College District.* There, the court held that the Community College District improperly prepared an addendum to an MND, because there was substantial evidence to support a fair argument that the project changes may result in a significant effect on the environment.[6] Agencies are permitted to prepare an addendum to an adopted MND, rather than a subsequent EIR or negative declaration, if only "minor technical changes or additions are necessary or none of the conditions described in [CEQA Guidelines] Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred."[7] Here, the changes proposed in the Addendum are not "minor technical changes or additions" but constitute major revisions to the MND based on new significant environmental effects thus requiring preparation of an Environmental Impact Report ("EIR") if the impacts cannot be mitigated. Substantial evidence supports a fair argument that the Project's potentially significant impacts cannot be adequately mitigated by the measures proposed in the Addendum and 2018 IS/ND.

For the reasons discussed herein, and in the attached expert comments, East Bay Residents urges the City to remedy the deficiencies in the Addendum by preparing a legally adequate EIR and circulating it for public review and comment.[8] East Bay Residents and their expert consultants have identified numerous potentially significant impacts that the Addendum either mischaracterizes, underestimates, or fails to identify.

I. STATEMENT OF INTEREST

East Bay Residents for Responsible Development ("ERRBD" or "Residents") is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential impacts associated with Project development. The association includes the UA Plumbers and Pipefitters Local 342, International Brotherhood of Electrical Workers Local 595, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, and their members and their families who live and/or work in the City of Berkeley and Alameda County.

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[6] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2022) 11 Cal.App.5th 596, 600.
[7] CEQA Guidelines, § 15164, subd. (b).
[8] We reserve the right to supplement these comments at later hearings on this Project. Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199–1203; *see Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.
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The individual members of EBRRD live, work, and raise their families in the City and in Alameda County. They would be directly affected by the Project's impacts. Individual members may also work on the Project itself. They will therefore be first in line to be exposed to any health and safety hazards that may exist on the Project site.

The organizational members of EBRRD also have an interest in enforcing the City's planning and zoning laws and the State's environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making it less desirable for businesses to locate and people to live there. Indeed, continued degradation can, and has, caused restrictions on growth that reduce future employment opportunities. Finally, Residents' members are concerned about projects that are built without providing opportunities to improve local recruitment, apprenticeship training, and retention of skilled workforces, and without providing lifesaving healthcare expenditures for the construction workforce.

II. LEGAL BACKGROUND

CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project.[9] "CEQA's fundamental goal [is] fostering informed decision-making."[10] "The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind."[11]

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an EIR, except in certain limited circumstances.[12] The EIR is the very heart of CEQA.[13] The EIR acts like an "environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return."[14] The EIR aids an agency in identifying, analyzing, disclosing, and, to the extent possible, avoiding a project's significant environmental effects through implementing feasible

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[9] 14 Cal. Code Regs. ("CEQA Guidelines") § 15002, subd. (a)(1).
[10] *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 402.
[11] *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283.
[12] See, e.g., Pub. Resources Code, § 21100.
[13] *Dunn-Edwards v. Bay Area Air Quality Management Dist.* (1992) 9 Cal.App.4th 644, 652.
[14] *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1220.
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mitigation measures.[15] The EIR also serves "to demonstrate to an apprehensive citizenry that the [agency] has analyzed and considered the ecological implications of its action."[16] Thus, an EIR "protects not only the environment but also informed self-government."[17]

An EIR is required if "there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment."[18] The EIR aids an agency in identifying, analyzing, disclosing, and, to the extent possible, avoiding a project's significant environmental effects through implementing feasible mitigation measures.[19] In very limited circumstances, an agency may avoid preparing an EIR by issuing a negative declaration, a written statement briefly indicating that a project will have no significant impact. Because "[t]he adoption of a negative declaration . . . has a terminal effect on the environmental review process" by allowing the agency to dispense with the duty to prepare an EIR, negative declarations are allowed only in cases where there is not even a "fair argument" that the project will have a significant environmental effect.[20]

Under the fair argument standard, a lead agency "shall" prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.[21] The phrase "significant effect on the environment" is defined as "a substantial, or potentially substantial, adverse change in the environment."[22] In certain circumstances, a project with potentially significant impacts can be modified by the adoption of mitigation measures to reduce the impacts to a level of insignificance. In such cases, an agency may satisfy its CEQA obligation by preparing a mitigated

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[15] Pub. Resources Code § 21002.1(a); CEQA Guidelines § 15002(a), (f).
[16] *No Oil, Inc. v. City of Richmond* (1974) 13 Cal.3d 68, 86.
[17] *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.
[18] Pub. Resources Code, § 21080, subd. (d) (emphasis added); CEQA Guidelines, § 15064; see also *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927; *Mejia v. City of Richmond* (2005) 13 Cal.App.4th 322.
[19] Pub. Resources Code, § 21002.1, subd. (a); CEQA Guidelines, § 15002, subd. (a) & (f).
[20] *Citizens of Lake Murray v. San Diego* (1989) 129 Cal.App.3d 436, 440; Pub. Resources Code, §§ 21100, 21064.
[21] Pub. Res. Code §§21080(d), 21082.2(d); 14 Cal. Code Reg. §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Richmond* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.
[22] Pub. Resources Code, § 21068.
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negative declaration.[23] A mitigated negative declaration, however, is also subject to the fair argument standard. Thus, an MND is also inadequate, and an EIR is required, whenever substantial evidence in the record supports a "fair argument" that significant impacts may occur, even with the imposition of mitigation measures.

The "fair argument" standard is an exceptionally "low threshold" favoring environmental review in an EIR rather than a negative declaration.[24] The "fair argument" standard requires the preparation of an EIR if any substantial evidence in the record indicates that a project may have an adverse environmental effect.[25] As a matter of law, substantial evidence includes both expert and lay opinion.[26] Even if other substantial evidence supports the opposite conclusion, the agency nevertheless must prepare an EIR.[27] Under the "fair argument" test, CEQA always resolves the benefit of the doubt in favor of the public and the environment.

Agencies are permitted to prepare an addendum to an adopted MND, rather than a subsequent EIR or negative declaration, if only "minor technical changes or additions are necessary or none of the conditions described in [CEQA Guidelines] Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred."[28] "If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration," and if no subsequent EIR is required, the agency "shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation." (CEQA Guidelines, § 15162, subd. (b).) Additionally, CEQA requires preparation of an EIR where "[s]ubstantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects."

Here, the changes proposed in the Addendum are not "minor technical changes or additions" but constitute major revisions to the 2018 IS/ND based on new significant environmental effects thus requiring the preparation of a negative

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[23] Pub. Resources Code, § 21064.5; CEQA Guidelines, § 15064, subd. (f)(2).
[24] *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.
[25] CEQA Guidelines, § 15064, subd. (f)(1); *Pocket Protectors v. City of Sacramento, supra*, 124 Cal.App.4th at 931.
[26] Pub. Resources Code, § 21080, subd. (e)(1); CEQA Guidelines, § 15064, subd. (f)(5).
[27] *Arviv Enterprises v. South Valley Area Planning Comm.* (2002) 101 Cal.App.4th 1333, 1346; *Stanislaus Audubon v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597.
[28] CEQA Guidelines, § 15164, subd. (b).
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declaration at a minimum, and an EIR if the impacts cannot be mitigated. As shown below, SWAPE provided substantial evidence that ROG emissions, and construction and demolition emissions may be significant and were not analyzed or mitigated in the 2018 IS/ND.

The California Supreme Court held that if "the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR."[29] Thus, "an agency [must] prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved, and courts must enforce that standard."[30]

In *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.*, the court held that the Community College District improperly prepared an addendum to an MND, because there was substantial evidence to support a fair argument that the project changes may result in a significant effect on the environment.[31] In that case, the court found that the change in the Project as detailed in the Addendum was significant enough to require additional environmental review, and that an Addendum was not the appropriate CEQA document. Similarly, here, the Project's changes, including the doubling of its height, increased air quality, public health, and hazards impacts results in new significant impact such that an Addendum is inappropriate and an EIR must be prepared. The ZAB must remand the Project to Staff to prepare a legally adequate EIR for the Project, because substantial evidence supports a fair argument that the Project's changes may result in significant impacts, which have not been avoided through the revisions in the Addendum. Project impacts remain significant and unmitigated, as detailed herein.

Moreover, the ZAB lacks the evidence necessary to approve the requested Use Permit for the Project because substantial evidence demonstrates that the Project will be detrimental to the general welfare. The Project Applicant has not made a commitment to ensure the Project is built with local skilled and trained workforce, or that the Project will provide apprenticeship training opportunities or

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[29] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.
[30] *Id.* at p. 959.
[31] (2022) 11 Cal.App.5th 596.
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healthcare benefits or other workforce benefits for City of Berkeley or East Bay residents. The Project may be built with low-wage, out-of-area workers who lack the livable wages, health benefits, stability, and basic standard of living that Berkeley has committed to ensuring for all of its workers on all housing developments constructed in the City. The Project would therefore be detrimental to the health, safety, peace, morals, comfort, and general welfare of the City and its residents, especially its local construction workforce who may not have the opportunity to build much-needed housing in their own community. The Project is also inconsistent with the workforce and economic requirements of the City of Berkeley General Plan ("General Plan").

The ZAB should remand the Project to Staff to prepare a legally adequate EIR and include conditions of approval requesting community benefits, including local hire provisions, workforce standards, and healthcare benefits for workers, to ensure the Project does not cause a detriment to the general welfare of the City.

III. THE PROJECT'S POTENTIALLY SIGNIFICANT HAZARDS IMPACTS REQUIRE PREPARATION OF AN EIR

The Project site is contaminated with hazardous contaminants from its historical use as a service station operated by Atlantic Richfield Company (ARCO).[32] ARCO later became an affiliate of BP and the site was operated as BP Station No. 00414 until it was sold to Mr. Shahzada Khan on February 25, 2004.[33] The Project site is listed on the State Water Resources Control Board's Geotracker database as Site T0600100094. The site is therefore on a Cortese List per Section 65962.5 of the Government Code. The Project site is currently an operational gas station and smog check location operated by Berkeley Gas & Smog. The Project site contained three underground storage tanks (USTs) that contained gasoline, and one waste oil UST.[34]

The Addendum tiers from the IS which states:

> The site is included on the list of hazardous materials sites compiled pursuant to Government Code 65962.5 (Cortese List) as "closed" cases. As

[32] Atlantic Richfield Company, Case Closure Summary Report Former British Petroleum Station #00414 City of Berkeley case #27540. 3000 Shattuck Avenue Berkeley, California (June 9, 2010), https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/8836282312/T0600100094.PDF p. 2/16 (hereinafter "Case Closure Summary Report").
[33] *Id.*
[34] *Id.*

> described in the Environmental Setting, the RWQCB issued a case closure letter for the clean-up case in September 2014, concluding that the current plume is restricted to the site and does not present a current or potential risk to human health or the environment. Therefore, the project would not create a significant hazard to the public or the environment and the impact would be less than significant.[35]

The IS relies on the misleading statement that the cleanup case is "closed."[36] The Addendum then relies on the same misleading proposition. The Addendum states that "[t]here are two closed State Water Quality Control Board GeoTracker investigations on the project site (T0600100094 [closed 2013] and T10000004483 [closed 2014])."[37]

These statements are misleading because the site was closed to commercial/industrial screening levels, "based on the assumption that land use at the site will remain unchanged."[38] The Project site fails to meet the residential ESL levels necessary to place housing on the site. The site must undergo additional soil remediation to remove excess contaminants and reach acceptable residential ESLs because the site is being converted from commercial/industrial to residential use. People will live on the site, their children may play on the grounds, but the site was cleaned only to commercial/industrial screening levels. The contamination that currently remains onsite may result in health risk impacts to the residents and the community.

Moreover, the Addendum includes the Case Closure Summary Report that states that "[s]oil vapor samples have not been collected at the site."[39] The Case Closure Summary was required to include "Cumulative data tables for all soil, groundwater samples, including grab samples, and soil vapor ***must*** be included."[40] Data on soil vapor samples and cumulative data on the potential for soil vapor intrusion was not included in the Case Closure Summary, the Initial Study, or the Addendum and is not available for public review and scrutiny.

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[35] IS, https://www.dropbox.com/s/19ieh5spqqet2qb/IS-ND%20with%20appendices_3000%20Shattuck.pdf?dl=0, p. 23.
[36] *Id.*
[37] Addendum p. 22.
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[39] Case Closure Summary Report, p. 10/16.
[40] *Id.* at pdf 83 of 86.
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At the time of the site's closure in 2010, "[a] station building [was] present at the site and the entire site [was] paved, with no exposed soil present at the ground surface."[41] Project construction here, will disrupt and expose soil, potentially exposing dangerous and previously untested levels of soil vapor. At the time of the closure, the "potential for soil vapor intrusion was evaluated by comparing current groundwater concentrations to groundwater ESLs...for the protection of the vapor intrusion pathway in a ***commercial setting***."[42] The soil vapor and potential health risk impacts have not been analyzed for a residential setting and may pose a significant risk to residents of the Project site.

The City must draft an EIR because substantial evidence supports a fair argument that hazardous contamination and soil vapor may result in a significant environmental impact. The courts have repeatedly held that an EIR must be prepared, whenever it can be fairly argued on the basis of substantial evidence that a project may have a significant environmental impact.[43] Here, the City cannot approve the Project based on an Addendum to the Initial Study because project modification results in potentially significant impacts from hazardous contamination and soil vapor which were unstudied at the time of preparation of the 2018 IS/ND.

The California Supreme Court held that if "the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR."[44] Thus, "an agency [must] prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved, and courts must enforce that standard."[45] The City must prepare an EIR to adequately analyze and mitigate the Project's potentially significant and as yet unstudied impacts from soil vapor and hazardous contamination, before the Project can lawfully be approved.

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[41] Case Closure Summary Report, p. 10/16.
[42] *Id.*
[43] Pub. Resources Code § 21151; CEQA Guidelines § 15064(f); *Citizens for Responsible Equitable Envt'l Dev. v. City of Chula Vista* ("*CREED*") (2011) 197 Cal.App.4th 327, 330-31; *Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319 ("*CBE v. SCAQMD*").
[44] Friends of College of San Mateo Gardens v. San Mateo County Community College Dist. (2016) 1 Cal.5th 937, 958.
[45] Id. at p. 959.
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IV. THE PROJECT RESULTS IN SIGNIFICANT AIR QUALITY IMPACTS REQUIRING PREPARATION OF AN EIR

An EIR must be prepared, whenever it can be fairly argued on the basis of substantial evidence that a project may have a significant environmental impact.[46] "[S]ignificant effect on the environment" is defined as "a substantial, or potentially substantial, adverse change in the environment."[47] An effect on the environment need not be "momentous" to meet the CEQA test for significance; it is enough that the impacts are "not trivial."[48] Substantial evidence, for purposes of the fair argument standard, includes "fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact."[49] The Project may result in potentially significant impacts to air quality. Air quality impacts constitute new or increased significant environmental effects "not previously considered in connection with the project as originally approved."[50]

A. The Project Results in Significant ROG Emissions

East Bay Resident's air quality expert consultants at SWAPE found that the Project results in significant emissions from Reactive Organic Gas ("ROG") which exceed the Bay Area Air Quality Management District ("BAAQMD") threshold. BAAQMD provides that ROG emissions shall not exceed 54 pounds per day ("lbs/day"), but the Project would result in ROG emissions of 71.55 lbs/day.[51] The 2018 IS/ND makes no mention of ROG emissions, but the Addendum states that the ROG emissions would be 3 lbs/day.[52] This conclusion is not supported by substantial evidence. SWAPE found that the changes to the Project result in a 2,285% increase in ROG emissions, far and away exceeding the BAAQMD significance threshold. Therefore, ROG emissions remain significant and the Addendum nor the 2018 IS/ND adequately mitigate such impacts. The City must prepare an EIR to satisfy CEQA.

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[46] Pub. Resources Code § 21151; CEQA Guidelines § 15064(f); *Citizens for Responsible Equitable Envt'l Dev. v. City of Chula Vista* ("*CREED*") (2011) 197 Cal.App.4th 327, 330-31; *Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319 ("*CBE v. SCAQMD*").
[47] Pub. Resources Code § 21068; CEQA Guidelines § 15382; *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1581.
[48] *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83.
[49] Pub. Resources Code § 21080(e)(1) (emphasis added); *CREED*, 197 Cal.App.4th at 331.
[50] *Friends of College of San Mateo Gardens v. San Mateo Community College District, supra*, 1 Cal.5th at 959.
[51] SWAPE Comments, p. 5.
[52] Addendum, p. 14.
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The California Supreme Court held that if "the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR."[53] Further, "an agency [must] prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved, and courts must enforce that standard."[54]

East Bay Residents present substantial evidence, in these comments and in our expert comments attached, showing that the Project may result in potentially significant ROG emissions, which must be mitigated before the Project can be approved. These impacts were not considered in the prior 2018 IS/ND, and must be analyzed in an EIR. SWAPE's comments present dozens of effective mitigation measures to help reduce Project ROG, construction, and operational air emissions. Such measures should be implemented in an EIR's Mitigation Monitoring and Reporting Program. The City must prepare an EIR to study the previously unstudied and potentially significant air quality impacts from the Project, particularly with respect to ROG emissions, to satisfy CEQA.

B. The Addendum Underestimates the Project's Construction and Demolition Emissions

The Addendum states that Project construction will last 18 months.[55] The Addendum states that the original project included a construction period of 18 months as well.[56] But, the 2018 IS/ND provided that the construction period will last 20 months.[57] Thus, it is particularly troubling, that the Addendum's air quality analysis relies on a 21-month construction period, resulting in an underestimation of the Project's construction emissions. SWAPE concludes that the elongated construction duration results in an underestimation of the daily emissions resultant from construction equipment onsite. SWAPE concludes that the analysis improperly relies on the assumption that "there will be less construction activities

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[53] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.
[54] Id. at p. 959.
[55] Addendum, p. 3.
[56] *Id.*
[57] 2018 IS/ND.
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required per day and, consequently, less pollutants emitted per day."[58] The Addendum's air quality construction emissions calculations underestimate the Project's daily emissions and are therefore not supported by substantial evidence. The City must prepare a legally adequate EIR which accurately analyzes the Project's daily construction emissions with an accurate construction schedule guiding the analysis.

Further, the Addendum fails as an informational document under CEQA for failing to model the emissions associated with demolition of the existing building on the Project site. SWAPE concludes that the Addendum fails altogether to analyze the demolition phase of construction and inputted zeros into the calculations for square feet being demolished.[59] This is not an accurate assessment of the required demolition of the existing gas station, two gas pump islands, and related infrastructure.[60] Demolition of existing infrastructure will obviously exceed zero square feet of demolition activity, counter to the Addendum's unsupported calculations. SWAPE concludes that the failure to include the demolition emissions presents a significant issue, because by failing to include any amount of required demolition, the model underestimates the emissions associated with fugitive dust, debris removal, as well as exhaust from hauling trucks traveling to and from the site, which may be significant and remain unmitigated.[61] These impacts were not considered in the prior 2018 IS/ND, and must be analyzed in an EIR.

C. The Addendum Underestimates the Project's Construction Emissions from Trucking the Modular Units

The Addendum fails as an informational document under CEQA for failing to quantify and analyze the Project's potentially significant air pollution impacts from trucking the modular units potentially hundreds of miles to the Project site. The Addendum and 2018 IS/ND failed to quantify the potentially significant air quality, health risk, and cumulative impact associated with trucking the modular units. These modular units may be transported from out of state or hundreds of miles from the Project site. Absent an analysis of the emissions associated with trucking these modular units, the Addendum fails as an informational document under CEQA, and the conclusion that air impacts from Project construction are less than significant is not supported by substantial evidence.

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[58] SWAPE Comments, p. 4.
[59] *Id.*
[60] 2018 IS/ND, p. 6.
[61] SWAPE Comments, p. 5. s
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V. THE PROJECT RESULTS IN SIGNIFICANT CUMULATIVE IMPACTS REQUIRING PREPARATION OF AN EIR

CEQA requires agencies to analyze whether a project has impacts that are individually limited, but cumulatively considerable.[62] Cumulatively considerable means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects). Cumulative impacts are defined as "two or more individual effects, which, when considered together, are considerable or which compound or increase other environmental impacts."[63]

The Addendum fails to include any analysis supported by substantial evidence to conclude that the Project does not result in cumulatively considerable impacts. In fact, the Addendum only mentions cumulative impacts for traffic and air quality impacts, but dismisses all other potentially significant cumulative impacts out of hand, without providing substantial evidence to support the conclusions. The 2018 IS/ND concluded that because the Project is "an infill location" cumulative impacts are less than significant for all resource areas.[64] But, it is particularly because this Project is an infill project, that a cumulative analysis of concurrent construction impacts is so critical. Here, the Project is proposed to be constructed concurrently with the 2920 Shattuck Project, just down the street, among other new Berkeley high rise developments. Both this Project and the 2920 Shattuck project will result in potentially cumulatively significant air quality, hazards, and land use impacts that were not analyzed in conjunction with either Project's analysis.

The City must prepare an EIR which accurately analyzes the Project's potentially significant cumulative impacts before the Project can lawfully be approved.

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[62] 14 CCR § 15355(b); *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 905.
[63] 14 CCR § 15355.
[64] 2018 IS/ND, p. 38.
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VI. THE PROJECT MAY BE DETRIMENTAL TO THE GENERAL WELFARE OF THE CITY, RESIDENTS, AND WORKERS

In order to approve a Use Permit, under Berkeley Municipal Code Section 23.406.040, the Zoning Adjustments Board must find that the proposed project:

1) Will not be detrimental to the health, safety, peace, morals, comfort, or **general welfare** of persons residing or visiting in the area or neighborhood of the proposed use; and
2) Will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

Municipal Code Section 22.20.020 defines detrimental impacts to include, *inter alia*, increased demand for workforce housing, training, and benefits: "The increased demand for affordable housing, child care and public services, ***adequate employment training and placement facilities and amenities***, and the other impacts generated by development projects, unless mitigated, are detrimental to the City's public health, safety and general welfare."[65] Under Section 22.20.020, a detriment to the general welfare occurs when the City fails to mitigate the impacts of a development project, including the increased demand for housing, workforce training, and public services that may result from the Project.[66] Pursuant to Municipal Code Section 22.20.020, the Project's impacts to the general welfare for failure to provide employment training, placement facilities, and amenities, require mitigation.[67]

Further, the ZAB may approve a Use Permit for demolition of a non-residential building or structure only if the ZAB finds that "demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City of Berkeley"[68] Here, the ZAB cannot make the necessary findings that demolition of the existing structure and construction of the Project is in the public interest, absent community and workforce benefits to promote the general welfare.

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[65] BMC § 22.20.020(G) (emphasis added).
[66] *Id.*
[67] BMC § 22.20.020(G).
[68] *Id.* at § 23.326.070(D)(1).
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Housing projects, like this one, that are constructed with low-wage or uninsured construction workers are detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or visiting the City and the Project's Downtown neighborhood, as well as to the general welfare of the City. The City should request the Applicant include community benefits in the Project conditions of approval, including local hire provisions and healthcare standards and benefits in order to promote the general welfare.

A. The Project is Detrimental to the General Welfare for Failing to Hire Locally

Absent a provision requiring the Applicant to hire locally, the Project may be detrimental to the general welfare of Berkeley residents. Local hire commitments are a critical way not only to hire local residents, but to use project hiring needs to target opportunities to low-income residents and people of color who might otherwise not benefit from new development.[69] Local hire programs help address the fragmentation inherent in the development process, establishing better communication among developers, employers, community organizations, local job training resources, and the workforce development system that can provide job readiness and job retention support services.[70] Here, the Project Applicant has not made a commitment to ensure the Project is built with local skilled and trained workforce. The Project is therefore likely to be detrimental to City goals and the Berkeley community – particularly to its highly qualified construction workforce, who may not have the opportunity to build much-needed housing in their own community. The City should request the Applicant provide a local hire percentage of 30 percent as a community benefit for the Project.

B. The Project is Detrimental to the General Welfare for Failing to Provide Healthcare to Construction Workers

Further, the Project has not committed to healthcare standards or benefits for the construction workers building the Project. This results in a detriment to the general welfare of the City and its residents, including in particular, to its construction worker residents. By failing to provide healthcare for its construction

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[69] Kathleen Mulligan-Hansel, *Making Development Work for Local Residents: Local Hire Programs and Implementation Strategies that Serve Low-Income Communities,* (July 2008). Available at: https://s3.amazonaws.com/proggov21-uploads/uploads/asset/asset_file/Making_Development_Work_Local_Residents_Mulligan-HanselPWF2008.pdf.

[70] *Id.*

workers, the Project leaves the responsibility of providing for the health, safety, and welfare of the workers and the community on the workers themselves, or on taxpayer-funded public assistance, thus externalizing the cost of construction. By failing to provide healthcare standards, the Project would perpetuate existing income and healthcare inequities for construction workers, causing a detriment to the general welfare by failing to provide for the health and safety of its workers. The City should request the Applicant provide healthcare benefits as a community benefit of the Project.

Project construction will increase the local demand for a construction workforce. The Project's lack of workforce standards and worker healthcare may exacerbate the existing demand for local affordable housing and public services by construction workers that currently receive low pay without benefits. Without mitigation, these impacts remain significant, and the ZAB cannot make the necessary findings that the Project complies with the General Plan and zoning code. To comply with the General Plan Economic Development and Employment Element, the City must ensure that new housing developments provide jobs that go to Berkeley residents and provide job training programs and job readiness.

Moreover, the Municipal Code provides that the "Zoning Ordinance establishes *minimum* requirements to promote the public health, safety, and general welfare."[71] The Municipal Code also provides that, "[t]o the extent possible, it is the government's responsibility to balance the responsibility to ensure the health, safety, and general welfare of the public at large in a fiscally and environmentally sustainable manner."[72] It is therefore the responsibility of the Zoning Adjustment Board to promote the general welfare beyond the minimum required by law. Here, the ZAB must require the Project to include community benefits like those detailed herein, otherwise, the Project contravenes the Municipal Code and General Plan.

VII. THE PROJECT IS INCONSISTENT WITH THE GENERAL PLAN

CEQA requires an agency to analyze whether a project conforms with the applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an

[71] BMC § 22.104.030.
[72] *Id.* at § 2.09.020.
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environmental effect.[73] The Addendum fails as an informational document under CEQA for failing to analyze the Project's inconsistency with the General Plan.

A. The Project is Inconsistent with the General Plan Economic Development & Employment Element

The Project is inconsistent with the General Plan Economic Development & Employment Element, and thus cannot be approved until consistency is demonstrated.[74] The General Plan Economic Development and Employment Element Policy (ED-1) provides that the City must "[i]ncrease the number of jobs that go to Berkeley citizens by coordinating economic development efforts with employment placement."[75] Further, the General Plan provides that the City intends to "[w]ork with job training programs and encourage training for life skills, job readiness, and specific target industries."[76] The Project does not include any commitment to provide construction jobs to Berkeley or East Bay residents, and does not contribute to any apprenticeship or other construction job training programs. Housing development projects in the City must also implement the goals and policies of the General Plan, including the following:

1) Ensure that Berkeley has an adequate supply of decent housing, living wage jobs, and businesses providing basic goods and services.
2) New housing will be developed to expand housing opportunities in Berkeley to meet the needs of all income groups.[77]

The City has determined that "it is in the City of Berkeley's economic interest to support a pipeline of skilled workers to accomplish the construction objectives and policies of the Berkeley General Plan."[78] The Project must support this goal by

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[73] CEQA Guidelines Appendix G, XI Land Use and Planning.
[74] SB 330 requires conformance with applicable, objective general plan and zoning standards. Gov. Code § 65905.5. (a).
[75] Berkeley General Plan Economic Development and Employment Element, p. ED-5. Available at: https://berkeleyca.gov/sites/default/files/documents/12_Economic%20Development%20and%20Employment%20Element-FINAL.pdf.
[76] *Id.*
[77] Berkeley General Plan Economic Development and Employment Element, p. ED-5.
[78] City of Berkeley, Agenda and Staff Report, Berkeley City Council, Council Consent Item 14 Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS), https://berkeleyca.gov/sites/default/files/city-council-meetings/2022-09-20%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf ("HARD HATS Staff Report") (Sept. 20, 2022) p. 7.
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including community benefits such as local hire and healthcare and workforce benefits, otherwise the Project is detrimental to the general welfare, violates the General Plan, and may not be approved.

Moreover, the Project's failure to provide sufficient affordable housing onsite contravenes the General Plan's objective that development in the City should ensure an "adequate supply of decent housing."[79] The City may allow the Applicant to pay a fee, in-lieu of providing an adequate supply of affordable housing on the Project site.[80] If the City continues this practice of allowing developers to get away with paying in lieu fees, instead of providing onsite affordable housing, the City will have an insufficient supply of decent affordable housing as required by the General Plan. The Project's failure to provide *onsite* affordable housing for local residents therefore contravenes the General Plan's Economic Development and Employment Element and cannot be approved by ZAB.

VIII. THE PROJECT IS INCONSISTENT WITH THE CITY'S HOUSING ELEMENT

CEQA requires an agency to analyze whether a project conforms with the applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.[81] The Addendum fails as an informational document under CEQA for failing to analyze the Project's inconsistency with the Housing Element.

The Project proposes to construct a ten-story residential building containing 166 dwelling units (17 Very Low-Income unit).[82] The project is seeking a 50% Density Bonus by providing 15% of the base project units as affordable to very low-income households. The Developer stated in their application for the Project that in order to "comply with City of Berkeley Affordable Housing rental requirements, the project will also be providing additional Affordable Units and/or/or-in-combination-

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[79] Berkeley General Plan Economic Development and Employment Element, p. ED-5.
[80] City of Berkeley Planning and Development, Zoning Project Application, 3000 Shattuck Ave. Berkeley CA 94705 (March 14, 2022), https://www.dropbox.com/s/n987ldxqb6pesmp/2022-03-29_APP_PCKT_3000%20Shattuck%20%281%29.pdf?dl=0.
[81] CEQA Guidelines Appendix G, XI Land Use and Planning.
[82] Addendum p. 2.
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with providing an in-lieu Mitigation Fee per the City of Berkeley requirements."[83] More affordable units must be provided for the Project to be consistent with the City's Housing Element and state law.

The Regional Housing Needs Assessment is the California State-required process that seeks to ensure cities and counties plan for enough housing in their Housing Element cycle to accommodate all economic segments of the community.[84] Accordingly, the Housing Element of the City's General Plan identifies the City's housing conditions and needs, evaluates the City's ability to meet its Regional Housing Needs Allocation ("RHNA"), establishes the goals, objectives, and policies of the City's housing strategy, and provides an array of programs to create mixed-income neighborhoods across the City.[85] The Housing Element, which was amended on February 17, 2023, states that "the City has a remaining RHNA of 5,033 units (1,923 very low income; 852 low income; 1,227 moderate income; and 1,031 above moderate income units)... The City must identify adequate sites capacity for this remaining RHNA."[86] Accordingly, Policy H-1 – Extremely Low, Very Low, Low and Moderate-Income Housing – provides: "Increase the number of housing units affordable to Berkeley residents with lower income levels."[87] Because the City has not produced and is not expected to produce enough affordable housing to meet its RHNA, projects that do not contribute to the City's RHNA are inconsistent with the City's Housing Element, a primary goal of which is to meet the RHNA.

Berkeley Municipal Code Section 23.328.010 provides that residential housing projects constructing five or more dwelling units must include at least 20 percent of the total number of dwelling units within the project as inclusionary units. As an alternative to providing inclusionary units required in an ownership project, the applicant may elect to enter in an agreement with the City to pay fees in-lieu of providing below-market rate units.[88]

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[83] City of Berkeley Planning and Development, Zoning Project Application, 3000 Shattuck Ave. Berkeley CA 94705 (March 14, 2022), https://www.dropbox.com/s/n987ldxqb6pesmp/2022-03-29_APP_PCKT_3000%20Shattuck%20%281%29.pdf?dl=0.

[84] Cal. Gov. Code Section 65580 – 65589.9; *see* City of Berkeley, Adopted 2023-2031 Housing Element, available at https://berkeleyca.gov/sites/default/files/documents/Berkeley_2023-2031%20Housing%20Element_02-17-2023v2_0.pdf.

[85] *Id.*

[86] City of Berkeley, Adopted 2023-2031 Housing Element, p 107.

[87] *Id.* at 15.

[88] Effective July 1, 2022, the fee is set at follows: Paid at Certificate of Occupancy: $46,185 per rental unit; or Paid at building permit: $43,185 per rental unit.

However, the City has failed to meet its RHNA in previous cycles. Under the 5th RHNA Cycle from 2015-2023, Berkeley was required to plan for 2,959 units.[89] This includes 532 at very low income, 442 at low income, 584 at moderate income, and 1,401 at above moderate income. The Housing Element states that 3,742 units have been built, or 126% of the target. However, the targets for affordable housing were missed, with 309 very low income (58%), 130 low income (29%), and 106 moderate income (18%) units completed. 3,197 units of above moderate, or market rate housing was built, which was 228% of the goal. Thus, the City already has adequate above moderate and market rate housing units to meet its RHNA requirements, but is short on production of affordable units.

Here, the Project fails to provide the City's required 20% affordable units on-site, contributing to the City's current shortage of affordable units, while at the same time taking a viable project site out of production for those additional affordable units. Although the Project will pay an in-lieu fee, the Project would not be consistent with the Housing Element because it places the burden on the City to identify alternate sites to construct affordable housing units in time to meet its RHNA requirements.[90]

The Applicant's proposal to pay in lieu fees instead of providing 20% on-site affordable units for the 3000 Shattuck Project is not unique. The Project is one of at least three concurrent projects proposed by the Applicant, which similarly fail to contribute an adequate percentage of affordable units. The Applicant also proposes to construct the 2900-2920 Shattuck Avenue Project,[91] a ten-story residential building containing 221 dwelling units (22 Very Low-Income unit).[92] The 2920 Shattuck Avenue project is seeking a 46.25% Density Bonus by providing only 14% of the base project units as affordable to very low-income households.[93] The Applicant's 1598 University Project similarly proposes to pay an in lieu fee for the affordable units required by the City in excess of the on-site affordable necessary to qualify for a density bonus. The Applicant's decision not to provide the recommended 20% of on-site affordable units for its pending projects contributes to a cumulative shortage of affordable units that the City should address before considering approval of this Project.

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[89] City of Berkeley, Adopted 2023-2031 Housing Element, pg. D-8.
[90] City of Berkeley, Adopted 2023-2031 Housing Element, p. 107.
[91] Use Permit #ZP2022-0116 (APN: 053 159000501).
[92] City of Berkeley, Zoning Project Application, 2920 Shattuck Ave. Berkeley CA 94705, APN 053 159000501, (Sept. 4, 2022), https://www.dropbox.com/s/528twax3fw4fw9p/2022-09-04_APP_PCKT_2920%20Shattuck.pdf?dl=0 ("Application Packet"), pdf pg. 2108 of 2143.
[93] City of Berkeley, Zoning Project Application, 2920 Shattuck Ave.
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IX. CONCLUSION

CEQA requires that an agency prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved may have a significant environmental impact not previously considered in connection with the project as originally approved.[94] As discussed herein, there is substantial evidence supporting a fair argument that the Project would result in significant adverse impacts that were not considered in the prior 2018 IS/ND, and that are not adequately analyzed or mitigated. The Project is detrimental to the general welfare for failing to provide workforce and community benefits.

The Addendum also fails to contain the basic information and analysis required by CEQA, deficiencies which "cannot be dismissed as harmless or insignificant defects."[95] The City's findings regarding Project impacts do not comply with the law and are not supported by substantial evidence. The City cannot approve the Project until it prepares an EIR that resolves these issues and complies with CEQA's requirements.

Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Sincerely,



Kelilah D. Federman

KDF:ljl

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[94] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.
[95] *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1220.
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EXHIBIT A

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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April 10, 2023

Kelilah Federman
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Subject: Comments on the 3000 Shattuck Mixed-Use Project (SCH No. 2017062025)

Dear Ms. Federman,

We have reviewed the January 2023 Addendum ("Addendum") and the 2018 Final Initial Study and Negative Declaration ("FIS/ND") for the 3000 Shattuck Mixed-Use ("Project") located in the City of Berkeley ("City"). The Project proposes to demolish the existing 1,163-square-foot ("SF") gas station and construct 80,235-SF of residential space, as well as 1,095-SF of retail space on the 0.31-acre site.

Our review concludes that the Addendum fails to adequately evaluate the Project's air quality impacts. As a result, emissions associated with construction of the proposed Project are underestimated and inadequately addressed. An Environmental Impact Report ("EIR") should be prepared to adequately assess and mitigate the potential air quality impacts that the project may have on the environment.

Air Quality

Failure to Provide Complete CalEEMod Output Files

Land use development projects under the California Environmental Quality Act ("CEQA") typically evaluate air quality impacts and calculate potential criteria air pollutant emissions using the California Emissions Estimator Model ("CalEEMod").[1] CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but CEQA requires that such changes be justified by substantial evidence. Once all of the values are inputted into the model, the Project's

[1] "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide.

construction and operational emissions are calculated, and "output files" are generated. These output files disclose to the reader what parameters are utilized in calculating the Project's air pollutant emissions and make known which default values are changed as well as provide justification for the values selected. Regarding the evaluation of the criteria air pollutant emissions associated with Project construction and operation, the Addendum states:

> "Additionally, since the adoption of the 2018 Final IS-ND, a new version (2022.1) of California Emissions Estimator Model (CalEEMod) has been published. Based on these updates, updated emissions estimates for the modified project were calculated for this analysis" (p. 14).

As stated above, the Addendum relies on CalEEMod Version 2022.1 to estimate the Project's emissions. However, this poses a problem as the currently available version of CalEEMod 2022.1 is described as a "soft release" which fails to provide complete output files.[2] Specifically, the "User Changes to Default Data" table no longer provides the quantitative counterparts to the changes to the default values (see excerpt below) (Appendix A, pp. 83):

8. User Changes to Default Data

Section	Justification
Land Use	Project site plans
Construction: Construction Phases	Applicant provided
Operations: Hearths	no fireplaces or woodstoves

However, previous CalEEMod Versions, such as 2020.4.0, include the specific numeric changes to the model's default values (see example excerpt below):

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	230.00	167.00
tblConstructionPhase	PhaseEndDate	11/22/2023	8/25/2023
tblConstructionPhase	PhaseEndDate	9/27/2023	6/30/2023
tblConstructionPhase	PhaseEndDate	10/25/2023	7/28/2023
tblConstructionPhase	PhaseStartDate	10/26/2023	7/29/2023
tblConstructionPhase	PhaseStartDate	9/28/2023	7/1/2023
tblLandUse	LandUseSquareFeet	160,000.00	160,371.00
tblLandUse	LandUseSquareFeet	119,000.00	41,155.00
tblLandUse	LotAcreage	3.67	3.68
tblLandUse	LotAcreage	2.73	2.74

Thus, the output files associated with CalEEMod Version 2022.1 fail to disclose the exact parameters utilized to calculate Project emissions. To remedy this issue, the Addendum should have provided access to the model's ".JSON" output files, which allow third parties to review the model's revised input parameters.[3] Without access to the complete output files, including the specific numeric changes to the

[2] "CalEEMod California Emissions Estimator Model Soft Release." California Air Pollution Control Officers Association (CAPCOA), 2022, *available at:* https://caleemod.com/.
[3] "Video Tutorials for CalEEMod Version 2022.1." California Air Pollution Control Officers Association (CAPCOA), May 2022, *available at:* https://www.caleemod.com/tutorials.

default values, we cannot verify that the Addendum's air modeling and subsequent analysis is an accurate reflection of the proposed Project. As a result, an EIR should be prepared to include an updated air quality analysis that correctly provides the complete output files for CalEEMod Version 2022.1, or includes an updated air model using an older release of CalEEMod.[4]

Unsubstantiated Input Parameters Used to Estimate Project Emissions

As previously discussed, the Addendum relies on CalEEMod Version 2022.1 to estimate the Project's air quality emissions and fails to provide the complete output files required to adequately evaluate model's analysis (p. 14).[5] Regardless, when reviewing the Project's CalEEMod output files, provided as Appendix A to the Addendum, we were able to identify several model inputs that are inconsistent with information disclosed in the Addendum. As such, the Project's construction emissions are underestimated. An EIR should be prepared to include an updated air quality analysis that adequately evaluates the impacts that construction of the Project will have on local and regional air quality.

Incorrect and Unsubstantiated Construction Schedule

Review of the CalEEMod output files demonstrates that the "3000 Shattuck Detailed Report" model includes the following construction schedule (see excerpt below) (Appendix A, pp. 70):

Phase Name	Phase Type	Start Date	End Date	Days Per Week	Work Days per Phase
Site Preparation	Site Preparation	7/3/2023	11/15/2023	5.00	98.0
Grading	Grading	11/16/2023	1/1/2024	5.00	33.0
Building Construction	Building Construction	1/2/2024	2/10/2025	5.00	290
Paving	Paving	1/2/2024	7/31/2024	5.00	152
Architectural Coating	Architectural Coating	2/11/2025	3/30/2025	5.00	34.0

According to the "User Changes to Default Data" table, the justification provided for this schedule is:

> "Applicant provided" (Appendix A, pp. 83).

Additionally, regarding Project construction, the Addendum states:

> "Site preparation, construction procedures, and proposed utility connections would remain like the original project. Please refer to the 2018 Final IS-ND for details regarding these project components. Overall construction of the modified project would occur over a similar time span as was anticipated for the original project but would be more intensive due to the height increase" (p. 2).

Furthermore, regarding the Project's anticipated construction duration, the FIS/ND states:

> "The project would include demolition of the existing building and surface parking lot on the site. [...] Construction would take place over an 18-month period" (p. 7).

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[4] "CalEEMod Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* http://www.aqmd.gov/caleemod/download-model.
[5] "CalEEMod Version 2022.1.0." California Air Pollution Control Officers Association (CAPCOA), May 2022, *available at:* https://www.caleemod.com/.

However, the model's construction schedule is incorrect and unsubstantiated for three reasons.

First, as discussed by the FIS/ND, the construction of the Project is anticipated to occur over 18 months. However, the model includes a 21-month total construction length, and is therefore overestimated by 3 months. By including an overestimated construction schedule, the model is incorrect and inconsistent with information provided by the Addendum and associated documents.

Second, the model does not include a demolition phase of construction. This is incorrect, as the Addendum clearly states that demolition would be required prior to Project construction:

> "Like the original project, the modified project would involve demolition of the existing structures on the site, as detailed in the 2018 Final IS-ND for the original project" (p. 6)

As such, the model's construction schedule is incorrect and inconsistent with information provided by the Addendum and associated documents.

Third, the model's revised construction schedule remains unsubstantiated as the Addendum and associated documents fail to mention the Project's proposed *individual* construction phases whatsoever. This is inconsistent with guidance provided by the CalEEMod User's Guide:

> "CalEEMod was also designed to allow the user to change the defaults to reflect site-or project-specific information, when available, provided that the information is supported by substantial evidence as required by CEQA."[6]

As the Addendum and associated documents only mention the Project's total construction duration of 18 months, the Addendum fails to provide substantial evidence to support the revised individual construction phase lengths. As such, we cannot verify the changes. Instead, the model should have proportionately altered all phase lengths to match the proposed construction duration of 18 months.[7]

By including an incorrect and overestimated construction schedule, the model assumes there are a greater number of days to complete the construction activities required by the prolonged phases. As a result, there will be less construction activities required per day and, consequently, less pollutants emitted per day. As such, the model underestimates the peak daily emissions associated with Project construction and should not be relied upon to determine Project significance.

Failure to Model Demolition

Regarding demolition of the existing building, the Addendum states:

> "Like the original project, the modified project would involve demolition of the existing structures on the site, as detailed in the 2018 Final IS-ND for the original project" (p. 6)

[6] "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: https://www.aqmd.gov/caleemod/user's-guide,p. 13,14.

[7] See Attachment A for proportionately altered construction schedule.

However, as previously mentioned, review of the CalEEMod output files demonstrates that the "3000 Shattuck Detailed Report" model fails to include a demolition phase of construction. Furthermore, the model fails to include any amount of demolition debris (see excerpt below) (Appendix A, pp. 72).

Phase Name	Material Imported (Ton of Debris)	Material Exported (Ton of Debris)	Acres Graded (acres)	Material Demolished (sq. ft.)
Site Preparation	0.00	0.00	20.5	0.00
Grading	0.00	0.00	15.8	0.00
Paving	0.00	0.00	0.00	0.00

By failing to include any amount of demolition material, the model is inconsistent with the information provided in the Addendum.

This inconsistency presents an issue, as demolition material is used by CalEEMod to determine emissions associated with the demolition phase of construction. The three primary operations that generate dust emission during the demolition phase are mechanical or explosive dismemberment, site removal of debris, and on-site truck traffic on paved and unpaved road.[8] By failing to include any amount of required demolition, the model underestimates the emissions associated with fugitive dust, debris removal, as well as exhaust from hauling trucks traveling to and from the site, and should not be relied upon to determine the significance of the Project's air quality impacts.

Updated Analysis Indicates a Potentially Significant Air Quality Impact

In an effort to more accurately estimate the Project's construction-related emissions we prepared an updated CalEEMod model, using the Project-specific information provided by the Addendum. In our updated model, we included the required amount of demolition and proportionately altered the individual construction phase lengths to match the proposed construction duration of 18 months.[9]

Our updated analysis estimates that the Reactive Organic Gas ("ROG") emissions associated with Project construction exceed the applicable BAAQMD threshold of 54 pounds per day ("lbs/day"), as referenced by the Addendum (p. 14) (see table below).[10]

[8] "CalEEMod User's Guide Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide, p. 11.
[9] See Attachment B for updated CalEEMod model.
[10] "California Environmental Quality Act Air Quality Guidelines." BAAQMD, May 2017, *available at:* https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en&rev=0d2d971e661d41f28a56953f1776bdde, p. 2-2.

SWAPE Criteria Air Pollutant Emissions	
Construction	**ROG (lbs/day)**
Addendum	3.0
SWAPE	71.55
% Increase	2,285%
BAAQMD Threshold	**54**
Exceeds?	*Yes*

As demonstrated above, construction-related ROG emissions, as estimated by SWAPE, increase by approximately 2,285% and exceed the applicable BAAQMD significance threshold. Our updated modeling demonstrates that the Project would result in a potentially significant air quality impact that was not previously identified or addressed by the Addendum. As a result, an EIR should be prepared to adequately assess and mitigate the potential air quality impacts that the Project may have on the environment.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

Our analysis demonstrates that the Project would result in potentially significant air quality impacts that should be mitigated further. As such, in an effort to reduce the Project's emissions, we identified several mitigation measures that are applicable to the proposed Project. Therefore, to reduce the Project's emissions, we recommend consideration of SCAG's 2020 *RTP/SCS* PEIR's Air Quality Project Level Mitigation Measures ("PMM-AQ-1"):[11]

SCAG RTP/SCS 2020-2045
Air Quality Project Level Mitigation Measures – PMM-AQ-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency:
a) Minimize land disturbance.
b) Suspend grading and earth moving when wind gusts exceed 25 miles per hour unless the soil is wet enough to prevent dust plumes.
c) Cover trucks when hauling dirt.
d) Stabilize the surface of dirt piles if not removed immediately.

[11] "4.0 Mitigation Measures." Connect SoCal Program Environmental Impact Report Addendum #1, September 2020, available at: https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocal_addendum_4_mitigationmeasures.pdf?1606004420, p. 4.0-2 – 4.0-10; 4.0-19 – 4.0-23; See also: "Certified Final Connect SoCal Program Environmental Impact Report." Southern California Association of Governments (SCAG), May 2020, *available at:* https://scag.ca.gov/peir.

e) Limit vehicular paths on unpaved surfaces and stabilize any temporary roads.
f) Minimize unnecessary vehicular and machinery activities.
g) Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
h) Revegetate disturbed land, including vehicular paths created during construction to avoid future off-road vehicular activities.
j) Require contractors to assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that could be used an aggregate of 40 or more hours for the construction project. Prepare a plan for approval by the applicable air district demonstrating achievement of the applicable percent reduction for a CARB-approved fleet.
k) Ensure that all construction equipment is properly tuned and maintained.
l) Minimize idling time to 5 minutes—saves fuel and reduces emissions.
m) Provide an operational water truck on-site at all times. Use watering trucks to minimize dust; watering should be sufficient to confine dust plumes to the project work areas. Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
n) Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators.
o) Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.
p) As appropriate require that portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, obtain CARB Portable Equipment Registration with the state or a local district permit. Arrange appropriate consultations with the CARB or the District to determine registration and permitting requirements prior to equipment operation at the site.
q) Require projects within 500 feet of residences, hospitals, or schools to use Tier 4 equipment for all engines above 50 horsepower (hp) unless the individual project can demonstrate that Tier 4 engines would not be required to mitigate emissions below significance thresholds.
s) Projects located within AB 617 communities should review the applicable Community Emissions Reduction Plan (CERP) for additional mitigation that can be applied to individual projects.
t) Where applicable, projects should provide information about air quality related programs to schools, including the Environmental Justice Community Partnerships (EJCP), Clean Air Ranger Education (CARE), and Why Air Quality Matters programs.
u) Projects should work with local cities and counties to install adequate signage that prohibits truck idling in certain locations (e.g., near schools and sensitive receptors).
x) As applicable for rail projects, the following measures should be considered...
z) Develop an ongoing monitoring, inspection, and maintenance program for the MERV filters.
bb) The following criteria related to diesel emissions shall be implemented on by individual project sponsors as appropriate and feasible: - Diesel nonroad vehicles on site for more than 10 total days shall have either (1) engines that meet EPA on road emissions standards or (2) emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85% - Diesel generators on site for more than 10 total days shall be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%. - Nonroad diesel engines on site shall be Tier 2 or higher. - Diesel nonroad construction equipment on site for more than 10 total days shall have either (1) engines meeting EPA Tier 4 nonroad emissions standards or (2) emission control technology verified by EPA or

CARB for use with nonroad engines to reduce PM emissions by a minimum of 85% for engines for 50 hp and greater and by a minimum of 20% for engines less than 50 hp.

- Emission control technology shall be operated, maintained, and serviced as recommended by the emission control technology manufacturer.
- Diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend approved by the original engine manufacturer with sulfur content of 15 ppm or less.
- The construction contractor shall maintain a list of all diesel vehicles, construction equipment, and generators to be used on site. The list shall include the following:
    i. Contractor and subcontractor name and address, plus contact person responsible for the vehicles or equipment.
    ii. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation.
    iii. For the emission control technology installed: technology type, serial number, make, model, manufacturer, EPA/CARB verification number/level, and installation date and hour-meter reading on installation date.
- The contractor shall establish generator sites and truck-staging zones for vehicles waiting to load or unload material on site. Such zones shall be located where diesel emissions have the least impact on abutters, the general public, and especially sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.
- The contractor shall maintain a monthly report that, for each on road diesel vehicle, nonroad construction equipment, or generator onsite, includes:
    i. Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
    ii. Any problems with the equipment or emission controls.
    iii. Certified copies of fuel deliveries for the time period that identify:
        1. Source of supply
        2. Quantity of fuel
        3. Quantity of fuel, including sulfur content (percent by weight)

These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduce emissions released during Project construction and operation.

Furthermore, as it is policy of the State that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045, we emphasize the applicability of incorporating solar power system into the Project design. Until the feasibility of incorporating on-site renewable energy production is considered, the Project should not be approved.

An EIR should be prepared to include all feasible mitigation measures, as well as include an updated air quality analysis to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds. The EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

Disclaimer

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,

Matt Hagemann, P.G., C.Hg.

Paul E. Rosenfeld, Ph.D.

Attachment A: Proportionately Altered Construction Schedule
Attachment B: Updated CalEEMod Output Files
Attachment C: Matt Hagemann CV
Attachment D: Paul Rosenfeld CV

Attachment A

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Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2104, 2017;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989-- 1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt's responsibilities have included:

- Lead analyst and testifying expert in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.

With Komex H2O Science Inc., Matt's duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.
- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted

public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation-wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

Policy:

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9.

Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, Oxygenates in Water: Critical Information and Research Needs.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific

principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

Geology:

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt is currently a part time geology instructor at Golden West College in Huntington Beach, California where he taught from 2010 to 2014 and in 2017.

Invited Testimony, Reports, Papers and Presentations:

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Coloradao.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal repesentatives, Parker, AZ.

Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

Hagemann, M.F., 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

Hagemann, M.F., 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

Hagemann, M.F., 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

Hagemann, M.F., 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

Hagemann, M.F., 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and **Hagemann, M.F.** 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukanaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

Other Experience:

Selected as subject matter expert for the California Professional Geologist licensing examinations, 2009-2011.

Attachment B

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

SOIL WATER AIR PROTECTION ENTERPRISE
2656 29th Street, Suite 201
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Paul Rosenfeld, Ph.D.

Chemical Fate and Transport & Air Dispersion Modeling

Principal Environmental Chemist

Risk Assessment & Remediation Specialist

Education

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Thesis on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years' experience conducting environmental investigations and risk assessments for evaluating impacts to human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risk, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, industrial, military and agricultural sources, unconventional oil drilling operations, and locomotive and construction engines. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities. Dr. Rosenfeld has also successfully modeled exposure to contaminants distributed by water systems and via vapor intrusion.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particulate matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, creosote, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants. Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at sites and has testified as an expert witness on numerous cases involving exposure to soil, water and air contaminants from industrial, railroad, agricultural, and military sources.

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
UCLA School of Public Health; 2003 to 2006; Adjunct Professor
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
UCLA Institute of the Environment, 2001-2002; Research Associate
Komex H_2O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health.* 18:48

Simons, R.A., Seo, Y. **Rosenfeld, P.**, (2015) Modeling the Effect of Refinery Emission On Residential Property Value. Journal of Real Estate Research. 27(3):321-342

Chen, J. A, Zapata A. R., Sutherland A. J., Molmen, D.R., Chow, B. S., Wu, L. E., **Rosenfeld, P. E.,** Hesse, R. C., (2012) Sulfur Dioxide and Volatile Organic Compound Exposure To A Community In Texas City Texas Evaluated Using Aermod and Empirical Data. *American Journal of Environmental Science*, 8(6), 622-632.

Rosenfeld, P.E. & Feng, L. (2011). *The Risks of Hazardous Waste.* Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2011). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Agrochemical Industry*, Amsterdam: Elsevier Publishing.

Gonzalez, J., Feng, L., Sutherland, A., Waller, C., Sok, H., Hesse, R., **Rosenfeld, P.** (2010). PCBs and Dioxins/Furans in Attic Dust Collected Near Former PCB Production and Secondary Copper Facilities in Sauget, IL. *Procedia Environmental Sciences*. 113–125.

Feng, L., Wu, C., Tam, L., Sutherland, A.J., Clark, J.J., **Rosenfeld, P.E.** (2010). Dioxin and Furan Blood Lipid and Attic Dust Concentrations in Populations Living Near Four Wood Treatment Facilities in the United States. *Journal of Environmental Health*. 73(6), 34-46.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2010). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Wood and Paper Industries.* Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2009). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Petroleum Industry*. Amsterdam: Elsevier Publishing.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P**. (2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. *WIT Transactions on Ecology and the Environment, Air Pollution,* 123 (17), 319-327.

Tam L. K.., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, 70, 002252-002255.

Tam L. K.., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, 70, 000527-000530.

Hensley, A.R. A. Scott, J. J. J. Clark, **Rosenfeld, P.E.** (2007). Attic Dust and Human Blood Samples Collected near a Former Wood Treatment Facility. *Environmental Research.* 105, 194-197.

Rosenfeld, P.E., J. J. J. Clark, A. R. Hensley, M. Suffet. (2007). The Use of an Odor Wheel Classification for Evaluation of Human Health Risk Criteria for Compost Facilities. *Water Science & Technology* 55(5), 345-357.

Rosenfeld, P. E., M. Suffet. (2007). The Anatomy Of Odour Wheels For Odours Of Drinking Water, Wastewater, Compost And The Urban Environment. *Water Science & Technology* 55(5), 335-344.

Sullivan, P. J. Clark, J.J.J., Agardy, F. J., **Rosenfeld, P.E.** (2007). *Toxic Legacy, Synthetic Toxins in the Food, Water, and Air in American Cities.* Boston Massachusetts: Elsevier Publishing

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash. *Water Science and Technology.* 49(9),171-178.

Rosenfeld P. E., J.J. Clark, I.H. (Mel) Suffet (2004). The Value of An Odor-Quality-Wheel Classification Scheme For The Urban Environment. *Water Environment Federation's Technical Exhibition and Conference (WEFTEC) 2004.* New Orleans, October 2-6, 2004.

Rosenfeld, P.E., and Suffet, I.H. (2004). Understanding Odorants Associated With Compost, Biomass Facilities, and the Land Application of Biosolids. *Water Science and Technology.* 49(9), 193-199.

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash, *Water Science and Technology*, 49(9), 171-178.

Rosenfeld, P. E., Grey, M. A., Sellew, P. (2004). Measurement of Biosolids Odor and Odorant Emissions from Windrows, Static Pile and Biofilter. *Water Environment Research.* 76(4), 310-315.

Rosenfeld, P.E., Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office*, Publications Clearinghouse (MS–6), Sacramento, CA Publication #442-02-008.

Rosenfeld, P.E., and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution.* 127(1-4), 173-191.

Rosenfeld, P.E., and Henry C. L., (2000). Wood ash control of odor emissions from biosolids application. *Journal of Environmental Quality.* 29, 1662-1668.

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affect on biosolids odor emissions and microbial activity. *Water Environment Research.* 73(4), 363-367.

Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research.* 131(1-4), 247-262.

Chollack, T. and **P. Rosenfeld.** (1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

Rosenfeld, P. E. (1994). Potential Utilization of Small Diameter Trees on Sierra County Public Land. Masters thesis reprinted by the Sierra County Economic Council. Sierra County, California.

Rosenfeld, P. E. (1991). How to Build a Small Rural Anaerobic Digester & Uses Of Biogas In The First And Third World. Bachelors Thesis. University of California.

Presentations:

Rosenfeld, P.E., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

Rosenfeld, P.E., Sutherland, A; Hesse, R.; Zapata, A. (October 3-6, 2013). Air dispersion modeling of volatile organic emissions from multiple natural gas wells in Decatur, TX. *44th Western Regional Meeting, American Chemical Society.* Lecture conducted from Santa Clara, CA.

Sok, H.L.; Waller, C.C.; Feng, L.; Gonzalez, J.; Sutherland, A.J.; Wisdom-Stack, T.; Sahai, R.K.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Atrazine: A Persistent Pesticide in Urban Drinking Water. *Urban Environmental Pollution.* Lecture conducted from Boston, MA.

Feng, L.; Gonzalez, J.; Sok, H.L.; Sutherland, A.J.; Waller, C.C.; Wisdom-Stack, T.; Sahai, R.K.; La, M.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Bringing Environmental Justice to East St. Louis, Illinois. *Urban Environmental Pollution.* Lecture conducted from Boston, MA.

Rosenfeld, P.E. (April 19-23, 2009). Perfluoroctanoic Acid (PFOA) and Perfluoroactane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

Rosenfeld, P.E. (April 19-23, 2009). Cost to Filter Atrazine Contamination from Drinking Water in the United States" Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*. Lecture conducted from Tuscon, AZ.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (20-22 July, 2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. Brebbia, C.A. and Popov, V., eds., *Air Pollution XVII: Proceedings of the Seventeenth International Conference on Modeling, Monitoring and Management of Air Pollution.* Lecture conducted from Tallinn, Estonia.

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water.* Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23rd Annual International*

Conferences on Soils Sediment and Water. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). Somerville Community Exposure To Contaminants From Wood Treatment Facility Emissions. The *23rd Annual International Conferences on Soils Sediment and Water*. Lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld P. E. (March 2007). Production, Chemical Properties, Toxicology, & Treatment Case Studies of 1,2,3-Trichloropropane (TCP). *The Association for Environmental Health and Sciences (AEHS) Annual Meeting*. Lecture conducted from San Diego, CA.

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Florala, Alabama. *The AEHS Annual Meeting.* Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.,** Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.,** Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition.* Lecture conducted from Boston Massachusetts.

Paul Rosenfeld Ph.D. (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey's C8/PFOA. *Science, Risk & Litigation Conference.* Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

Paul Rosenfeld Ph.D. (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

Paul Rosenfeld Ph.D. (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference.* Lecture conducted from Hilton Hotel in Irvine, California.

Paul Rosenfeld Ph.D. (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey's Groundwater Conference.* Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

Paul Rosenfeld Ph.D. (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus On Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water And Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, Toxicology and Remediation. *2005 National Groundwater Association Ground Water and Environmental Law Conference.* Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference.* Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

Paul Rosenfeld, Ph.D. (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust.* Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives*. Lecture conducted from Parker, AZ.

Paul Rosenfeld, Ph.D. (April 7, 2004). A National Damage Assessment Model For PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association*. Lecture conducted from Radison Hotel, Sacramento, California.

Rosenfeld, P. E., Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference* Orlando, FL.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants*.. Lecture conducted from Hyatt Regency Phoenix Arizona.

Paul Rosenfeld, Ph.D. (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum*. Lecture conducted from Marriott Hotel, Anaheim California.

Paul Rosenfeld, Ph.D. (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable*. Lecture conducted from Sacramento California.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, *Wastewater and Industrial Processes. Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Grey, M. A. (September 22-24, 2002). Biocycle Composting For Coastal Sage Restoration. *Northwest Biosolids Management Association*. Lecture conducted from Vancouver Washington..

Rosenfeld, P.E. and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conferenc*e. Lecture conducted from Indianapolis, Maryland.

Rosenfeld. P.E. (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation.* Lecture conducted from Anaheim California.

Rosenfeld. P.E. (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest.* Lecture conducted from Ocean Shores, California.

Rosenfeld, P.E. (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association.* Lecture conducted from Sacramento California.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America*. Lecture conducted from Salt Lake City Utah.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell.* Lecture conducted from Seattle Washington.

Rosenfeld, P.E., C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest.* Lecture conducted from Lake Chelan, Washington.

Rosenfeld, P.E, C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions From Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America.* Lecture conducted from Anaheim California.

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

National Ground Water Association, Successful Remediation Technologies. Custom Course in Sante Fe, New Mexico. May 21, 2002. Focused on fate and transport of fuel contaminants associated with underground storage tanks.

National Ground Water Association; Successful Remediation Technologies Course in Chicago Illinois. April 1, 2002. Focused on fate and transport of contaminants associated with Superfund and RCRA sites.

California Integrated Waste Management Board, April and May, 2001. Alternative Landfill Caps Seminar in San Diego, Ventura, and San Francisco. Focused on both prescriptive and innovative landfill cover design.

UCLA Department of Environmental Engineering, February 5, 2002. Seminar on Successful Remediation Technologies focusing on Groundwater Remediation.

University Of Washington, Soil Science Program, Teaching Assistant for several courses including: Soil Chemistry, Organic Soil Amendments, and Soil Stability.

U.C. Berkeley, Environmental Science Program Teaching Assistant for Environmental Science 10.

Academic Grants Awarded:

California Integrated Waste Management Board. $41,000 grant awarded to UCLA Institute of the Environment. Goal: To investigate effect of high carbon wood ash on volatile organic emissions from compost. 2001.

Synagro Technologies, Corona California: $10,000 grant awarded to San Diego State University.
Goal: investigate effect of biosolids for restoration and remediation of degraded coastal sage soils. 2000.

King County, Department of Research and Technology, Washington State. $100,000 grant awarded to University of Washington: Goal: To investigate odor emissions from biosolids application and the effect of polymers and ash on VOC emissions. 1998.

Northwest Biosolids Management Association, Washington State. $20,000 grant awarded to investigate effect of polymers and ash on VOC emissions from biosolids. 1997.

James River Corporation, Oregon: $10,000 grant was awarded to investigate the success of genetically engineered Poplar trees with resistance to round-up. 1996.

United State Forest Service, Tahoe National Forest: $15,000 grant was awarded to investigating fire ecology of the Tahoe National Forest. 1995.

Kellogg Foundation, Washington D.C. $500 grant was awarded to construct a large anaerobic digester on St. Kitts in West Indies. 1993

Deposition and/or Trial Testimony:

In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition, 5-14-2021
Trial, October 8-4-2021

In the Circuit Court of Cook County Illinois
Joseph Rafferty, Plaintiff vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a AMTRAK,
Case No.: No. 18-L-6845
Rosenfeld Deposition, 6-28-2021

In the United States District Court For the Northern District of Illinois
Theresa Romcoe, Plaintiff vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail, Defendants
Case No.: No. 17-cv-8517
Rosenfeld Deposition, 5-25-2021

In the Superior Court of the State of Arizona In and For the Cunty of Maricopa
Mary Tryon et al., Plaintiff vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case Number CV20127-094749
Rosenfeld Deposition: 5-7-2021

In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al *Plaintiffs*, vs. CNA Insurance Company et al.
Case Number 1:17-cv-000508
Rosenfeld Deposition: 3-25-2021

In the Superior Court of the State of California, County of San Bernardino
Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021

In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse
Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020

In the Circuit Court of Jackson County, Missouri
Karen Cornwell, *Plaintiff,* vs. Marathon Petroleum, LP, *Defendant.*
Case No.: 1716-CV10006
Rosenfeld Deposition. 8-30-2019

In the United States District Court For The District of New Jersey
Duarte et al, *Plaintiffs,* vs. United States Metals Refining Company et. al. *Defendant.*
Case No.: 2:17-cv-01624-ES-SCM
Rosenfeld Deposition. 6-7-2019

In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk, *Plaintiffs,* vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS "Conti Perdido" *Defendant.*
Case No.: 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition. 5-9-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No.: No. BC615636
Rosenfeld Deposition, 1-26-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No.: No. BC646857
Rosenfeld Deposition, 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado
Bells et al. Plaintiff vs. The 3M Company et al., Defendants
Case No.: 1:16-cv-02531-RBJ
Rosenfeld Deposition, 3-15-2018 and 4-3-2018

In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosciences, LLC, et al., Defendants
Cause No.: 1923
Rosenfeld Deposition, 11-17-2017

In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No C12-01481
Rosenfeld Deposition, 11-20-2017

In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition, 8-23-2017

In United States District Court For The Southern District of Mississippi
Guy Manuel vs. The BP Exploration et al., Defendants
Case: No 1:19-cv-00315-RHW
Rosenfeld Deposition, 4-22-2020

In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC
Case No.: LC102019 (c/w BC582154)
Rosenfeld Deposition, 8-16-2017, Trail 8-28-2018

In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., *Plaintiffs,* vs. Meritor Inc., et al., *Defendants*
Case Number: 4:16-cv-52-DMB-JVM
Rosenfeld Deposition: July 2017

In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No.: No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial, March 2017

In The Superior Court of the State of California, County of Alameda
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No.: RG14711115
Rosenfeld Deposition, September 2015

In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No.: LALA002187
Rosenfeld Deposition, August 2015

In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action N0. 14-C-30000
Rosenfeld Deposition, June 2015

In The Iowa District Court For Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No 4980
Rosenfeld Deposition: May 2015

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case Number CACE07030358 (26)
Rosenfeld Deposition: December 2014

In the County Court of Dallas County Texas
Lisa Parr et al, *Plaintiff*, vs. Aruba et al, *Defendant.*
Case Number cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial: April 2014

In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., *Plaintiffs,* vs. Republic Services, Inc., et al., *Defendants*
Case Number: 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition: October 2012

In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., *Plaintiffs*, vs. International Paper Company, *Defendant.*
Civil Action Number 2:09-cv-232-WHA-TFM
Rosenfeld Deposition: July 2010, June 2011

In the Circuit Court of Jefferson County Alabama
Jaeanette Moss Anthony, et al., *Plaintiffs*, vs. Drummond Company Inc., et al., *Defendants*
Civil Action No. CV 2008-2076
Rosenfeld Deposition: September 2010

In the United States District Court, Western District Lafayette Division
Ackle et al., *Plaintiffs*, vs. Citgo Petroleum Corporation, et al., *Defendants.*
Case Number 2:07CV1052
Rosenfeld Deposition: July 2009

Attachment 3

CITY OF BERKELEY - CITY CLERK
2023 MAY 31 PM2:26

City Council, City of Berkeley
2180 Milvia Street
Berkeley, CA 94704

May 31, 2023
Hand-delivered to City Clerk's Office

Emailed to council@berkeleyca.gov;
clerk@cityofberkeley.info

Dear City Council Members:

This an appeal of the May 11, 2023 decision of the Zoning Adjustments Board ("ZAB") to issue a Use Permit for the project known as 3000 Shattuck, (ZP#2022-00046) ("Project"), on all the grounds stated in the May 9, 2023 Objections ("Objections", copied below), which were provided to ZAB by a group of neighbors to the Project. The grounds are summarized here with further arguments following the ZAB meeting:

There can be no dispute that the City has failed to perform the required *cumulative impact* analysis. City Council must deny the Use Permit and direct the City to perform a proper CEQA analysis as required by law, including, but not limited to, the following.

1. Applicable Law

- State law SB330 expressly requires the City to comply with CEQA per Govt. Code Section 65589.5(e).
- CEQA requires an "Initial Study" per CEQA Guidelines ("Guidelines"), Title 14, California Code of Regulations, Sections 15063-15365.
- The purpose of the Initial Study is to determine whether there may be a significant environmental impact. Id. "Careful judgment [...] based on scientific and factual data" is required. Guidelines Section 15064(b)(1). Under Section 15064(b)(2), "[t]hresholds of significance, as defined in Section 15064(a), may assist lead agencies in determining whether a project may cause a significant impact. When using a threshold, the lead agency should briefly explain how compliance with the threshold means that the project's impacts are less than significant. *Compliance with the threshold does not relieve a lead agency of the obligation to consider substantial evidence indicating that the project's environmental effects may still be significant.*" (emphasis added)
- Under Guidelines Section 15065(a), the City is required to find that a project may have a significant effect on the environment and thereby require an Environmental Impact Report (EIR) to be prepared for the project "where there is

substantial evidence, in light of the whole record, that any of the following conditions may occur: [...] (3) The project has possible environmental effects that are individually limited but cumulatively considerable. 'Cumulatively considerable' means that the *incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."* (emphasis added) "Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." Guidelines Section 15355. When analyzing the cumulative impacts of a project, the City is required to discuss not only approved projects under construction and approved related projects not yet under construction, but also unapproved projects currently under environmental review and probable projects (e.g., here, Ashby BART) with related impacts or which result in significant cumulative impacts. CEQA requires the City to undertake a legitimate good faith effort in characterizing the future cumulative condition. Performing cumulative impact analyses helps to implement the overall goal of CEQA, which is to insert environmental considerations into the planning process as early as possible and provide a sound basis for government decision-making.

- Under Guidelines Section 15064(c), the lead agency must consider input from the public as part of its determination of whether to conduct an EIR. "In determining whether an effect will be adverse or beneficial, the lead agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency."

- Under Guideline Section 15162(b), "If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subdivision (a) [a determination of whether there is substantial evidence of substantial changes or new information of substantial importance having significant effect]. Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation."

2. Neither the 2018 Initial Study - Negative Declaration ("Initial Study") nor the January 2023 Addendum to Initial Study - Negative Declaration ("Addendum") contains any analysis or determinations per above, in particular, there is *no analysis* of the Project in connection with other projects, past, current or future. The same omission is true of the CEQA Consultant's May 5, 2023 Supplemental Analysis ("Rincon Supplement") identifying "minor project revisions" without mention of cumulative impacts. *Additionally, the Initial Study, Addendum, and Ricon Supplement each show no evidence of consideration of public input.*

With regard to the fifteen projects identified in the Objections, very few were known to the City at the time of the 2018 Initial Study. See attached May 2023 revisions to the spreadsheet submitted with the Objections, including several additional new projects that have been located, beyond fifteen. (2023 COB Multi-family Housing Projects - in/nr S. Berk (revised 5/2023) docs.google.com/document/d/1XJjfwOBuzCHNYv-mm-6vmLFWXVIgVcFan_4DAYsEBgE/)

Per Section 15162(b), these conditions are new information, which requires further determinations:

A) The City listed only four projects in the Addendum, which were not analyzed; and
B) More than fifteen projects are currently under development, approved, proposed, or probable within the surrounding area. The impacts are likely to be greater than shown by any relevant, in any event scant, analysis in the Initial Study and the Addendum.

Furthermore, the original project proposed only 32,603 square feet of residential uses, with 44 units including 4 affordable units, whereas the current Project proposes 80,235 square feet of residential uses, with 166 units including 17 affordable units. The original project proposed the inclusion of 17 parking spaces for automobiles, whereas the current Project plans for zero parking spaces (Addendum, p. 3).[1]

3. The Objections include evidence regarding potential construction and traffic impacts in the dangerous Russell-Shattuck-Ashby corridors (including long-standing evidence of one of the highest crash rates in the city), where there are currently five proposed projects, with one currently under construction. This core area, only a couple blocks in size, may become home to the three tallest of the fifteen plus local projects, at 9-10 stories, which will have by far the most units.[2] ***This community is facing myriad***

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[1] Further, the Addendum assesses duration of construction and foundation work to be comparable despite the massive change in the building design since 2018. Addendum, p. 2. This is highly suspect as explained in the Objections.

[2] Indeed, both the CEQA Consultant's Supplement (Rincon Supplement, bottom p. 4) and the Addendum fail to analyze very serious traffic hazards identified in the Objections, and ignore City standards, as described by the City's own Traffic and Parking Requirements for Development Projects | City of Berkeley. See, e.g., City of Berkeley Guidelines for Development of Traffic Impact Reports, pp. 3-4: "Many neighborhoods are located adjacent to major trip generators, and in many cases studies will require analysis of on-street parking in the adjacent area. Developers are encouraged to provide transportation demand management measures; such measures likely will be required if variances are sought in required off-street parking. The City requires the analysis of cumulative conditions for larger projects in order to identify

prospects of very significant environmental effects, without the protection that CEQA is intended to provide.

4. The City Planner, the City's Consultant, and ZAB members ignored or misinterpreted the Objections below at the May 11, 2023 meeting. The condition of fifteen contemporaneous projects in the vicinity, in particular, was ignored by ZAB. Collectively, the representatives incorrectly made the following statements:

a) that it was the Objectors' responsibility - and failure - to identify cumulative impacts regarding the projects;

b) that the Objectors asserted that an automatic finding of significant impact must be made; and,

c) that no further action needed to be performed to meet the requirements of CEQA.

For details, see the transcript of May 11, 2023 meeting (with timestamps):

a) 21:32:41 to 21:35:29. ZAB discussion with City Planner and CEQA Consultant refers to Objections below, and failure of Objectors to identify specific impacts, suggesting, for that reason, that Objections may be ignored and there are no significant impacts. The condition of fifteen contemporaneous projects was ignored.

b) 21:35:06 to 21:35:27. CEQA Consultant asserts to ZAB that the "threshold" to analyze cumulative impact was not met:

> "K. Green: YEAH, DOES REQUIRE COMMUTATIVE [SIC] IMPACT TO GET DISCUSSION BUT NOT IN THIS ONE."

c) 21:43:45 to 21:47:12, and 22:35:06 to 22:36:17. Project architect makes several confusing statements about proposals for a loading zone. One statement describes a potential 35-foot loading zone on Shattuck Avenue beyond the south portion of the building, in front of private residences, where southbound traffic merges from two lanes to one. Another statement describes a potential loading zone in front of the proposed building, where a bus stop may be relocated. The City Planner responds not with clear guidance on the process for making determinations about a loading zone, but only with

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whether mitigations in the future are required and the extent to which the project contributes to unacceptable conditions. [...] The assessment of impacts may be based on one or more of the following factors: counts for bicycle and pedestrian movements, location of bus stops, street width, collision history, transit boardings and alightings, and approved land use and transportation plans and capital improvement projects." Id., p. 8.

guesses. Questions from ZAB members about providing a safe loading zone were not resolved in any meaningful way;

d) 22:03:52 to 22:05:51. Objectors' effort to alert ZAB to requirements of CEQA in light of foregoing misleading discussion;

e) 22:29:14 to 22:31:05. CEQA Consultant falsely states that other projects in the area have been acknowledged in public documents. CEQA Consultant states that no further analysis is necessary, as no automatic finding of significant cumulative impact can be made;

f) 22:46:05 to 22:46:13. ZAB member makes a motion, which passed under the misinformed belief that the Project must be approved per state law:

> "I AM MAKING A MOTION BECAUSE WE ARE REQUIRED TO APPROVE THIS PROJECT TONIGHT, OR AT LEAST THAT IS MY BELIEF BASED ON MY UNDERSTANDING OF STATE LAW AS IT CURRENTLY STANDS."[3]

See also, further transcript of May 11, 2023 meeting (with timestamps):

20:53:45 to 20:54:44. The City does not clarify to ZAB the Project's unit size and unit type–all studio apartments–although this is clearly stated in the Rincon Supplement. A ZAB member speculates that a family of four earning $42,000 would benefit from housing like this, and thus expresses support for the Project. The City does not inform ZAB or the public how much money this Project would contribute to the Affordable Housing Trust Fund.

> ZAB member: "AND THOSE WOULD BE 21 FAMILIES THAT MAKE THOSE INCOMES THAT WOULD BE ABLE TO MOVE IN."

5. ZAB was misguided in its deliberations and discussion during its May 11 meeting, and thus has overlooked several relevant laws. These oversights place at risk public health and safety through its failure to conduct the required careful judgment analysis. This decision must be reversed.

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[3]The May 11, 2023 ZAB hearing was only the second hearing on the applicable SB 330 application submitted December 14, 2021. This would allow three more hearings, because SB 330 mandates a maximum of five hearings before project approval. Therefore, the ZAB was incorrect to conclude that the Project was required by SB 330 to be approved on May 11.

6. The City Council has no recourse under the law but to deny the Use Permit. The City must conduct a legally compliant further review and analysis under CEQA and demonstrate its consideration of public input under Guideline Section 15064(c).

Sincerely yours,

Larisa Cummings, 2913 Newbury Street, 510-435-9812
Paul Dillingham, 2927 Newbury Street, 510-575-6852
Dave Auerbach, 2907 Newbury Street, 310-954-7102
Les Shipnuck, 2071 Emerson Street, 510-542-4559
Lynn Cooper, 2129 Emerson Street, 510-542-6082

Additional 29 signatories to this appeal who own or lease within 300 feet of 3000 Shattuck - please see attached list with handwritten signatures.

---------- Forwarded message ---------
From: **Larisa Cummings** <pidicummings@gmail.com>
Date: Tue, May 9, 2023 at 4:08 PM
Subject: SUPPLEMENTAL OBJECTIONS TO 3000 SHATTUCK PROJECT PLANS, #ZP2022-00046 5/11/23 ZAB MEETING
To: <zab@cityofberkeley.info>
Cc: Gong, Sharon <SGong@cityofberkeley.info>, Burns, Anne M <ABurns@cityofberkeley.info>, <council@cityofberkeley.info>, Berkeley Mayor's Office <mayor@cityofberkeley.info>

Dear ZAB members:

As neighbors to the proposed plans to develop 3000 Shattuck Avenue, we strenuously object to the project on numerous health and safety grounds, per applicable state law. Far from being merely obstructionist, we bring to your attention that the City is overlooking state laws that exist to protect public health and safety. Further, we are concerned about the obvious inequities at hand; clearly, this part of Berkeley is bearing

the brunt of intensive multi-family housing development, whereas this kind of housing should be spread equitably throughout the city and its transit hubs.

We are asking the ZAB to deny issuance of Use Permit #ZP2022-0046 at the upcoming May 11, 2023 meeting until the concerns below are appropriately addressed:

1. The City's recommendation – that ZAB adopt the Addendum to the Initial Study/Negative Declaration and approve Use Permit #ZP2022-0046 pursuant to BMC Section 23.406.040 – is not in compliance with the California Environmental Quality Act (CEQA). To protect public health and safety, a subsequent Environmental Impact Review pursuant to CEQA is clearly required.

A. State law SB330 expressly requires the City to comply with CEQA per Govt. Code Section 65589.5(e).

The City's January 2023 Addendum to the 3000 Shattuck Avenue Project Initial Study - Negative Declaration largely fails to comply with its obligations under CEQA.

i. No Cumulative Impact Study Has Been Performed

Section 15355 of the State CEQA Guidelines defines a cumulative impact as the condition under which "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. (a) The individual effects may be changes resulting from a single project or a number of separate projects. (b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." Title 14, California Code of Regulations, Section 15355. Further,

Section 15130 explicitly requires a factual analysis. Section 15332 addresses in-fill development projects and requires a finding that "(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality." Section 15065 lists mandatory findings of significant effect, which must be evaluated. In other words, the City is required to evaluate these potential impacts, including analysis of cumulative impacts of all closely related projects. Note that there are quite a number of closely related current projects.

In its January 2023 Addendum (pp. 11-12) to the 3000 Shattuck Avenue Project Initial Study - Negative Declaration, the City listed only four projects in the vicinity of 3000 Shattuck: 2650 Telegraph, 2801 Adeline, 2440 Shattuck, and Ashby BART. In its January Addendum, the City made no analysis of those sites or impacts, but rather simply listed them in its determination that "The existing environmental conditions on and around the project site are substantially the same under present conditions as those described in the 2018 Final IS-ND, with the exception of two relevant changes described below in Section 4.1." Addendum p. 11. Section 4.1 similarly makes no analysis of the sites or impacts, but simply lists the same four projects. However, a careful recent search of several sources has identified fifteen projects in the vicinity. No comprehensive listing by the City could be located, which makes it very difficult for the public to follow these developments. Note the following developments:

- Five (5) projects are very intensively situated in a one to two block radius. 3000 Shattuck and two more projects are *the tallest (9-10 stories) with the most units* of the 15 projects, in the vulnerable and dangerous Russell-Shattuck-Ashby corridor, and where the Russell Bike Boulevard traverses Shattuck. **None of them provide for onsite loading zones, or any planning for right-of-way improvements or features to facilitate safe loading in an age of intensive loading activity, e.g., ride-hailing, food and commercial deliveries, service**

vehicles, etc., which often double park. For an example of the long-standing traffic hazards, note that the Shattuck/Ashby intersection is second only to San Pablo/Ashby intersection in the City's crash rate for the period from 2011 through 2022 - https://tims.berkeley.edu/tools/gismap/



- Four (4) projects surround these projects within another one to three block radius (including where the Russell Bike Boulevard traverses Adeline),
- the remaining six (6) projects fall within the area covered by the January 2023 Addendum's original listing of four projects. See this appendix:
2023 COB Multi-family Housing Projects - in/nr S. Berk.xlsx

In summary, the City must fully comply with CEQA; the January 2023 Addendum has no analysis of cumulative impacts at all, nor does the 2018 Final Initial Study - Negative Declaration, regarding a much smaller design for 3000 Shattuck.

ii. Erroneous or Misleading Conclusions

In the January 2023 Addendum, Section 2, Project Description, two statements are inaccurate and misleading, overlooking adverse impacts on the surrounding community, including but not limited to, extra traffic congestion, noise, odors, etc. Although they pertain to the construction phase only, they need to be reconsidered or rewritten.

--Duration of construction, estimated to be 18 months to construct the five-story structure in the previously proposed project (see 2018 Final Initial Study - Negative Declaration cited in January 2023 Addendum), is estimated to be the *same length of time to build* out the revised building of ten-stories. This is highly unrealistic. Construction duration can be foreshortened somewhat, by accelerating the work, but not without incurring large amounts of additional costs, raising the overall project budget far beyond levels of competitive pricing. Addendum p. 2 and p. 3, Table 1.

--Foundation work for the ten-story building is similarly projected to be comparable to the foundation's scope for the five-story building. It might be similar in terms of foundation type (spread footings, most likely) but with a doubling of the size of the structure, a stronger type of foundation might be necessitated (drilled pier-and-grade beam) at considerable additional cost. Addendum p. 2. This increases the construction costs and duration, and is dependent on soil-types, and access at the site.

While statements of this type may not devalue the January 2023 Addendum as a whole, they reflect a very casual attitude about construction realities, and as such, raise questions about the accuracy of other assertions in the study.

We ask the ZAB either to deny the issuance of a Use Permit, or to delay issuance of such Use Permit until these and all other related concerns are appropriately addressed by the City, as required by applicable state law. Thank you for your due consideration.

Sincerely yours,

Larisa Cummings (2913 Newbury Street),
Les Shipnuck, retired architect, construction manager (2071 Emerson Street),
Janis Ching (1937 Oregon Street),
Reed Dillingham (2903 Newbury Street),
Paul Dillingham (2927 Newbury Street)


https://tims.berkeley.edu/tools/gismap/
Most Visited
Getting Started
Other Bookmarks
SWITRS GIS Map
By SafeTREC, UC Berkeley
Map SWITRS
Tools
Options
Layers
Basemaps
Print
Help
Rank By Intersection
Rank Intersection # of Coll
1 ASHBY AVE & SAN PABLO AVE 76
2 ASHBY AVE & SHATTUCK AVE 63
3 ASHBY AVE & MARTIN LUTHER KING JR WAY 59
4 ASHBY AVE & SACRAMENTO ST 56
5 SAN PABLO AVE & UNIVERSITY AVE 49
6 MARTIN LUTHER KING JR WAY & UNIVERSITY AVE 45
7 SHATTUCK AVE & UNIVERSITY AVE 44
8 EASTSHORE HWY & GILMAN ST 41
9 ACTON ST & UNIVERSITY AVE 40
9 ASHBY AVE & COLLEGE AVE 40
Results
Selected Factors:
Date 01/01/2011 - 12/31/2022
County Alameda
City Berkeley
Result Summary:
2021 - 2022 data is provisional and subject to change.
6,953 of 7,187 (96.7%) crashes mapped.
500 ft
Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, Intermap, NGA, USGS
Powered by Esri

Neighbor Appeal, 3000 Shattuck Avenue, ZP#2022-00046 (May 2023)

No.	Distance to Site (ft)	Cited in 1/23 IS/ND Addendum	Address	Existing or Previous Business or Use	Developer	Number of Stories	Number of Units	Number of BMR Units	Approvals and General Status	Commercial Space	Architect
--			**3000 Shattuck**	**Berkeley Gas & Smog**	**NX Ventures**	**10 stories**	**166**	**17**	**Passed DRC, ZAB mtg, May 2023**	**1040 SF**	**Trachtenburg**
1	325'		2001 Ashby ⟐	Cooperative Center Federal Credit Union	Resources for Community Development (RCD)	6 stories	87	87	Approved / Under construction, anticipated completion 2024		MWA Architects
2	350'		2900 / 2920 Shattuck ⟐	Eastern Supply Hardware / Model Garage	NX Ventures	10 stories	221	22	CEQA review pending, April 2023 DRC negative recommendation, March 2023, passed April 2023	4090 SF	Trachtenburg
3	565'		3031 Adeline ⟐	Flacos (restaurant)	Athan Magganas (owner)	7 stories	64	16	Passed DRC Review, January 2023	4030 SF	Dinar and Associates
4	610'		2847 Shattuck ⟐	Direct Line Tele Response	NX Ventures	9 stories	112	11	Application for Density Bonus, submitted January 2023		Trachtenburg
5	670'		2902 Adeline ⊙	AW Pottery	Realtex	6 stories	50	9	Passed Final DRC Review, July 2021		
6	755'	◆	3100 Adeline ⊙	Ashby BART	(Owner: BART / City of Berkeley)	*undetermined*	*undetermined*	*undetermined*			
7	780'		3120 Shattuck ⊙	community and non-profit offices	Northern California Land Trust	7-8 stories	65	100% ? co-op & condo	pre-application, filed December 2022		SCB
8	935'	◆	2801 Adeline ⊙	Walgreens	NX Ventures	7 stories	84	35	Incomplete, pending applicant, November 2021		
9	1700'		3030 Telegraph	Sutter Alta Bates	Riaz Capital	5 stories	144	8	Went to DRC, May 2023	1550 SF	Left Coast
10	1740'		2701 Shattuck	(vacant)	BayRock Multifamily, LLC	5 stories	57	5	Approved / Under construction, anticipated to open 2024		HDO Architects
11	1995'		3031 Telegraph	Berkeley Central Medical Building	Riaz Capital	6 stories	127	9	Passed DRC, February 2023		
12	2465'		2800 Telegraph	Karim Cycle	West Builders	5 stories	16	1	Approved by ZAB, April 2023		Trachtenburg
13	2675'		1708 Harmon	Church parking	Community Housing Development Organization / Ephesian Church of God in Christ	5 stories	80	80	Pre-application filed		Kodama Diseno Architects
14	2750'		2550 Shattuck	Acupuncture and Integrative Medicine	4Terra Investments, Natural Green Corporation	7 stories	72 +	*undetermined*	pre-application, filed April 2023	1520 SF	Kava Massih Architects
15	2915'		2712-2714 Telegraph	Offices / Pacific Center for Human Growth	Panoramic Interests	6 stories	40	3			
16	3050'		2000 Dwight	Medical offices	MorningStar Senior Living /	6 stories	113		Approved (in construction)		Trachtenberg
17	3075	◆	2650 Telegraph	Bachessos	OSM Development	5 stories	45	4	Passed Final DRC Review March 2020		
18	3580'	◆	2440 Shattuck	Dollar Store	Austin Group, LLC	8 stories	40	3	Approved / Under construction, anticipated completion 2024	2700 SF, 2 units	Johnson Lyman Architects
19	3660'		2420 Shattuck	Noodles Fresh / Gio's Pizza	NX Ventures	14 stories	132			2800 SF	Trachtenburg

Legend

◆ Listed in COB Addendum (1/2023) to the 3000 Shattuck IS/ND (Initial Study - Negative Declaration)

⊙ Within 4 blocks of 3000 Shattuck

⟐ Within 1-2 blocks of 3000 Shattuck

RE May 31, 2023 APPEAL of the May 11, 2023 decision of the Zoning Adjustments Board ("ZAB") to issue a Use Permit for the project known as 3000 Shattuck, ZP#2022-00046

Additional 29 signatories to this appeal who own or lease within 300 feet of 3000 Shattuck - please see attached list with handwritten signatures.

Janet Wood, 2071 Emerson Street
Les Shipnuck, 2071 Emerson Street
Tsering Dhundup, 2057 Emerson Street
Dikki Dolkar, 2057 Emerson Street
Marisa Weinstock, 2045 Emerson Street
Katherine Adames, 2070 Emerson Street
Tony Drummond, 2075 Emerson Street
Rebecca Stevens, 2034 Ashby Avenue
Ben Faryna, 2992 Newbury Street
Sara Kaplan, 2992 Newbury Street
Hannah Nilsson, 2920 Newbury Street
Judith Shaw, 3018 Shattuck Avenue
Trisha Mathews, 3018 Shattuck Avenue
Alexa Maturana-Lowe, 2048 Emerson Street
Will Cardia, 2048 Emerson Street
Grace Reinhalter, 2068 Emerson Street
Hergis Nkote, 2070 Emerson Street
Raphael Leonard, 2070 Emerson Street
Daryl Hall, 3011 Shattuck Avenue
Allison Maldonado, 3011 Shattuck Avenue
Rob Seares, 3007 Shattuck Avenue
Chivi Marincola, 3009 Shattuck Avenue
Toby Stewart, 3012 Shattuck Avenue
Thelma Wong, 2109 Emerson Street
Kathy Glaser, 2129 Emerson Street
E. Hope Goodale, 2119 Emerson Street
Jacques Rivers, 2119 Emerson Street
Julie Chan, 3012 Shattuck Avenue
Keith Casilles, 2119 Emerson Street

3000 Shattuck
ZAB Decision 5-11-23

I wish to sign to appeal the ZAB decision as a neighbor living within 300 feet of the proposed project.

Print Name	Print Address	Signature
Janet Wood	2071 Emerson St., Berkeley	
Les Shipnuck	2071 Emerson St, 94703	Les Shipnuck
Tsering Dhundup	2057 Emerson st Berkeley CA	
Marisa Weinstock	2045 Emerson St; BK CA 94703 marisaweinstock9@gmail.com	
Katherine Adames	2070 Emerson St Apt A Berkeley, CA 94703 nietsnie1879@gmail.com	Katherine Adames
Tony Drummond	2075 Emerson St Berkeley, CA 94703 Laxsmio1@gmail.com	
Rebecca Stevens	2034 Ashby Avenue, apartment 2 Berkeley, CA 94703	
Ben Faryna & Sara Kaplan	2992 Newbury St Berkeley, CA 94703	
Hannah Nilsson	2920 Newbury St Berkeley, CA 94703	

3000 Shattuck
ZAB Decision 5-11-23

I wish to sign to appeal the ZAB decision as a neighbor living or working within 300 feet of the proposed project.

Print Name	Print Address	Signature
Dikki Dorkar	2057 Emerson St Berkeley	
ALEXIA MATVKANA-LOWE	2048 EMERSON ST BERKELEY	
Will Cacdia	2048 Emerson St Berkeley	
Grace Rembatter	2068 Emerson St Berkeley	
HERGIS NKOTE	2070 Emerson St Berkeley	
Raphael Conard	2071 Emerson St Berkeley	

I wish to sign in support of the appeal of the Zoning Adjustments Board decision on 3000 Shattuck Ave

Name	Address	Signature
Daryl Hall	3011 Shattuck Ave Berkley, CA	
Allison Maldonado	3011 Shattuck ave ca	
Rob Seares	3007 Shattuck	Robert Seares
Chivi Marincola	3009 Shattuck	
Daly Stewart	3012 Shattuck	Daly Stewart
Thelma Wong	2109 Emerson St	Thelma Wong
KATHY GLASER	2129 EMERSON Berkeley	
E Hope Goodale	2119 Emerson Berkeley	Ehopegoodale
Jacques Rivers	2119 Emerson Berkeley	Jacques Rivers
KEITH CARTER	2119 EMERSON Berkeley	
Julie Chan	3012 Shattuck Ave	
Print Name	Address	Signature

I wish to sign in support of the appeal of the Zoning Adjustments Board decision on 3000 Shattuck Ave

Name	Address	Signature
Judith Shaw	3018 Shattuck Ave	
Trisha Mathews	3018 Shattuck Ave	
Print Name	Address	Signature

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
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SOUTH SAN FRANCISCO, CA 94080-7037
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FAX: (650) 589-5062
kfederman@adamsbroadwell.com

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. RENGIFO

Of Counsel
MARC D. JOSEPH
DANIEL L. CARDOZO

CITY OF BERKELEY - CITY CLERK
2023 JUN 1 PM4:24

June 1, 2023

Via Email and Hand Delivery

Mark Numainville
City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704
Email: clerk@cityofberkeley.info

Via Email Only

Berkeley City Council
2180 Milvia Street,
Berkeley, CA 94704
Jesse Arreguín, Mayor
Councilmembers: Rashi Kesarwani
Terry Taplin; Ben Bartlett
Kate Harrison; Sophie Hahn
Susan Wengraf; Rigel Robinson
Mark Humbert
Email: council@berkeleyca.gov

Re: Appeal of Zoning Adjustments Board's Approval of 3000 Shattuck Avenue Project Use Permit #ZP2022-0046 and Addendum to the 3000 Shattuck IS/ND (SCH# 2017062025)

Dear Mr. Numainville, Mayor Arreguín, Honorable Councilmembers: Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, and Humbert:

We are writing on behalf of East Bay Residents for Responsible Development ("East Bay Residents" or "Residents") to appeal the Zoning Adjustment Board's ("ZAB") May 11, 2023 approval[1] of the 3000 Shattuck Project ("Project")[2] Use Permit #ZP2022-0046 and approval of the Addendum to the 3000 Shattuck Avenue Project Initial Study Negative Declaration (SCH #2017062025)[3] prepared by the City of Berkeley (the "City") for the Project. The Project is proposed by Mark

[1] City of Berkeley, Zoning Adjustment Board, Notice of Decision (May 11, 2023), https://www.dropbox.com/s/860yr17ya9zcd3a/2023-05-18_ZAB_NOD_3000%20Shattuck.pdf?dl=0.
[2] City of Berkeley, Zoning Adjustment Board, Staff Report for Board Action May 11, 2023, https://berkeleyca.gov/sites/default/files/documents/2023-05-11_ZAB_Item%205_3000%20Shattuck_Combined%20Staff%20Report%20and%20Attachments.pdf (hereinafter "Staff Report").
[3] City of Berkeley, Addendum to the 3000 Shattuck Avenue Project Initial Study – Negative Declaration (Permit No. ZP2015-0229, SCH # 2017062025) (January 2023), https://www.dropbox.com/s/kr0fme3neozjqyf/2023-01-27_CEQA_Addendum%20to%20IS-ND_3000%20Shattuck.pdf?dl=0 (hereinafter "Addendum").

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Rhoades of the Rhoades Planning Group and Khan Shazada & Farhat (collectively, "Applicant").

The Project proposes to demolish the existing 1,163-square-foot ("SF") gas station and construct 80,235 sf of residential space including 166 residential units, 1,095 SF of retail space, and zero parking spaces on the 0.31-acre site. Construction of the Project is anticipated to last eighteen to twenty-one months. The Project site is located at 3000 Shattuck Avenue, Berkeley, CA 94705 (APNs 53-1592-1 & 53-1592-2). The Project site is designated as Avenue Commercial in the City's General Plan and is located in the South Area Commercial (C-SA) zoning district. The original project proposed 32,603 SF of residential uses, with 44 units including 4 affordable units. The current Project proposes 80,235 SF of residential uses, with 166 units including 17 affordable units.[4]

This appeal is filed pursuant to Berkeley Municipal Code Section 23.410.020, which provides that decisions by the Zoning Adjustment Board regarding Use Permits may be appealed by "any person" to the City Council within 14 days of the City's mailing the Notice of Decision.[5] The appeal is taken from the following actions, and is accompanied by payment of the required appeal fee of $1500 pursuant to the City's fee schedule:

1. ZAB's May 11, 2023 adoption of the Addendum to the Initial Study/Negative Declaration and
2. ZAB's May 11, 2023 approval of Use Permit #ZP2022-0046 including the following:
    a. Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.326.070(A) to demolish a non-residential main building;
    b. Use Permit pursuant to BMC Section 23.204.100(B)(4)(b) to construct a mixed use development of more than 5,000 square-feet;
    c. Use Permit pursuant to BMC Section 23.204.020 to add multi-family dwellings;
    d. Use Permit pursuant to BMC Section 23.204.100(D)(2) to modify the height and stories, setbacks, and lot coverage;
    e. Administrative Use Permit pursuant to BMC Section 23.304.050(A) to allow architectural features over the maximum height limit.[6]

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[4] Addendum p. 3.
[5] Berkeley Municipal Code ("BMC") § 23.410.020.
[6] Staff Report, p. 1.

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I. SUMMARY OF REASONS FOR APPEAL

This Appeal letter, and Residents' attached March 9, 2023 comments to the ZAB[7], demonstrate that the ZAB's decision to approve the Project violated CEQA, land use laws, and the City's municipal codes, and was not supported by substantial evidence in the record.

First, the CEQA Addendum prepared for the Project fails to accurately disclose the extent of the Project's potentially significant air quality, public health, hazardous contamination, land use, and cumulative impacts, which are new or more severe than the impacts analyzed in the original project's 2018 Initial Study/Negative Declaration ("IS/ND") and will not be substantially or fully mitigated by the City's standard conditions of approval. There is substantial evidence to support a fair argument that the Project will result in significant, unmitigated impacts in each of these areas. With respect to hazardous contamination, substantial evidence shows that the site is contaminated with benzene which exceed the 2019 San Francisco Bay Regional Water Quality Control Board's (SFBRWQCB) groundwater vapor intrusion residential environmental screening level.[8] But, the Addendum does not include a new analysis of existing contamination levels and does not include mitigation requiring the site to be cleaned to residential ESLs. Second, the air quality and health risk impacts associated with the larger project size result in Reactive Organic Gas ("ROG") emissions which exceed the Bay Area Air Quality Management District ("BAAQMD") threshold of 54 pounds per day ("lbs/day"), because the Project would result in ROG emissions of 71.55 lbs/day.[9] The changes to the Project result in a 2,285% increase in ROG emissions, far and away exceeding the BAAQMD significance threshold. ROG air pollution and health risk impacts remain significant but neither the Addendum nor the 2018 IS/ND adequately mitigate such impacts. Third, Cumulative impacts associated with construction and operation of the Project constitute new impacts pursuant to Section 15355 because recent development in the Project area was not previously analyzed in the 2018 IS/ND and was not contemplated at the time the 2018 IS/ND was released. The Addendum fails to analyze these new cumulative impacts associated with the Project.

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[7] **Attachment A,** Adams Broadwell Joseph & Cardozo, Comments on Agenda Item 5: 3000 Shattuck Avenue Project Addendum to the Initial Study Negative Declaration (SCH #2017062025), (May 9, 2023).

[8] Addendum, p. ES-2.

[9] SWAPE Comments, p. 5.

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CEQA requires that a subsequent or supplemental environmental impact report ("EIR") be prepared if there are substantial changes in a project which increase the project's impacts; if there are substantial changes in circumstances surrounding the project; or if new information demonstrates that the project will have new or more severe effects than previously analyzed or are subject to new or different mitigation or alternatives.[10] In this case, the Project has been substantially changed from the original 2018 project by more than tripling the number of residential units on site and almost tripling the Project's square footage, resulting in substantially more severe construction and operational impacts than previously analyzed. There is also new information demonstrating that the Project will have potentially significant impacts which require mitigation beyond that previously considered for the original project. The City failed to proceed in the manner required by law by relying on a CEQA addendum and failing to prepare a subsequent or supplemental EIR in those circumstances. These issues were not resolved by the ZAB prior to its approval of the Project.

The City prepared the Addendum in violation of CEQA and the court's holding in *Friends of College of San Mateo Gardens v. San Mateo County Community College District*. There, the court held that the Community College District improperly prepared an addendum to an MND, because there was substantial evidence to support a fair argument that the project changes may result in a significant effect on the environment.[11] Agencies are permitted to prepare an addendum to an adopted MND, rather than a subsequent EIR or negative declaration, if only "minor technical changes or additions are necessary or none of the conditions described in [CEQA Guidelines] Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred."[12] Here, the changes proposed in the Addendum were not "minor technical changes or additions" but constituted major revisions to the MND based on changes in the Project and new significant environmental effects, thus requiring preparation of an EIR. Substantial evidence supports a fair argument that the Project's potentially significant impacts cannot be adequately mitigated by the measures proposed in the Addendum and 2018 IS/ND. Therefore, a subsequent EIR should have been prepared. The ZAB's decision to approve the Project without preparing a subsequent or supplemental EIR was a violation of CEQA.

The Project may be detrimental to the general welfare of the city, residents, and workers. The significant, unmitigated environmental and public health

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[10] Pub. Res. Code § 21166; 14 Cal. Code Regs. § 15162.
[11] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2022) 11 Cal.App.5th 596, 600.
[12] CEQA Guidelines, § 15164, subd. (b).

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impacts resulting from the City's failure to prepare a subsequent or supplemental are detrimental to the general welfare of the City, its residents, and its workers, in violation of the City's zoning code.[13] The Project Applicant has not made a commitment to ensure the Project is built with local skilled and trained workforce. The Project is therefore likely to be detrimental to City goals and the Berkeley community, particularly to its highly qualified construction workforce, who may not have the opportunity to build much-needed housing in their own community.

The Project is inconsistent with the General Plan because the General Plan provides that the City intends to "[w]ork with job training programs and encourage training for life skills, job readiness, and specific target industries."[14] The Project does not include any commitment to provide construction jobs to Berkeley or East Bay residents, and does not contribute to any apprenticeship or other construction job training programs.

The Project is inconsistent with the General Plan Housing Element because the Project fails to provide the City's required 20% affordable units on-site, contributing to the City's current shortage of affordable units, while at the same time taking a viable project site out of production for those additional affordable units. Although the Project will pay an in-lieu fee, the Project would not be consistent with the Housing Element because it places the burden on the City to identify alternate sites to construct affordable housing units in time to meet its RHNA requirements.[15]

Finally, the ZAB rushed the Project's approval process before complying with CEQA by erroneously concluding that the Project was required to be approved on May 11, 2023 pursuant to the Housing Accountability Act ("HAA").[16] The ZAB incorrectly reasoned that the hearing on May 11, 2023 was the final hearing allowed under the HAA under the Act's five-hearing limit.[17] This was incorrect. The May 11, 2023 hearing was the ***second hearing*** for the Project following the Design Review Committee hearing on January 19, 2023.[18]

East Bay Residents urges the City Council to grant this Appeal and remand the Project to City Staff to prepare a subsequent EIR for the Project. The Project

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[13] Berkeley Municipal Code ("BMC") Sections 23.410.030 and 23.406.040(E).
[14] *Id.*
[15] City of Berkeley, Adopted 2023-2031 Housing Element, p. 107.
[16] Gov. Code. §§ 65589.5, 65589.5(h)(2).
[17] Gov. Code. § 65905.5(a). The HAA limits agencies to five public hearings to consider project approval, including appeals, but excluding hearings related to legislative action and not restricting CEQA compliance.
[18] See the figure below on page 11 from the May 11, 2023 ZAB hearing Staff Report.

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should not be rescheduled for a further public hearing until these issues have been addressed. East Bay Residents reserves the right to submit supplemental comments and evidence at any later hearings and proceedings related to the Project, in accordance with State law.[19]

I. STATEMENT OF INTEREST

East Bay Residents for Responsible Development is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential impacts associated with Project development. The association includes the UA Plumbers and Pipefitters Local 342, International Brotherhood of Electrical Workers Local 595, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, and their members and their families who live and/or work in the City of Berkeley and Alameda County.

The individual members of East Bay Residents and its affiliated labor organizations live, work, and raise their families in Alameda County, including in the City of Berkeley. They would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They will therefore be first in line to be exposed to any health and safety hazards that may exist on the Project site.

The organizational members of East Bay Residents also have an interest in enforcing the City's planning and zoning laws and the State's environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making it less desirable for businesses to locate and people to live there. Indeed, continued degradation can, and has, caused restrictions on growth that reduce future employment opportunities. Finally, Residents' members are concerned about projects that are built without providing opportunities to improve local recruitment, apprenticeship training, and retention of skilled workforces, and without providing lifesaving healthcare expenditures for the construction workforce.

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[19] Gov. Code § 65009(b); Pub. Resources Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* ("*Bakersfield*") (2004) 124 Cal. App. 4th 1184, 1199-1203; *see Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

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II. THE ZAB'S ACTIONS VIOLATED CEQA

CEQA is designed to inform decision makers and the public about the potential, significant environmental impacts of a project before harm is done to the environment.[20] The EIR is the "heart" of this requirement.[21] The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return."[22]

When a previously approved project for which an EIR or an ND/MND has been prepared is modified, CEQA requires the lead agency to conduct subsequent or supplemental environmental review when one or more of the following events occur:

> (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report;
> (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report; or
> (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.[23]

In assessing the need for subsequent or supplemental environmental review, the lead agency must determine, on the basis of substantial evidence in light of the whole record, if one or more of the following events have occurred:

> (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant effects or a substantial increase in the severity of previously identified effects;
> ***(2) <u>Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental</u>***

[20] 14 Cal. Code Regs. § 15002(a)(1) ("CEQA Guidelines"); *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal.App.4th 1344, 1354 ("*Berkeley Jets*"); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.
[21] *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 84.
[22] *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.
[23] Pub. Resources Code § 21166; CEQA Guidelines § 15162.

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effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.[24]

Only where ***none*** of the conditions described above calling for preparation of a subsequent or supplemental EIR have occurred may the lead agency consider preparing a subsequent negative declaration, an addendum or no further documentation.[25] In any case, the decision must be supported by substantial evidence.[26] Here, the City's decision not to prepare a subsequent CEQA document for the Project is not supported by substantial evidence.

The City Improperly Prepared an Addendum Instead of a Subsequent EIR
Agencies may prepare an addendum to an adopted MND, rather than a subsequent EIR or negative declaration, if only "minor technical changes or additions are necessary or none of the conditions described in [CEQA Guidelines] Section 15162 calling for the preparation of a subsequent EIR or negative declaration have

[24] CEQA Guidelines §§ 15162(a)(1)-(3).
[25] CEQA Guidelines § 15162(b).
[26] *Id.* §§ 15162 (a), 15164(e), and 15168(c)(4).

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occurred."[27] "If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration," and if no subsequent EIR is required, the agency "shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation."[28] Additionally, CEQA requires preparation of an EIR where "[s]ubstantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects."[29]

Here, the Project changes proposed in the Addendum are not "minor technical changes or additions" but constitute major revisions to the 2018 IS/ND based on new significant environmental effects thus requiring the preparation of a negative declaration at a minimum, and a subsequent EIR if the impacts cannot be mitigated. The original project proposed 32,603 SF of residential uses, with 44 units including 4 affordable units. This Project proposes 80,235 SF of residential uses, with 166 units including 17 affordable units. The original project proposed the inclusion of 17 parking spaces for automobiles, this Project proposes zero parking spaces. The Project has been substantially changed from the original 2018 project by more than tripling the number of residential units on site and almost tripling the Project's square footage, resulting in substantially more severe construction and operational impacts than previously analyzed. Also, due to substantial changes in circumstances with respect to hazardous contamination from the 2018 IS/ND, the Project will result in new significant environmental effects from hazards, air quality, and cumulative impacts.

As shown below, and detailed in Residents' prior comments, air quality and hazards expert Matt Hagemann and Paul Rosenfeld of Soil Water Air Protection Enterprise (SWAPE) provided substantial evidence that ROG emissions, and construction and demolition emissions may be significant and were not analyzed or mitigated in the 2018 IS/ND. Moreover, hazards impacts from the Project are more severe than analyzed in the 2018 IS/ND. The cumulative impacts associated with concurrent development in the neighborhood did not exist and were not analyzed at the time the 2018 IS/ND was prepared. These impacts constitute new significant environmental effects requiring preparation of a subsequent EIR.

The California Supreme Court held in *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.*, that if "the project

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[27] CEQA Guidelines, § 15164, subd. (b).
[28] CEQA Guidelines, § 15162, subd. (b).
[29] *Id.* at § 15162, subd. (a)(2).

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modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR."[30] Thus, "an agency [must] prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved, and courts must enforce that standard."[31] The court held that the Community College District improperly prepared an addendum to an MND, because there was substantial evidence to support a fair argument that the project changes may result in a significant effect on the environment.[32] The court found that substantial evidence supported a fair argument that the aesthetic impacts of replacing the garden with a parking lot were significant, and the college's choice to rely on an addendum violated CEQA. The court found that the change in the Project as detailed in the Addendum was significant enough to require additional environmental review, and that an Addendum was not the appropriate CEQA document.

Similarly, here, the Project's changes, including tripling the number of housing units, almost tripling the square footage, and doubling of the building height will result insubstantially increased air quality, public health, hazards impacts, and cumulative impacts that are new and more severe than previously analyzed such that an Addendum is inappropriate and a subsequent EIR must be prepared. The City Council must remand the Project to Staff to prepare a legally adequate subsequent EIR for the Project, because substantial evidence supports a fair argument that the changes in the Project require major revisions to the 2018 IS/ND due to new significant environmental effects from hazards, air quality, and cumulative impacts.

Finally, the ZAB rushed approval of this Project out of a false belief that failing to approve it would violate the HAA. The City Council is within the bounds of the HAA to conduct a public hearing on Appeal and remand the Project to Staff to conduct additional CEQA review prior to a final hearing on the Project. The HAA expressly requires lead agencies to comply with CEQA and complete environmental review of a development project before any HAA claims can be made. The HAA states that **nothing "in this section be construed to relieve the local agency**

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[30] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.
[31] *Id.* at p. 959.
[32] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2022) 11 Cal.App.5th 596.

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from making one or more of the findings required pursuant to [CEQA]."[33] The Appeal asks only that the City comply with CEQA before approving the Project. Upholding the Appeal would result in compliance with CEQA, and would not expose the City to liability under the HAA.

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3000 SHATTUCK AVENUE
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Table 3: Project Chronology

Date	Action
December 14, 2021	SB 330 complete preliminary housing development project application submitted
March 29, 2022	Application submitted
May 11, 2022	Application deemed incomplete
July 8, 2022	Revised application materials submitted
August 3, 2022	Application deemed complete
January 19, 2023	Design Review Committee Preliminary Design Review
January 27, 2023	*Addendum to previous Initial Study published*
April 27, 2023	Public hearing notices mailed/posted
May 11, 2023	ZAB hearing

[34]

III. THE PROJECT MAY RESULT IN NEW AND MORE SEVERE HAZARDS IMPACTS REQUIRING PREPARATION OF AN EIR

The Project site is contaminated with hazardous contaminants from its historical use as a service station operated by Atlantic Richfield Company ("ARCO").[35] ARCO later became an affiliate of BP and the site was operated as BP Station No. 00414 until it was sold to Mr. Shahzada Khan on February 25, 2004.[36] The Project site is listed on the State Water Resources Control Board's Geotracker database as Site T0600100094. The site is therefore on a Cortese List per Section 65962.5 of the Government Code. The Project site is currently an operational gas station and smog check location operated by Berkeley Gas & Smog, which contains

[33] Gov. Code, § 65589.5, subd. (e).
[34] Staff Report, p. 9.
[35] Atlantic Richfield Company, Case Closure Summary Report Former British Petroleum Station #00414 City of Berkeley case #27540. 3000 Shattuck Avenue Berkeley, California (June 9, 2010), https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/8836282312/T0600100094.PDF p. 2/16 (hereinafter "Case Closure Summary Report").
[36] *Id.*

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three underground storage tanks ("USTs") that contain gasoline, and one waste oil UST.[37]

Impacts from Project construction and operation may be more severe than previously analyzed in the 2018 IS/ND and construction of the Project will require mitigation measures which are considerably different from those analyzed in the 2018 IS/ND (which included no mitigation measures) to substantially residual contamination levels to acceptable residential screening levels.[38] The 2018 IS/ND relied on the site's previous closure to commercial/industrial screening levels, not residential screening levels, and did not include any mitigation measures requiring contamination levels to be cleaned to meet the more health-protective residential environmental screening levels ("ESLs") necessary to ensure that health impacts on construction workers and future residents of the Project are less than significant.

At the time of the site's closure in 2010, "[a] station building [was] present at the site and the entire site [was] paved, with no exposed soil present at the ground surface."[39] At the time of the closure, the "potential for soil vapor intrusion was evaluated by comparing current groundwater concentrations to groundwater ESLs...for the protection of the vapor intrusion pathway in a ***commercial setting***."[40] Following the Project site's closure in 2010, an additional investigation was opened at the Site in December 2012 to address a new release associated with the hydraulic lifts present at the Site.[41] The new release was discovered during groundwater monitoring activities in October 2007, a sample from the impacted well was not collected until first quarter 2008.[42] The release notification, dated December 12, 2012, lists both BP and the current property owner (Shazada Khan) as potential responsible parties ("PRP").[43]

In June 2013, the case involving the potential release associated with the hydraulic lifts was referred to the San Francisco Bay Regional Water Board (Case # 01S0746, RWQCB).[44] Based on results of characterization activities, ARCADIS

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[37] *Id.*
[38] CEQA Guidelines § 15162(a)(3)(D).
[39] Case Closure Summary Report, p. 10/16.
[40] *Id.*
[41] Letter from San Francisco Bay Regional Water Quality Control Board to BP West Coast Products, LLC c/o Ms. Janet Wager, No Further Action, U.S. Smog and Gas, 3000 Shattuck Avenue, Berkeley, Alameda County, (September 3, 2014), https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/2104876458/01S0746%20(US%20Smog)%20-%20NFA%20package%209-3-14.pdf.
[42] *Id.*
[43] *Id.*
[44] *Id.*

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requested case closure on behalf of BP on July 9, 2014.[45] The Water Board concluded that "[b]ased upon the available information, ***including the current land use***, and with the provision that the information provided to this agency was accurate and representative of site conditions, no further action related to the pollutant releases at the subject site is required."[46] This conclusion was based on the Water Board's conclusion that the "Most Sensitive Potential Use and Probability of Use" include "municipal, industrial process, industrial service and agricultural are identified in the Basin Plan."[47]

The soil vapor levels and other residual contamination associated with releases of contaminants at the Project site have not been fully analyzed or mitigated for a residential setting and may therefore pose a significant risk to residents and workers of the Project site. The current Project does not include the uses identified under the 2010 or 2014 land use designations, and instead will be converted to residential uses. The 2010 closure summary report identified benzene levels which exceed the 2019 San Francisco Bay Regional Water Quality Control Board's (SFBRWQCB) groundwater vapor intrusion residential environmental screening level.[48] But, the Addendum does not include a new analysis of existing contamination levels and does not include mitigation requiring the site to be cleaned to residential ESLs. The City therefore lacks substantial evidence to conclude that the Project's hazardous materials and health risk impacts are less than significant. Rather, the presence of soil contamination at levels that exceed residential ESLs is substantial evidence demonstrating that these impacts may be significant and will require substantial revisions to the 2018 IS/ND in order to accurately analyze and incorporate mitigation for these impacts.

The 2018 IS/ND relied on the misleading statement that the cleanup case was "closed"[49] to commercial industrial screening levels to conclude that no mitigation was required for the original project. The Addendum similarly fails to address the fact that the residual contamination remaining after the Water Board case closure may exceed residential screening levels, and may therefore result in a potentially significant hazardous materials and health impact to future Project residents unless mitigation us required to remediate existing contamination to residential ESLs. The Addendum relies on the statement that "[t]here are two closed State Water Quality Control Board GeoTracker investigations on the project

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[45] *Id.*
[46] *Id.*
[47] *Id.* at 2.
[48] *Id.* at ES-2.
[49] 2018 IS/ND, https://www.dropbox.com/s/19ieh5spqqet2qb/IS-ND%20with%20appendices_3000%20Shattuck.pdf?dl=0, p. 23.

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site (T0600100094 [closed 2013] and T10000004483 [closed 2014])"[50] to conclude that impacts are less than significant and that no subsequent EIR is required for the Project. However, both of these GeoTracker sites at 3000 Shattuck were closed to commercial industrial standards, and do not provide support for a conclusion that impacts to a residential project would be less than significant.

The City's failure to investigate contamination levels in relation to this Project is apparent in the document. The Addendum includes the Case Closure Summary Report which clearly states that ***"[s]oil vapor samples have not been collected at the site."***[51] The Case Closure Summary was required to include "Cumulative data tables for all soil, groundwater samples, including grab samples, and soil vapor ***must*** be included."[52] Data on soil vapor samples and cumulative data on the potential for soil vapor intrusion was not included in the Case Closure Summary, the Initial Study, or the Addendum, and was not provided in response to Residents' Public Records Act request. Thus, there is no evidence in the City's record to support the ZAB's conclusion that the Project's hazardous materials and health risk impacts from soil contamination were adequately addressed in the Addendum. The ZAB's approval of the Project therefore violated CEQA.

The Project would result in the conversion of the contaminated industrial site to residential use, and may result in significant hazards and health impacts from soil contamination and vapor intrusion. A subsequent EIR is required pursuant to CEQA Guidelines Section 15162.

IV. THE PROJECT MAY RESULT IN NEW AND MORE SEVERE CUMULATIVE IMPACTS REQUIRING PREPARATION OF A SUBSEQUENT OR SUPPLEMENTAL EIR

CEQA requires agencies to analyze whether a project has impacts that are individually limited, but cumulatively considerable.[53] Cumulatively considerable means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects). Cumulative impacts are defined as "two or more individual effects, which, when considered together, are considerable or which compound or increase other environmental impacts."[54] Cumulative impacts

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[50] Addendum p. 22.
[51] Case Closure Summary Report, p. 10/16 (emphasis added).
[52] *Id.* at pdf 83 of 86.
[53] CEQA Guidelines § 15355(b); *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 905.
[54] CEQA Guidelines § 15355.

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associated with construction and operation of the Project constitute new impacts pursuant to Section 15355 because recent development in the Project area was not previously analyzed in the 2018 IS/ND and was not contemplated at the time the 2018 IS/ND was released. The Addendum fails to analyze these new cumulative impacts associated with the Project.

The ZAB approved the Project in violation of CEQA because the Addendum failed to address these new projects and failed to include any analysis supported by substantial evidence to conclude that the Project does not result in new or more severe cumulatively considerable impacts than the 2018 project. In fact, the Addendum only mentioned cumulative impacts for transportation and air quality impacts, but dismissed all other potentially new and significant cumulative impacts outright, without providing substantial evidence to support its conclusions.[55]

The 2018 IS/ND concluded that, because the Project is "an infill location," cumulative impacts are less than significant for all resource areas.[56] The opposite is true. It is precisely because this Project is an infill project located in an area of the City that is currently undergoing rigorous development, that a cumulative analysis of concurrent construction impacts is so critical.

Here, the Project is surrounded by existing sources of pollution and is proposed to be constructed concurrently with numerous other new Berkeley high rise developments in the direct vicinity of the Project site. Both this Project and the concurrent development projects will result in potentially cumulatively significant air quality, hazards, and land use impacts that were not analyzed in the Addendum.

A. The Project May Result in New and More Severe Cumulative Hazards and Construction Impacts

As detailed above and in Resident's prior comments to the ZAB, the Project site is contaminated due to the historical presence of three underground storage tanks ("USTs") that contained gasoline, and one waste oil UST.[57] The Project site is listed on the State Water Resources Control Board's Geotracker database as Site T0600100094.[58] The site is therefore on a Cortese List per Section 65962.5 of the Government Code.

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[55] Addendum p. 13; 28.
[56] 2018 IS/ND, p. 38.
[57] 2018 IS/ND, p. 38.
[58] California State Water Resources Control Board Geotracker, ARCO # 00414 (T0600100094), https://geotracker.waterboards.ca.gov/profile_report?global_id=T0600100094.

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The Project site may be constructed concurrently with numerous developments in the Project vicinity which are also on the Cortese List per Section 65962.5 of the Government Code and require remediation prior to construction. Within 1000 feet of the Project site, there are three Cortese listed sites, including: 1) 2001 Ashby Redevelopment;[59] 2) 2920 Shattuck Avenue;[60] and 3) 2701 Shattuck Avenue, all of which are likely to require removal and remediation of contaminated soil as part of project construction, which would result in extended cumulative construction impacts.[61] All three of these projects were proposed after the 2018 IS/ND was drafted. The concurrent construction of three large Cortese listed projects within 1000 feet may result in potentially significant cumulative hazards and construction impacts that the 2018 IS/ND and the Addendum failed to analyze.

The 2001 Ashby Redevelopment, located within 600 feet of the Project site, will require "remediation and/or off-Site disposal of impacted soil at a permitted disposal facility; extraction, treatment, and discharge of groundwater to the sanitary sewer; and installation of vapor mitigation engineering controls to control potential vapor intrusion to indoor air of the proposed development and migration along new utility corridors."[62] The remediation associated with construction of the 2920 Shattuck Project may include removal of on site hazardous materials which may exceed 55 gallons of liquids, 500 pounds of solids, or 200 cubic feet of compressed gases.[63] Based on evidence in the record demonstrating that contamination levels at the 3000 Shattuck site exceed residential standards, it is likely that that the Project will also require remediation and/or off-site disposal of contaminated soil and installation of vapor mitigation engineering controls to control potential vapor intrusion to indoor air of the proposed development and migration along new utility corridors.

The concurrent remediation and removal of contaminated soil on both project sites within such close proximity may result in potentially significant cumulative hazards, air quality, and traffic impacts which were not analyzed or mitigated in

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[59] California State Water Resources Control Board Geotracker, 2001 Ashby Redevelopment (T10000014891), https://geotracker.waterboards.ca.gov/case_summary?global_id=T10000014891.
[60] California State Water Resources Control Board Geotracker, Southwick Chrysler Plymouth (T0600101310), https://geotracker.waterboards.ca.gov/case_summary?global_id=T0600101310.
[61] California State Water Resources Control Board Geotracker, 2721 Shattuck Ave, Bekins Van Storage (T0600100167), https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0600100167.
[62] California State Water Resources Control Board Geotracker, 2001 Ashby Redevelopment (T10000014891), https://geotracker.waterboards.ca.gov/case_summary?global_id=T10000014891.
[63] State Water Resources Control Board, Unified Program Consolidated Form Facility Information, FA0000211, The Model Garage Inc, 2920 Shattuck Ave Berkeley, CA 94705, https://www.dropbox.com/s/s484da7bkuism3i/Shattuck%20Avenue%202920_Model_2013%2004%2030_RPT_HMBP_Redacted.pdf?dl=0.

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the 2018 IS/ND nor the Addendum. These cumulative impacts are new information about new significant environmental effects which were not known at the time the 2018 IS/ND was prepared. These impacts require substantial revisions to the IS/ND and therefore must be analyzed and mitigated in a subsequent EIR pursuant to CEQA Guidelines Section 15162 subdivision (a)(3).[64]

B. The Project May Result in New and More Severe Cumulative Air Quality Impacts Than Previously Analyzed

Project construction, over 18 to 21 months, may occur concurrently with numerous developments within 1000 feet including: 2001 Ashby (within 600 feet), 2701 Shattuck (within 1000 feet), and 2920 Shattuck (within 500 feet).[65] Given that these projects were proposed after the 2018 IS/ND was released, and before the Addendum was finalized, the Addendum was required to analyze the potentially significant cumulative air quality and health risk impacts associated with concurrent construction of these new projects. The City failed to do so, and must remedy this deficiency in a subsequent EIR.

The substantial change in the size of this Project will result in an increase in Reactive Organic Gases emissions of 2,285%, according to Residents' air quality expert consultants at SWAPE.[66] The increased size of the Project constitutes a "[s]ubstantial change[] proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects."[67] The air quality and health risk impacts resultant from the increase in size of this Project is also cumulatively considerable in connection with the numerous high-rise developments being built concurrently in the Project vicinity.

As detailed in East Bay Residents' prior comments and those of our air quality expert consultants at SWAPE, the Project would result in significant emissions from Reactive Organic Gas ("ROG") which exceed the Bay Area Air Quality Management District ("BAAQMD") threshold. BAAQMD requires that ROG emissions shall not exceed 54 pounds per day ("lbs/day"), but the Project would result in ROG emissions of 71.55 lbs/day.[68] The 2018 IS/ND made no mention of ROG emissions, but the Addendum states that the ROG emissions would be 3

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[64] CEQA Guidelines § 15162(a)(2).
[65] Google Maps, 2023.
[66] SWAPE Comments, p. 5.
[67] CEQA Guidelines Section 15162(a)(2).
[68] SWAPE Comments, p. 5.

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lbs/day.[69] This conclusion is not supported by substantial evidence. SWAPE found that the changes to the Project result in a 2,285% increase in ROG emissions, far exceeding the BAAQMD significance threshold. Therefore, ROG emissions remain significant but neither the Addendum nor the 2018 IS/ND adequately mitigate such impacts. These emissions also contribute to cumulatively significant air quality impacts in connection with concurrent development within 1000 feet of the Project. The Project's individual and cumulatively significant air quality impacts are the result of substantial changes in the Project design and new project proposals that did not exist at the time the 2018 IS/ND was prepared. The City must therefore analyze these new potentially significant environmental impacts in a subsequent EIR to satisfy CEQA.

V. THE PROJECT RESULTS IN NEW AND MORE SEVERE AIR QUALITY IMPACTS REQUIRING PREPARATION OF A SUBSEQUENT OR SUPPLEMENTAL EIR

The Addendum states that Project construction will last 18 months,[70] and that the original project also included a construction period of 18 months.[71] This is incorrect, as the 2018 IS/ND provided that the construction period will last 20 months.[72] Nevertheless, the Addendum's attempt to compare similarities between the construction timeline for the original and current project does not support a conclusion that the Project's construction emissions are comparable to the original Project because the new Project is twice the size. Construction emissions generated over the same period of time are therefore likely to be substantially higher for the current Project than the original project.

The information in the Addendum is also internally inconsistent, because the Addendum's air quality emissions modeling relies on a 21-month construction period, whereas the text of the Addendum says construction will last 18 months, potentially resulting in an underestimation of the Project's construction emissions. SWAPE concluded that the elongated construction duration results in an underestimation of the daily emissions resulting from construction equipment onsite. SWAPE concluded that the Addendum's analysis improperly relies on the assumption that "there will be less construction activities required per day and, consequently, less pollutants emitted per day."[73] The Addendum's air quality construction emissions calculations underestimate the Project's daily emissions and

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[69] Addendum, p. 14.
[70] Addendum, p. 3.
[71] *Id.*
[72] 2018 IS/ND.
[73] SWAPE Comments, p. 4.

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are therefore not supported by substantial evidence. The City must prepare a legally adequate subsequent EIR which accurately analyzes the Project's daily construction emissions with an accurate construction schedule guiding the analysis.

Further, the Addendum fails as an informational document under CEQA for failing to model the emissions associated with demolition of the existing building on the Project site. SWAPE concluded that the Addendum failed altogether to analyze the demolition phase of construction and inputted zeros into the calculations for square feet being demolished.[74] This is not an accurate assessment of the required demolition of the existing gas station, two gas pump islands, and related infrastructure.[75] Demolition of existing infrastructure will obviously exceed zero square feet of demolition activity, counter to the Addendum's unsupported calculations. SWAPE concluded that the failure to include the demolition emissions presents a significant issue, because by failing to include any amount of required demolition, the model underestimates the emissions associated with fugitive dust, debris removal, as well as exhaust from hauling trucks traveling to and from the site, which may be significant and remain unmitigated.[76] These impacts are unique to the Project and were not considered in the prior 2018 IS/ND. They must be analyzed in a subsequent EIR.

Moreover, the Addendum fails as an informational document under CEQA for failing to quantify and analyze the Project's potentially significant air pollution impacts from trucking the modular units potentially hundreds of miles to the Project site. The Addendum fails to quantify the potentially significant air quality, health risk, and cumulative impact associated with trucking the modular units. These modular units may be transported from out of state or hundreds of miles from the Project site. Absent an analysis of the emissions associated with trucking these modular units, the Addendum fails as an informational document under CEQA, and the conclusion that air impacts from Project construction are less than significant was not supported by substantial evidence.

The City Council must remand the Project to Staff to prepare a legally adequate EIR which analyzes and mitigates the Project's potentially significant air quality impacts before the Project can be approved.

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[74] *Id.*
[75] 2018 IS/ND, p. 6.
[76] SWAPE Comments, p. 5. s

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IV. THE PROJECT MAY BE DETRIMENTAL TO THE GENERAL WELFARE OF THE CITY, RESIDENTS, AND WORKERS

The ZAB may not approve a Use Permit under Berkeley Municipal Code Section 23.406.040 unless it finds that the proposed project:

1. Will not be detrimental to the health, safety, peace, morals, comfort, or **general welfare** of persons residing or visiting in the area or neighborhood of the proposed use; and
2. Will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.[77]

Municipal Code Section 22.20.020 defines detrimental impacts to include, *inter alia*, increased demand for workforce housing, training, and benefits: "The increased demand for affordable housing, child care and public services, ***adequate employment training and placement facilities and amenities***, and the other impacts generated by development projects, unless mitigated, are detrimental to the City's public health, safety and general welfare."[78] Under Section 22.20.020, a detriment to the general welfare occurs when the City fails to mitigate the impacts of a development project, including the increased demand for housing, workforce training, and public services that may result from the Project.[79] The ZAB lacked the evidence necessary to approve the requested Use Permit for the Project because substantial evidence demonstrates that the Project will be detrimental to the general welfare due to both the unmitigated environmental and public health impacts discussed herein, and the Project's failure to comply with the General Plan's workforce requirements.

The Project's changes, including the tripling the number of housing units, almost tripling the square footage, and doubling of the building height will result insubstantially increased air quality, public health, hazards impacts, and cumulative impacts that are new and more severe than previously analyzed such that an Addendum is inappropriate and a subsequent EIR must be prepared. The public health and safety impacts that result from the increased size and scope of the Project result in more severe hazardous contamination impacts, air quality, traffic, and noise and may be "detrimental or injurious to property and improvements of

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[77] BMC § 23.406.040.
[78] BMC § 22.20.020(G) (emphasis added).
[79] *Id.*

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the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City" in violation of the Municipal Code.[80]

With regard to workforce, pursuant to Municipal Code Section 22.20.020, the Project may result in detrimental impacts to the general welfare for failure to provide employment training, placement facilities, and amenities.[81] The Project Applicant has not made a commitment to ensure the Project is built with a local skilled and trained workforce, or that the Project will provide apprenticeship training opportunities or healthcare benefits or other workforce benefits or amenities for City of Berkeley or East Bay residents. Without committing to these actions, the Project may be built with low-wage, out-of-area workers who lack the livable wages, health benefits, stability, and basic standard of living that Berkeley has committed to ensuring for all of its workers on all housing developments constructed in the City. If so, the Project would be detrimental to the health, safety, peace, morals, comfort, and general welfare of the City and its residents, especially its local construction workforce who may not have the opportunity to build much-needed housing in their own community.

On May 2, 2023, the City adopted a new ordinance titled Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS) Ordinance.[82] The Ordinance was enacted to improve the recruitment, training, and retention of skilled construction workers, ensuring larger projects within the City are awarded to contractors that participate in high quality, industry proven apprenticeship programs, and that apprentices working under such contracts are competently trained.[83] The HARD HATS ordinance does not apply to the Project because the Project application was filed before the Ordinance went into effect. However, the evidence and findings which supported the City's adoption of the Ordinance demonstrate that projects which do not provide workforce benefits may be detrimental to the general welfare of the City and its residents.[84] Accordingly, the ZAB recommended (but did not require) that the Applicant comply

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[80] BMC § 23.406.040
[81] BMC § 22.20.020(G).
[82] City of Berkeley, Revised Agenda Material May 2, 2023, Item #1, Adding BMC Chapter 13.107, Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS) Ordinance, https://berkeleyca.gov/sites/default/files/documents/Supp%203%20Item%201%20HARD%20HATS%20Ordinance.pdf.
[83] *Id.*
[84] City of Berkeley, Agenda, Berkeley City Council, Tuesday September 20, 2022 6:00 PM, Council Consent Item 14 Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS) Referral, p. 77. Available at: https://berkeleyca.gov/sites/default/files/city-council-meetings/2022-09-20%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf ("HARD HATS Staff Report").

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with the Ordinance. Though the ZAB recommended the Applicant conform with the HARDHATS Ordinance, this does not sufficiently mitigate the risk of detriment to the general welfare, as shown below, because the ZAB condition is a recommendation only, and the Applicant did not commit to providing workforce benefits prior to the ZAB approval.[85] If the Project is constructed without workforce benefits, it would be detrimental to the general welfare of the City and its residents for the reasons described in the findings for the HARD HATS Ordinance.

Municipal Code Section 22.20.020 defines detrimental impacts to include, *inter alia*, increased demand for workforce housing, training, and benefits: "The increased demand for affordable housing, child care and public services, ***adequate employment training and placement facilities and amenities***, and the other impacts generated by development projects, unless mitigated, are detrimental to the City's public health, safety and general welfare."[86] Under Section 22.20.020, a detriment to the general welfare occurs when the City fails to mitigate the impacts of a development project, including the increased demand for housing, workforce training, and public services that may result from the Project.[87] Pursuant to Municipal Code Section 22.20.020, the Project's adverse impacts to the general welfare include failure to provide employment training, placement facilities, and amenities.[88]

The ZAB may approve a Use Permit for demolition of a non-residential building or structure only if the ZAB finds that "demolition will not be materially detrimental to the commercial needs and public interest of any affected Hi neighborhood or the City of Berkeley"[89] Here, the ZAB lacked substantial evidence to make the necessary findings that demolition of the existing structure and construction of the Project is in the public interest, absent community and workforce benefits to promote the general welfare. The City has found that housing projects, like this one, that are constructed with low-wage or uninsured construction workers are detrimental to the health, safety, peace, morals, comfort, and general

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[85] City of Berkeley, Agenda and Staff Report, Berkeley City Council, Council Consent Item 14 Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS), https://berkeleyca.gov/sites/default/files/city-council-meetings/2022-09-20%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf ("HARD HATS Staff Report") (Sept. 20, 2022) p. 7.
[86] BMC § 22.20.020(G) (emphasis added).
[87] *Id.*
[88] BMC § 22.20.020(G).
[89] *Id.* at § 23.326.070(D)(1).

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welfare of persons residing or visiting the City and the Project's Downtown neighborhood, as well as to the general welfare of the City.[90]

Finally, the Municipal Code provides that the "Zoning Ordinance establishes *minimum* requirements to promote the public health, safety, and general welfare."[91] The Municipal Code also provides that, "[t]o the extent possible, it is the government's responsibility to balance the responsibility to ensure the health, safety, and general welfare of the public at large in a fiscally and environmentally sustainable manner."[92] It is therefore the responsibility of the City Council to promote the general welfare beyond the minimum required by law.

The City Council should ask the Applicant to voluntarily agree to include community benefits in the Project including local hire provisions and healthcare standards and benefits in order to promote the general welfare.

A. The Project May Be Detrimental to the General Welfare for Failing to Hire Locally

Absent a commitment from the Applicant to hire locally, the Project may be detrimental to the general welfare of Berkeley residents. The ZAB recommended that the Applicant hire locally in accordance with the HARDHATS Ordinance, but this is not binding.

Local hire commitments are a critical way not only to hire local residents, but to use project hiring needs to target opportunities to low-income residents and people of color who might otherwise not benefit from new development.[93] Local hire programs help address the fragmentation inherent in the development process, establishing better communication among developers, employers, community organizations, local job training resources, and the workforce development system that can provide job readiness and job retention support services.[94]

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[90] City of Berkeley, Agenda, Berkeley City Council, Tuesday September 20, 2022 6:00 PM, Council Consent Item 14 Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS) Referral, p. 77. Available at: https://berkeleyca.gov/sites/default/files/city-council-meetings/2022-09-20%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf ("HARD HATS Staff Report").
[91] BMC § 22.104.030.
[92] *Id.* at § 2.09.020.
[93] Kathleen Mulligan-Hansel, *Making Development Work for Local Residents: Local Hire Programs and Implementation Strategies that Serve Low-Income Communities,* (July 2008). Available at: https://s3.amazonaws.com/proggov21-uploads/uploads/asset/asset_file/Making_Development_Work_Local_Residents_Mulligan-HanselPWF2008.pdf.
[94] *Id.*

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At the September 20, 2022 HARD HATS hearing, City Councilmembers explained that there is a "shortage of qualified local construction workers" and that is one reason why it is hard to get housing built.[95] Councilmember Hahn explained that Berkeley should "develop more labor, have working conditions, and pay, and benefits that you need to live in the Bay Area."[96] Further Councilmember Hahn asserted that Berkeley needs to expand the available workforce of people who are able to build housing and other projects, and "to ensure they have protections."[97] Mayor Arreguin noted that the "key to addressing the significant shortage of housing is addressing the shortage of a skilled and trained workforce."[98] The Project does not meet this goal of addressing the housing shortage by utilizing local skilled and trained workers and may result in a detriment to the general welfare.

Here, the Project Applicant has not made a commitment to ensure the Project is built with local skilled and trained workforce. The Project is therefore likely to be detrimental to City goals and the Berkeley community, particularly to its highly qualified construction workforce, who may not have the opportunity to build much-needed housing in their own community. The City should request the Applicant commit to providing a local hire percentage of 30 percent as a community benefit for the Project.

B. The Project May Be Detrimental to the General Welfare for Failing to Provide Healthcare Expenditures to Its Construction Workforce

The Applicant has not committed to providing healthcare expenditures for the construction workers building the Project. This may result in a detriment to the general welfare of the City and its residents, including in particular, to its construction worker residents. In adopting the HARD HATS Ordinance, the Council found that health care security is vital for construction workers. If the Project does not provide, or have a prequalified contractor provide, healthcare expenditures for its construction workforces, it would leave the responsibility of providing for the health, safety, and welfare of the Project's construction workforce on the workers themselves, or potentially on taxpayer-funded public assistance, thus externalizing the cost of construction. This would result in a detriment to the general welfare.

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[95] Statement by Councilmember Hahn, Oakland City Council Hearing (September 20, 2022 6 PM).
[96] *Id.*
[97] *Id.*
[98] Statement by Mayor Arreguin, Oakland City Council Hearing (September 20, 2022 6 PM).

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The City's HARD HATS Ordinance Staff Report explained that construction trade workers experience exceptionally high rates of serious injury on the job, especially on sites with inadequately trained workers.[99] For example, one of every five serious workers' compensation insurance claims which involve death, permanent total disability or major permanent partial disability - is related to a construction employee, despite the fact that construction jobs account for less than one out of every 25 California jobs.[100] In authorizing drafting of the HARD HATS Ordinance, the Council reiterated the importance of providing healthcare expenditures for construction workers to support a sustainable construction workforce: "The creation and utilization of apprenticeship along with the commitments to paid healthcare act to both recruit and retain an adequate base of construction workers and to be a pipeline for future supervisors and licensed independent contractors."[101]

The City Council should request the Applicant commit to complying with the provisions of the HARD HATS Ordinance which address healthcare expenditures for the construction workforce.[102]

V. THE PROJECT IS INCONSISTENT WITH THE GENERAL PLAN

CEQA requires an agency to analyze whether a project conforms with the applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.[103] The Project fails to demonstrate consistency with General Plan economic and employment policies.[104]

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[99] HARD HATS Staff Report at 81.
[100] *Id.*
[101] *Id.* at 77.
[102] HARD HATS Ordinance Section 13.107.050 (Health Care Expenditures).
[103] CEQA Guidelines Appendix G, XI Land Use and Planning.
[104] The Addendum also fails as an informational document under CEQA for failing to analyze the Project's consistency with the General Plan; such inconsistencies constitute significant impacts under CEQA. *Pocket Protectors v. Sacramento* (2005) 124 Cal.App.4th 903 (where a local or regional policy of general applicability, such as an ordinance, is adopted in order to avoid or mitigate environmental effects, a conflict with that policy in itself indicates a potentially significant impact on the environment).

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A. The Project May Be Inconsistent with the General Plan Economic Development & Employment Element

The record lacks substantial evidence demonstrating that the Project would be consistent with the General Plan Economic Development & Employment Element. Thus, the Project should not have been approved until consistency was demonstrated.[105]

The General Plan Economic Development and Employment Element Policy (ED-1) provides that the City must "[i]ncrease the number of jobs that go to Berkeley citizens by coordinating economic development efforts with employment placement."[106] Further, the General Plan provides that the City intends to "[w]ork with job training programs and encourage training for life skills, job readiness, and specific target industries."[107] The Project does not include any commitment to provide construction jobs to Berkeley or East Bay residents, and the Applicant has not committed to contribute to any apprenticeship or other construction job training programs. Housing development projects in the City must also implement the goals and policies of the General Plan, including the following:

1) Ensure that Berkeley has an adequate supply of decent housing, living wage jobs, and businesses providing basic goods and services.
2) New housing will be developed to expand housing opportunities in Berkeley to meet the needs of all income groups.[108]

The City has determined that "it is in the City of Berkeley's economic interest to support a pipeline of skilled workers to accomplish the construction objectives and policies of the Berkeley General Plan."[109] The Project could support this goal by including community benefits such as local hire and healthcare and workforce

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[105] SB 330 requires conformance with applicable, objective general plan and zoning standards. Gov. Code § 65905.5. (a).
[106] Berkeley General Plan Economic Development and Employment Element, p. ED-5. Available at: https://berkeleyca.gov/sites/default/files/documents/12_Economic%20Development%20and%20Employment%20Element-FINAL.pdf.
[107] *Id.*
[108] Berkeley General Plan Economic Development and Employment Element, p. ED-5.
[109] City of Berkeley, Agenda and Staff Report, Berkeley City Council, Council Consent Item 14 Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS), https://berkeleyca.gov/sites/default/files/city-council-meetings/2022-09-20%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf ("HARD HATS Staff Report") (Sept. 20, 2022) p. 7.

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benefits. Absent such benefits, the City lacks substantial evidence demonstrating compliance with Policy ED-1.

Moreover, the Applicant's decision to pay an in lieu fee to the City in place of meeting the City's on-site affordable unit recommendations fails to demonstrate consistency with the General Plan's objective that development in the City should ensure an "adequate supply of decent housing" and may contribute to inconsistencies with the General Plan Housing Element (discussed below).[110] The City may allow the Applicant to pay a fee, in lieu of providing an adequate supply of affordable housing on the Project site.[111] However, the payment of in lieu fees defers the production of affordable housing to an indefinite future time. As discussed below, delaying construction of additional affordable units to the future may result in the City being unable to timely meet its Regional Housing Needs Allocation ("RHNA"). The City Council should ask the Applicant to consider adding additional on-site affordable units as a means of increasing compliance with the General Plan.

VI. THE PROJECT IS INCONSISTENT WITH THE CITY'S HOUSING ELEMENT

CEQA requires an agency to analyze whether a project conforms with the applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.[112] The Project fails to demonstrate consistency with General Plan Housing Element.[113]

The Project proposes to construct a ten-story residential building containing 166 dwelling units (17 Very Low-Income unit).[114] The project is seeking a 50% Density Bonus by providing 15% of the base project units as affordable to very low-income households. The Developer stated in their application for the Project that, in order to "comply with City of Berkeley Affordable Housing rental requirements, the project will also be providing additional Affordable Units and/or/or-in-

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[110] Berkeley General Plan Economic Development and Employment Element, p. ED-5.
[111] City of Berkeley Planning and Development, Zoning Project Application, 3000 Shattuck Ave. Berkeley CA 94705 (March 14, 2022), https://www.dropbox.com/s/n987ldxqb6pesmp/2022-03-29_APP_PCKT_3000%20Shattuck%20%281%29.pdf?dl=0.
[112] CEQA Guidelines Appendix G, XI Land Use and Planning.
[113] The Addendum also fails as an informational document under CEQA for failing to analyze the Project's consistency with the General Plan; such inconsistencies constitute significant impacts under CEQA. *Pocket Protectors,* 124 Cal.App.4th 903.
[114] Addendum p. 2.

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combination-with providing an in-lieu Mitigation Fee per the City of Berkeley requirements."[115] More affordable units must be provided for the Project to be consistent with the City's Housing Element and state law.

The RHNA is the State-required process that seeks to ensure cities and counties plan for enough housing in their Housing Element cycle to accommodate all economic segments of the community.[116] Accordingly, the Housing Element of the City's General Plan identifies the City's housing conditions and needs, evaluates the City's ability to meet its RHNA, establishes the goals, objectives, and policies of the City's housing strategy, and provides an array of programs to create mixed-income neighborhoods across the City.[117] The Housing Element, which was amended on February 17, 2023, states that "the City has a remaining RHNA of 5,033 units (1,923 very low income; 852 low income; 1,227 moderate income; and 1,031 above moderate income units)... The City must identify adequate sites capacity for this remaining RHNA."[118] Accordingly, Policy H-1 – Extremely Low, Very Low, Low and Moderate-Income Housing – provides: "Increase the number of housing units affordable to Berkeley residents with lower income levels."[119] Because the City has not produced and is not expected to produce enough affordable housing to meet its RHNA, projects that do not contribute to the City's RHNA are inconsistent with the City's Housing Element, a primary goal of which is to meet the RHNA.

Berkeley Municipal Code Section 23.328.010 provides that residential housing projects constructing five or more dwelling units must include at least 20 percent of the total number of dwelling units within the project as inclusionary units. As an alternative to providing inclusionary units required in an ownership project, the applicant may elect to enter in an agreement with the City to pay fees in-lieu of providing below-market rate units.[120]

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[115] City of Berkeley Planning and Development, Zoning Project Application, 3000 Shattuck Ave. Berkeley CA 94705 (March 14, 2022), https://www.dropbox.com/s/n987ldxqb6pesmp/2022-03-29_APP_PCKT_3000%20Shattuck%20%281%29.pdf?dl=0.

[116] Cal. Gov. Code Section 65580 – 65589.9; *see* City of Berkeley, Adopted 2023-2031 Housing Element, available at https://berkeleyca.gov/sites/default/files/documents/Berkeley_2023-2031%20Housing%20Element_02-17-2023v2_0.pdf.

[117] *Id.*

[118] City of Berkeley, Adopted 2023-2031 Housing Element, p 107.

[119] *Id.* at 15.

[120] Effective July 1, 2022, the fee is set at follows: Paid at Certificate of Occupancy: $46,185 per rental unit; or Paid at building permit: $43,185 per rental unit.

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However, the City has failed to meet its RHNA in previous cycles. Under the 5th RHNA Cycle from 2015-2023, Berkeley was required to plan for 2,959 units.[121] This includes 532 at very low income, 442 at low income, 584 at moderate income, and 1,401 at above moderate income. The Housing Element states that 3,742 units have been built, or 126% of the target. However, the targets for affordable housing were missed, with 309 very low income (58%), 130 low income (29%), and 106 moderate income (18%) units completed. 3,197 units of above moderate, or market rate housing was built, which was 228% of the goal. Thus, the City already has adequate above moderate and market rate housing units to meet its RHNA requirements, but is short on production of affordable units.

Here, the Project fails to provide the City's required 20% affordable units on-site, contributing to the City's current shortage of affordable units, while at the same time taking a viable project site out of production for those additional affordable units. Although the Project will pay an in-lieu fee, the Project would not be consistent with the Housing Element because it places the burden on the City to identify alternate sites to construct affordable housing units in time to meet its RHNA requirements.[122]

The Applicant's proposal to pay in lieu fees instead of providing 20% on-site affordable units for the 3000 Shattuck Project is not unique. The Project is one of at least three concurrent projects proposed by the Applicant, which similarly fail to contribute an adequate percentage of affordable units. The Applicant also proposes to construct the 2900-2920 Shattuck Avenue Project,[123] a ten-story residential building containing 221 dwelling units (22 Very Low-Income unit).[124] The 2920 Shattuck Avenue project is seeking a 46.25% Density Bonus by providing only 14% of the base project units as affordable to very low-income households.[125] The Applicant's 1598 University Project similarly proposes to pay an in lieu fee for the affordable units required by the City in excess of the on-site affordable necessary to qualify for a density bonus. The Applicant's decision not to provide the recommended 20% of on-site affordable units for its pending projects contributes to a cumulative shortage of affordable units that the City Council should address in its consideration of this Appeal.

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[121] City of Berkeley, Adopted 2023-2031 Housing Element, pg. D-8.
[122] City of Berkeley, Adopted 2023-2031 Housing Element, p. 107.
[123] Use Permit #ZP2022-0116 (APN: 053 159000501).
[124] City of Berkeley, Zoning Project Application, 2920 Shattuck Ave. Berkeley CA 94705, APN 053 159000501, (Sept. 4, 2022), https://www.dropbox.com/s/528twax3fw4fw9p/2022-09-04_APP_PCKT_2920%20Shattuck.pdf?dl=0 ("Application Packet"), pdf pg. 2108 of 2143.
[125] City of Berkeley, Zoning Project Application, 2920 Shattuck Ave.

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VII. CONCLUSION

For the reasons stated herein, we urge the City Council to uphold this appeal, vacate the ZAB's approval of the Project, and remand the Project to Staff to prepare a revised environmental analysis in a subsequent EIR, as required by CEQA. The new analysis must identify and implement all feasible mitigation measures available to reduce the Project's potentially significant site-specific impacts to less than significant levels before the City reconsiders approving the Project.

Thank you for your attention to these comments. Please include them in the City's record of proceedings for the Project.

Sincerely,

Kelilah Federman

Kelilah D. Federman

Attachment
KDF:acp

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ATTACHMENT A

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May 9, 2023

Via Email and US Mail
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Kimberly Gaffney, Vice Chairperson
Igor Tregub, Member
Michael Thompson, Member
Holly Scheider, Member
Shoshana O'Keefe, Member
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Re: Comments on Agenda Item 5: 3000 Shattuck Avenue Project Addendum to the Initial Study Negative Declaration (SCH #2017062025)

Dear Chairperson Duffy, Vice Chairperson Gaffney, Members: Tregub, Thompson, Schneider, O'Keefe, Kahn, Yung, Sanderson, and Ms. Riemer:

On behalf of East Bay Residents for Responsible Development ("East Bay Residents"), we submit these comments on the Addendum to the 3000 Shattuck Avenue Project Initial Study Negative Declaration (SCH #2017062025) prepared by the City of Berkeley (the "City") for the 3000 Shattuck Avenue Project ("Project") proposed by Mark Rhoades of the Rhoades Planning Group and Khan Shazada & Farhat (collectively, "Applicant").[1] The City adopted the IS/ND ("2018 IS/ND") for the original 3000 Shattuck Avenue Project ("original project") and approved the

[1] City of Berkeley, Addendum to the 3000 Shattuck Avenue Project Initial Study – Negative Declaration (Permit No. ZP2015-0229, SCH # 2017062025) (January 2023), https://www.dropbox.com/s/kr0fme3neozjqyf/2023-01-27_CEQA_Addendum%20to%20IS-ND_3000%20Shattuck.pdf?dl=0 (hereinafter "Addendum").

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original project on November 27, 2018.[2] These comments precede the hearing of the City of Berkeley Zoning Adjustment Board ("ZAB") on May 11, 2023 at 7:00 pm.[3]

The Project consists of changes to the original project considered in the 2018 IS/ND. The Project proposes to demolish the existing 1,163-square-foot ("SF") gas station and construct 80,235 sf of residential space including 166 residential units, 1,095 SF of retail space, and zero parking spaces on the 0.31-acre site. Construction of the Project is anticipated to last eighteen (18) months. The Project site is located at 3000 Shattuck Avenue, Berkeley, CA 94705 (APNs 53-1592-1 & 53-1592-2). The Project site is designated as Avenue Commercial in the City's General Plan and is located in the South Area Commercial (C-SA) zoning district. The original project proposed 32,603 SF of residential uses, with 44 units including 4 affordable units. This Project proposes 80,235 SF of residential uses, with 166 units including 17 affordable units. The original project proposed the inclusion of 17 parking spaces for automobiles, this Project proposes zero parking spaces.[4]

We prepared these comments with the assistance of air quality and hazards expert Matt Hagemann and Paul Rosenfeld of Soil Water Air Protection Enterprise (SWAPE), whose technical comments and curriculum vitae are attached hereto as Exhibit A.[5] Our review of the Addendum and 2018 IS/ND demonstrates that the Project fails to comply with CEQA. As explained more fully below, the Addendum fails to accurately disclose the extent of the Project's potentially significant air quality, public health, hazardous contamination, land use, and cumulative impacts which are new or more severe than the impacts analyzed in the 2018 IS/ND. There is substantial evidence to support a fair argument that the Project will result in significant, unmitigated impacts in each of these areas. Further, the Project fails to comply with the City's General Plan and Housing Element. The City may not approve the Project until the City prepares an EIR that adequately analyzes the Project's potentially significant impacts and incorporates all feasible mitigation measures to avoid or minimize these impacts.

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[2] City of Berkeley, 3000 Shattuck Avenue Mixed Use Project Initial Study–Negative Declaration, https://www.dropbox.com/s/ui1snla3csdgpik/IS-ND%20with%20appendices_3000%20Shattuck.pdf?dl=0 (hereinafter "2018 IS/ND").
[3] City of Berkeley Zoning Adjustments Meeting Agenda, May 11, 2023, https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-05-11_ZAB_Agenda_Linked.pdf.
[4] Addendum p. 3.
[5] See **Exhibit A,** Matt Hagemann, P.G., C.Hg., Paul E. Rosenfeld, Ph.D., Comments on the 3000 Shattuck Mixed-Use Project (SCH No. 2017062025) (April 10, 2023) ("SWAPE Comments").
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Moreover, the City prepared the Addendum in violation of CEQA and the court's holding in *Friends of College of San Mateo Gardens v. San Mateo County Community College District*. There, the court held that the Community College District improperly prepared an addendum to an MND, because there was substantial evidence to support a fair argument that the project changes may result in a significant effect on the environment.[6] Agencies are permitted to prepare an addendum to an adopted MND, rather than a subsequent EIR or negative declaration, if only "minor technical changes or additions are necessary or none of the conditions described in [CEQA Guidelines] Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred."[7] Here, the changes proposed in the Addendum are not "minor technical changes or additions" but constitute major revisions to the MND based on new significant environmental effects thus requiring preparation of an Environmental Impact Report ("EIR") if the impacts cannot be mitigated. Substantial evidence supports a fair argument that the Project's potentially significant impacts cannot be adequately mitigated by the measures proposed in the Addendum and 2018 IS/ND.

For the reasons discussed herein, and in the attached expert comments, East Bay Residents urges the City to remedy the deficiencies in the Addendum by preparing a legally adequate EIR and circulating it for public review and comment.[8] East Bay Residents and their expert consultants have identified numerous potentially significant impacts that the Addendum either mischaracterizes, underestimates, or fails to identify.

I. STATEMENT OF INTEREST

East Bay Residents for Responsible Development ("ERRBD" or "Residents") is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential impacts associated with Project development. The association includes the UA Plumbers and Pipefitters Local 342, International Brotherhood of Electrical Workers Local 595, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, and their members and their families who live and/or work in the City of Berkeley and Alameda County.

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[6] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2022) 11 Cal.App.5th 596, 600.
[7] CEQA Guidelines, § 15164, subd. (b).
[8] We reserve the right to supplement these comments at later hearings on this Project. Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199–1203; *see Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.
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The individual members of EBRRD live, work, and raise their families in the City and in Alameda County. They would be directly affected by the Project's impacts. Individual members may also work on the Project itself. They will therefore be first in line to be exposed to any health and safety hazards that may exist on the Project site.

The organizational members of EBRRD also have an interest in enforcing the City's planning and zoning laws and the State's environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making it less desirable for businesses to locate and people to live there. Indeed, continued degradation can, and has, caused restrictions on growth that reduce future employment opportunities. Finally, Residents' members are concerned about projects that are built without providing opportunities to improve local recruitment, apprenticeship training, and retention of skilled workforces, and without providing lifesaving healthcare expenditures for the construction workforce.

II. LEGAL BACKGROUND

CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project.[9] "CEQA's fundamental goal [is] fostering informed decision-making."[10] "The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind."[11]

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an EIR, except in certain limited circumstances.[12] The EIR is the very heart of CEQA.[13] The EIR acts like an "environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return."[14] The EIR aids an agency in identifying, analyzing, disclosing, and, to the extent possible, avoiding a project's significant environmental effects through implementing feasible

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[9] 14 Cal. Code Regs. ("CEQA Guidelines") § 15002, subd. (a)(1).
[10] *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 402.
[11] *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283.
[12] See, e.g., Pub. Resources Code, § 21100.
[13] *Dunn-Edwards v. Bay Area Air Quality Management Dist.* (1992) 9 Cal.App.4th 644, 652.
[14] *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1220.
6154-007j

mitigation measures.[15] The EIR also serves "to demonstrate to an apprehensive citizenry that the [agency] has analyzed and considered the ecological implications of its action."[16] Thus, an EIR "protects not only the environment but also informed self-government."[17]

An EIR is required if "there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment."[18] The EIR aids an agency in identifying, analyzing, disclosing, and, to the extent possible, avoiding a project's significant environmental effects through implementing feasible mitigation measures.[19] In very limited circumstances, an agency may avoid preparing an EIR by issuing a negative declaration, a written statement briefly indicating that a project will have no significant impact. Because "[t]he adoption of a negative declaration . . . has a terminal effect on the environmental review process" by allowing the agency to dispense with the duty to prepare an EIR, negative declarations are allowed only in cases where there is not even a "fair argument" that the project will have a significant environmental effect.[20]

Under the fair argument standard, a lead agency "shall" prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.[21] The phrase "significant effect on the environment" is defined as "a substantial, or potentially substantial, adverse change in the environment."[22] In certain circumstances, a project with potentially significant impacts can be modified by the adoption of mitigation measures to reduce the impacts to a level of insignificance. In such cases, an agency may satisfy its CEQA obligation by preparing a mitigated

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[15] Pub. Resources Code § 21002.1(a); CEQA Guidelines § 15002(a), (f).
[16] *No Oil, Inc. v. City of Richmond* (1974) 13 Cal.3d 68, 86.
[17] *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.
[18] Pub. Resources Code, § 21080, subd. (d) (emphasis added); CEQA Guidelines, § 15064; see also *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927; *Mejia v. City of Richmond* (2005) 13 Cal.App.4th 322.
[19] Pub. Resources Code, § 21002.1, subd. (a); CEQA Guidelines, § 15002, subd. (a) & (f).
[20] *Citizens of Lake Murray v. San Diego* (1989) 129 Cal.App.3d 436, 440; Pub. Resources Code, §§ 21100, 21064.
[21] Pub. Res. Code §§21080(d), 21082.2(d); 14 Cal. Code Reg. §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Richmond* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.
[22] Pub. Resources Code, § 21068.
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negative declaration.[23] A mitigated negative declaration, however, is also subject to the fair argument standard. Thus, an MND is also inadequate, and an EIR is required, whenever substantial evidence in the record supports a "fair argument" that significant impacts may occur, even with the imposition of mitigation measures.

The "fair argument" standard is an exceptionally "low threshold" favoring environmental review in an EIR rather than a negative declaration.[24] The "fair argument" standard requires the preparation of an EIR if any substantial evidence in the record indicates that a project may have an adverse environmental effect.[25] As a matter of law, substantial evidence includes both expert and lay opinion.[26] Even if other substantial evidence supports the opposite conclusion, the agency nevertheless must prepare an EIR.[27] Under the "fair argument" test, CEQA always resolves the benefit of the doubt in favor of the public and the environment.

Agencies are permitted to prepare an addendum to an adopted MND, rather than a subsequent EIR or negative declaration, if only "minor technical changes or additions are necessary or none of the conditions described in [CEQA Guidelines] Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred."[28] "If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration," and if no subsequent EIR is required, the agency "shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation." (CEQA Guidelines, § 15162, subd. (b).) Additionally, CEQA requires preparation of an EIR where "[s]ubstantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects."

Here, the changes proposed in the Addendum are not "minor technical changes or additions" but constitute major revisions to the 2018 IS/ND based on new significant environmental effects thus requiring the preparation of a negative

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[23] Pub. Resources Code, § 21064.5; CEQA Guidelines, § 15064, subd. (f)(2).
[24] *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.
[25] CEQA Guidelines, § 15064, subd. (f)(1); *Pocket Protectors v. City of Sacramento, supra,* 124 Cal.App.4th at 931.
[26] Pub. Resources Code, § 21080, subd. (e)(1); CEQA Guidelines, § 15064, subd. (f)(5).
[27] *Arviv Enterprises v. South Valley Area Planning Comm.* (2002) 101 Cal.App.4th 1333, 1346; *Stanislaus Audubon v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597.
[28] CEQA Guidelines, § 15164, subd. (b).
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declaration at a minimum, and an EIR if the impacts cannot be mitigated. As shown below, SWAPE provided substantial evidence that ROG emissions, and construction and demolition emissions may be significant and were not analyzed or mitigated in the 2018 IS/ND.

The California Supreme Court held that if "the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR."[29] Thus, "an agency [must] prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved, and courts must enforce that standard."[30]

In *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.*, the court held that the Community College District improperly prepared an addendum to an MND, because there was substantial evidence to support a fair argument that the project changes may result in a significant effect on the environment.[31] In that case, the court found that the change in the Project as detailed in the Addendum was significant enough to require additional environmental review, and that an Addendum was not the appropriate CEQA document. Similarly, here, the Project's changes, including the doubling of its height, increased air quality, public health, and hazards impacts results in new significant impact such that an Addendum is inappropriate and an EIR must be prepared. The ZAB must remand the Project to Staff to prepare a legally adequate EIR for the Project, because substantial evidence supports a fair argument that the Project's changes may result in significant impacts, which have not been avoided through the revisions in the Addendum. Project impacts remain significant and unmitigated, as detailed herein.

Moreover, the ZAB lacks the evidence necessary to approve the requested Use Permit for the Project because substantial evidence demonstrates that the Project will be detrimental to the general welfare. The Project Applicant has not made a commitment to ensure the Project is built with local skilled and trained workforce, or that the Project will provide apprenticeship training opportunities or

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[29] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.
[30] *Id.* at p. 959.
[31] (2022) 11 Cal.App.5th 596.
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healthcare benefits or other workforce benefits for City of Berkeley or East Bay residents. The Project may be built with low-wage, out-of-area workers who lack the livable wages, health benefits, stability, and basic standard of living that Berkeley has committed to ensuring for all of its workers on all housing developments constructed in the City. The Project would therefore be detrimental to the health, safety, peace, morals, comfort, and general welfare of the City and its residents, especially its local construction workforce who may not have the opportunity to build much-needed housing in their own community. The Project is also inconsistent with the workforce and economic requirements of the City of Berkeley General Plan ("General Plan").

The ZAB should remand the Project to Staff to prepare a legally adequate EIR and include conditions of approval requesting community benefits, including local hire provisions, workforce standards, and healthcare benefits for workers, to ensure the Project does not cause a detriment to the general welfare of the City.

III. THE PROJECT'S POTENTIALLY SIGNIFICANT HAZARDS IMPACTS REQUIRE PREPARATION OF AN EIR

The Project site is contaminated with hazardous contaminants from its historical use as a service station operated by Atlantic Richfield Company (ARCO).[32] ARCO later became an affiliate of BP and the site was operated as BP Station No. 00414 until it was sold to Mr. Shahzada Khan on February 25, 2004.[33] The Project site is listed on the State Water Resources Control Board's Geotracker database as Site T0600100094. The site is therefore on a Cortese List per Section 65962.5 of the Government Code. The Project site is currently an operational gas station and smog check location operated by Berkeley Gas & Smog. The Project site contained three underground storage tanks (USTs) that contained gasoline, and one waste oil UST.[34]

The Addendum tiers from the IS which states:

> The site is included on the list of hazardous materials sites compiled pursuant to Government Code 65962.5 (Cortese List) as "closed" cases. As

[32] Atlantic Richfield Company, Case Closure Summary Report Former British Petroleum Station #00414 City of Berkeley case #27540. 3000 Shattuck Avenue Berkeley, California (June 9, 2010), https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/8836282312/T0600100094.PDF p. 2/16 (hereinafter "Case Closure Summary Report").
[33] *Id.*
[34] *Id.*

> described in the Environmental Setting, the RWQCB issued a case closure letter for the clean-up case in September 2014, concluding that the current plume is restricted to the site and does not present a current or potential risk to human health or the environment. Therefore, the project would not create a significant hazard to the public or the environment and the impact would be less than significant.[35]

The IS relies on the misleading statement that the cleanup case is "closed."[36] The Addendum then relies on the same misleading proposition. The Addendum states that "[t]here are two closed State Water Quality Control Board GeoTracker investigations on the project site (T0600100094 [closed 2013] and T10000004483 [closed 2014])."[37]

These statements are misleading because the site was closed to commercial/industrial screening levels, "based on the assumption that land use at the site will remain unchanged."[38] The Project site fails to meet the residential ESL levels necessary to place housing on the site. The site must undergo additional soil remediation to remove excess contaminants and reach acceptable residential ESLs because the site is being converted from commercial/industrial to residential use. People will live on the site, their children may play on the grounds, but the site was cleaned only to commercial/industrial screening levels. The contamination that currently remains onsite may result in health risk impacts to the residents and the community.

Moreover, the Addendum includes the Case Closure Summary Report that states that "[s]oil vapor samples have not been collected at the site."[39] The Case Closure Summary was required to include "Cumulative data tables for all soil, groundwater samples, including grab samples, and soil vapor ***must*** be included."[40] Data on soil vapor samples and cumulative data on the potential for soil vapor intrusion was not included in the Case Closure Summary, the Initial Study, or the Addendum and is not available for public review and scrutiny.

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[35] IS, https://www.dropbox.com/s/19ieh5spqqet2qb/IS-ND%20with%20appendices_3000%20Shattuck.pdf?dl=0, p. 23.
[36] *Id.*
[37] Addendum p. 22.
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[39] Case Closure Summary Report, p. 10/16.
[40] *Id.* at pdf 83 of 86.
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At the time of the site's closure in 2010, "[a] station building [was] present at the site and the entire site [was] paved, with no exposed soil present at the ground surface."[41] Project construction here, will disrupt and expose soil, potentially exposing dangerous and previously untested levels of soil vapor. At the time of the closure, the "potential for soil vapor intrusion was evaluated by comparing current groundwater concentrations to groundwater ESLs...for the protection of the vapor intrusion pathway in a ***commercial setting***."[42] The soil vapor and potential health risk impacts have not been analyzed for a residential setting and may pose a significant risk to residents of the Project site.

The City must draft an EIR because substantial evidence supports a fair argument that hazardous contamination and soil vapor may result in a significant environmental impact. The courts have repeatedly held that an EIR must be prepared, whenever it can be fairly argued on the basis of substantial evidence that a project may have a significant environmental impact.[43] Here, the City cannot approve the Project based on an Addendum to the Initial Study because project modification results in potentially significant impacts from hazardous contamination and soil vapor which were unstudied at the time of preparation of the 2018 IS/ND.

The California Supreme Court held that if "the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR."[44] Thus, "an agency [must] prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved, and courts must enforce that standard."[45] The City must prepare an EIR to adequately analyze and mitigate the Project's potentially significant and as yet unstudied impacts from soil vapor and hazardous contamination, before the Project can lawfully be approved.

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[41] Case Closure Summary Report, p. 10/16.
[42] *Id.*
[43] Pub. Resources Code § 21151; CEQA Guidelines § 15064(f); *Citizens for Responsible Equitable Envt'l Dev. v. City of Chula Vista* ("*CREED*") (2011) 197 Cal.App.4th 327, 330-31; *Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319 ("*CBE v. SCAQMD*").
[44] Friends of College of San Mateo Gardens v. San Mateo County Community College Dist. (2016) 1 Cal.5th 937, 958.
[45] Id. at p. 959.
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IV. THE PROJECT RESULTS IN SIGNIFICANT AIR QUALITY IMPACTS REQUIRING PREPARATION OF AN EIR

An EIR must be prepared, whenever it can be fairly argued on the basis of substantial evidence that a project may have a significant environmental impact.[46] "[S]ignificant effect on the environment" is defined as "a substantial, or potentially substantial, adverse change in the environment."[47] An effect on the environment need not be "momentous" to meet the CEQA test for significance; it is enough that the impacts are "not trivial."[48] Substantial evidence, for purposes of the fair argument standard, includes "fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact."[49] The Project may result in potentially significant impacts to air quality. Air quality impacts constitute new or increased significant environmental effects "not previously considered in connection with the project as originally approved."[50]

A. The Project Results in Significant ROG Emissions

East Bay Resident's air quality expert consultants at SWAPE found that the Project results in significant emissions from Reactive Organic Gas ("ROG") which exceed the Bay Area Air Quality Management District ("BAAQMD") threshold. BAAQMD provides that ROG emissions shall not exceed 54 pounds per day ("lbs/day"), but the Project would result in ROG emissions of 71.55 lbs/day.[51] The 2018 IS/ND makes no mention of ROG emissions, but the Addendum states that the ROG emissions would be 3 lbs/day.[52] This conclusion is not supported by substantial evidence. SWAPE found that the changes to the Project result in a 2,285% increase in ROG emissions, far and away exceeding the BAAQMD significance threshold. Therefore, ROG emissions remain significant and the Addendum nor the 2018 IS/ND adequately mitigate such impacts. The City must prepare an EIR to satisfy CEQA.

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[46] Pub. Resources Code § 21151; CEQA Guidelines § 15064(f); *Citizens for Responsible Equitable Envt'l Dev. v. City of Chula Vista* ("*CREED*") (2011) 197 Cal.App.4th 327, 330-31; *Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319 ("*CBE v. SCAQMD*").
[47] Pub. Resources Code § 21068; CEQA Guidelines § 15382; *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1581.
[48] *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83.
[49] Pub. Resources Code § 21080(e)(1) (emphasis added); *CREED*, 197 Cal.App.4th at 331.
[50] *Friends of College of San Mateo Gardens v. San Mateo Community College District*, *supra*, 1 Cal.5th at 959.
[51] SWAPE Comments, p. 5.
[52] Addendum, p. 14.
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The California Supreme Court held that if "the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR."[53] Further, "an agency [must] prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved, and courts must enforce that standard."[54]

East Bay Residents present substantial evidence, in these comments and in our expert comments attached, showing that the Project may result in potentially significant ROG emissions, which must be mitigated before the Project can be approved. These impacts were not considered in the prior 2018 IS/ND, and must be analyzed in an EIR. SWAPE's comments present dozens of effective mitigation measures to help reduce Project ROG, construction, and operational air emissions. Such measures should be implemented in an EIR's Mitigation Monitoring and Reporting Program. The City must prepare an EIR to study the previously unstudied and potentially significant air quality impacts from the Project, particularly with respect to ROG emissions, to satisfy CEQA.

B. The Addendum Underestimates the Project's Construction and Demolition Emissions

The Addendum states that Project construction will last 18 months.[55] The Addendum states that the original project included a construction period of 18 months as well.[56] But, the 2018 IS/ND provided that the construction period will last 20 months.[57] Thus, it is particularly troubling, that the Addendum's air quality analysis relies on a 21-month construction period, resulting in an underestimation of the Project's construction emissions. SWAPE concludes that the elongated construction duration results in an underestimation of the daily emissions resultant from construction equipment onsite. SWAPE concludes that the analysis improperly relies on the assumption that "there will be less construction activities

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[53] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.
[54] Id. at p. 959.
[55] Addendum, p. 3.
[56] *Id.*
[57] 2018 IS/ND.
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required per day and, consequently, less pollutants emitted per day."[58] The Addendum's air quality construction emissions calculations underestimate the Project's daily emissions and are therefore not supported by substantial evidence. The City must prepare a legally adequate EIR which accurately analyzes the Project's daily construction emissions with an accurate construction schedule guiding the analysis.

Further, the Addendum fails as an informational document under CEQA for failing to model the emissions associated with demolition of the existing building on the Project site. SWAPE concludes that the Addendum fails altogether to analyze the demolition phase of construction and inputted zeros into the calculations for square feet being demolished.[59] This is not an accurate assessment of the required demolition of the existing gas station, two gas pump islands, and related infrastructure.[60] Demolition of existing infrastructure will obviously exceed zero square feet of demolition activity, counter to the Addendum's unsupported calculations. SWAPE concludes that the failure to include the demolition emissions presents a significant issue, because by failing to include any amount of required demolition, the model underestimates the emissions associated with fugitive dust, debris removal, as well as exhaust from hauling trucks traveling to and from the site, which may be significant and remain unmitigated.[61] These impacts were not considered in the prior 2018 IS/ND, and must be analyzed in an EIR.

C. The Addendum Underestimates the Project's Construction Emissions from Trucking the Modular Units

The Addendum fails as an informational document under CEQA for failing to quantify and analyze the Project's potentially significant air pollution impacts from trucking the modular units potentially hundreds of miles to the Project site. The Addendum and 2018 IS/ND failed to quantify the potentially significant air quality, health risk, and cumulative impact associated with trucking the modular units. These modular units may be transported from out of state or hundreds of miles from the Project site. Absent an analysis of the emissions associated with trucking these modular units, the Addendum fails as an informational document under CEQA, and the conclusion that air impacts from Project construction are less than significant is not supported by substantial evidence.

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[58] SWAPE Comments, p. 4.
[59] *Id.*
[60] 2018 IS/ND, p. 6.
[61] SWAPE Comments, p. 5. s
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V. THE PROJECT RESULTS IN SIGNIFICANT CUMULATIVE IMPACTS REQUIRING PREPARATION OF AN EIR

CEQA requires agencies to analyze whether a project has impacts that are individually limited, but cumulatively considerable.[62] Cumulatively considerable means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects). Cumulative impacts are defined as "two or more individual effects, which, when considered together, are considerable or which compound or increase other environmental impacts."[63]

The Addendum fails to include any analysis supported by substantial evidence to conclude that the Project does not result in cumulatively considerable impacts. In fact, the Addendum only mentions cumulative impacts for traffic and air quality impacts, but dismisses all other potentially significant cumulative impacts out of hand, without providing substantial evidence to support the conclusions. The 2018 IS/ND concluded that because the Project is "an infill location" cumulative impacts are less than significant for all resource areas.[64] But, it is particularly because this Project is an infill project, that a cumulative analysis of concurrent construction impacts is so critical. Here, the Project is proposed to be constructed concurrently with the 2920 Shattuck Project, just down the street, among other new Berkeley high rise developments. Both this Project and the 2920 Shattuck project will result in potentially cumulatively significant air quality, hazards, and land use impacts that were not analyzed in conjunction with either Project's analysis.

The City must prepare an EIR which accurately analyzes the Project's potentially significant cumulative impacts before the Project can lawfully be approved.

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[62] 14 CCR § 15355(b); *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 905.
[63] 14 CCR § 15355.
[64] 2018 IS/ND, p. 38.
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VI. THE PROJECT MAY BE DETRIMENTAL TO THE GENERAL WELFARE OF THE CITY, RESIDENTS, AND WORKERS

In order to approve a Use Permit, under Berkeley Municipal Code Section 23.406.040, the Zoning Adjustments Board must find that the proposed project:

1) Will not be detrimental to the health, safety, peace, morals, comfort, or **general welfare** of persons residing or visiting in the area or neighborhood of the proposed use; and
2) Will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

Municipal Code Section 22.20.020 defines detrimental impacts to include, *inter alia*, increased demand for workforce housing, training, and benefits: "The increased demand for affordable housing, child care and public services, ***adequate employment training and placement facilities and amenities***, and the other impacts generated by development projects, unless mitigated, are detrimental to the City's public health, safety and general welfare."[65] Under Section 22.20.020, a detriment to the general welfare occurs when the City fails to mitigate the impacts of a development project, including the increased demand for housing, workforce training, and public services that may result from the Project.[66] Pursuant to Municipal Code Section 22.20.020, the Project's impacts to the general welfare for failure to provide employment training, placement facilities, and amenities, require mitigation.[67]

Further, the ZAB may approve a Use Permit for demolition of a non-residential building or structure only if the ZAB finds that "demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City of Berkeley"[68] Here, the ZAB cannot make the necessary findings that demolition of the existing structure and construction of the Project is in the public interest, absent community and workforce benefits to promote the general welfare.

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[65] BMC § 22.20.020(G) (emphasis added).
[66] *Id.*
[67] BMC § 22.20.020(G).
[68] *Id.* at § 23.326.070(D)(1).
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Housing projects, like this one, that are constructed with low-wage or uninsured construction workers are detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or visiting the City and the Project's Downtown neighborhood, as well as to the general welfare of the City. The City should request the Applicant include community benefits in the Project conditions of approval, including local hire provisions and healthcare standards and benefits in order to promote the general welfare.

A. The Project is Detrimental to the General Welfare for Failing to Hire Locally

Absent a provision requiring the Applicant to hire locally, the Project may be detrimental to the general welfare of Berkeley residents. Local hire commitments are a critical way not only to hire local residents, but to use project hiring needs to target opportunities to low-income residents and people of color who might otherwise not benefit from new development.[69] Local hire programs help address the fragmentation inherent in the development process, establishing better communication among developers, employers, community organizations, local job training resources, and the workforce development system that can provide job readiness and job retention support services.[70] Here, the Project Applicant has not made a commitment to ensure the Project is built with local skilled and trained workforce. The Project is therefore likely to be detrimental to City goals and the Berkeley community – particularly to its highly qualified construction workforce, who may not have the opportunity to build much-needed housing in their own community. The City should request the Applicant provide a local hire percentage of 30 percent as a community benefit for the Project.

B. The Project is Detrimental to the General Welfare for Failing to Provide Healthcare to Construction Workers

Further, the Project has not committed to healthcare standards or benefits for the construction workers building the Project. This results in a detriment to the general welfare of the City and its residents, including in particular, to its construction worker residents. By failing to provide healthcare for its construction

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[69] Kathleen Mulligan-Hansel, *Making Development Work for Local Residents: Local Hire Programs and Implementation Strategies that Serve Low-Income Communities,* (July 2008). Available at: https://s3.amazonaws.com/proggov21-uploads/uploads/asset/asset_file/Making_Development_Work_Local_Residents_Mulligan-HanselPWF2008.pdf.

[70] *Id.*

workers, the Project leaves the responsibility of providing for the health, safety, and welfare of the workers and the community on the workers themselves, or on taxpayer-funded public assistance, thus externalizing the cost of construction. By failing to provide healthcare standards, the Project would perpetuate existing income and healthcare inequities for construction workers, causing a detriment to the general welfare by failing to provide for the health and safety of its workers. The City should request the Applicant provide healthcare benefits as a community benefit of the Project.

Project construction will increase the local demand for a construction workforce. The Project's lack of workforce standards and worker healthcare may exacerbate the existing demand for local affordable housing and public services by construction workers that currently receive low pay without benefits. Without mitigation, these impacts remain significant, and the ZAB cannot make the necessary findings that the Project complies with the General Plan and zoning code. To comply with the General Plan Economic Development and Employment Element, the City must ensure that new housing developments provide jobs that go to Berkeley residents and provide job training programs and job readiness.

Moreover, the Municipal Code provides that the "Zoning Ordinance establishes *minimum* requirements to promote the public health, safety, and general welfare."[71] The Municipal Code also provides that, "[t]o the extent possible, it is the government's responsibility to balance the responsibility to ensure the health, safety, and general welfare of the public at large in a fiscally and environmentally sustainable manner."[72] It is therefore the responsibility of the Zoning Adjustment Board to promote the general welfare beyond the minimum required by law. Here, the ZAB must require the Project to include community benefits like those detailed herein, otherwise, the Project contravenes the Municipal Code and General Plan.

VII. THE PROJECT IS INCONSISTENT WITH THE GENERAL PLAN

CEQA requires an agency to analyze whether a project conforms with the applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an

[71] BMC § 22.104.030.
[72] *Id.* at § 2.09.020.
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environmental effect.[73] The Addendum fails as an informational document under CEQA for failing to analyze the Project's inconsistency with the General Plan.

A. The Project is Inconsistent with the General Plan Economic Development & Employment Element

The Project is inconsistent with the General Plan Economic Development & Employment Element, and thus cannot be approved until consistency is demonstrated.[74] The General Plan Economic Development and Employment Element Policy (ED-1) provides that the City must "[i]ncrease the number of jobs that go to Berkeley citizens by coordinating economic development efforts with employment placement."[75] Further, the General Plan provides that the City intends to "[w]ork with job training programs and encourage training for life skills, job readiness, and specific target industries."[76] The Project does not include any commitment to provide construction jobs to Berkeley or East Bay residents, and does not contribute to any apprenticeship or other construction job training programs. Housing development projects in the City must also implement the goals and policies of the General Plan, including the following:

1) Ensure that Berkeley has an adequate supply of decent housing, living wage jobs, and businesses providing basic goods and services.
2) New housing will be developed to expand housing opportunities in Berkeley to meet the needs of all income groups.[77]

The City has determined that "it is in the City of Berkeley's economic interest to support a pipeline of skilled workers to accomplish the construction objectives and policies of the Berkeley General Plan."[78] The Project must support this goal by

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[73] CEQA Guidelines Appendix G, XI Land Use and Planning.
[74] SB 330 requires conformance with applicable, objective general plan and zoning standards. Gov. Code § 65905.5. (a).
[75] Berkeley General Plan Economic Development and Employment Element, p. ED-5. Available at: https://berkeleyca.gov/sites/default/files/documents/12_Economic%20Development%20and%20Employment%20Element-FINAL.pdf.
[76] *Id.*
[77] Berkeley General Plan Economic Development and Employment Element, p. ED-5.
[78] City of Berkeley, Agenda and Staff Report, Berkeley City Council, Council Consent Item 14 Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS), https://berkeleyca.gov/sites/default/files/city-council-meetings/2022-09-20%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf ("HARD HATS Staff Report") (Sept. 20, 2022) p. 7.

including community benefits such as local hire and healthcare and workforce benefits, otherwise the Project is detrimental to the general welfare, violates the General Plan, and may not be approved.

Moreover, the Project's failure to provide sufficient affordable housing onsite contravenes the General Plan's objective that development in the City should ensure an "adequate supply of decent housing."[79] The City may allow the Applicant to pay a fee, in-lieu of providing an adequate supply of affordable housing on the Project site.[80] If the City continues this practice of allowing developers to get away with paying in lieu fees, instead of providing onsite affordable housing, the City will have an insufficient supply of decent affordable housing as required by the General Plan. The Project's failure to provide *onsite* affordable housing for local residents therefore contravenes the General Plan's Economic Development and Employment Element and cannot be approved by ZAB.

VIII. THE PROJECT IS INCONSISTENT WITH THE CITY'S HOUSING ELEMENT

CEQA requires an agency to analyze whether a project conforms with the applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.[81] The Addendum fails as an informational document under CEQA for failing to analyze the Project's inconsistency with the Housing Element.

The Project proposes to construct a ten-story residential building containing 166 dwelling units (17 Very Low-Income unit).[82] The project is seeking a 50% Density Bonus by providing 15% of the base project units as affordable to very low-income households. The Developer stated in their application for the Project that in order to "comply with City of Berkeley Affordable Housing rental requirements, the project will also be providing additional Affordable Units and/or/or-in-combination-

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[79] Berkeley General Plan Economic Development and Employment Element, p. ED-5.
[80] City of Berkeley Planning and Development, Zoning Project Application, 3000 Shattuck Ave. Berkeley CA 94705 (March 14, 2022), https://www.dropbox.com/s/n987ldxqb6pesmp/2022-03-29_APP_PCKT_3000%20Shattuck%20%281%29.pdf?dl=0.
[81] CEQA Guidelines Appendix G, XI Land Use and Planning.
[82] Addendum p. 2.
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with providing an in-lieu Mitigation Fee per the City of Berkeley requirements."[83] More affordable units must be provided for the Project to be consistent with the City's Housing Element and state law.

The Regional Housing Needs Assessment is the California State-required process that seeks to ensure cities and counties plan for enough housing in their Housing Element cycle to accommodate all economic segments of the community.[84] Accordingly, the Housing Element of the City's General Plan identifies the City's housing conditions and needs, evaluates the City's ability to meet its Regional Housing Needs Allocation ("RHNA"), establishes the goals, objectives, and policies of the City's housing strategy, and provides an array of programs to create mixed-income neighborhoods across the City.[85] The Housing Element, which was amended on February 17, 2023, states that "the City has a remaining RHNA of 5,033 units (1,923 very low income; 852 low income; 1,227 moderate income; and 1,031 above moderate income units)... The City must identify adequate sites capacity for this remaining RHNA."[86] Accordingly, Policy H-1 – Extremely Low, Very Low, Low and Moderate-Income Housing – provides: "Increase the number of housing units affordable to Berkeley residents with lower income levels."[87] Because the City has not produced and is not expected to produce enough affordable housing to meet its RHNA, projects that do not contribute to the City's RHNA are inconsistent with the City's Housing Element, a primary goal of which is to meet the RHNA.

Berkeley Municipal Code Section 23.328.010 provides that residential housing projects constructing five or more dwelling units must include at least 20 percent of the total number of dwelling units within the project as inclusionary units. As an alternative to providing inclusionary units required in an ownership project, the applicant may elect to enter in an agreement with the City to pay fees in-lieu of providing below-market rate units.[88]

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[83] City of Berkeley Planning and Development, Zoning Project Application, 3000 Shattuck Ave. Berkeley CA 94705 (March 14, 2022), https://www.dropbox.com/s/n987ldxqb6pesmp/2022-03-29_APP_PCKT_3000%20Shattuck%20%281%29.pdf?dl=0.

[84] Cal. Gov. Code Section 65580 – 65589.9; *see* City of Berkeley, Adopted 2023-2031 Housing Element, available at https://berkeleyca.gov/sites/default/files/documents/Berkeley_2023-2031%20Housing%20Element_02-17-2023v2_0.pdf.

[85] *Id.*

[86] City of Berkeley, Adopted 2023-2031 Housing Element, p 107.

[87] *Id.* at 15.

[88] Effective July 1, 2022, the fee is set at follows: Paid at Certificate of Occupancy: $46,185 per rental unit; or Paid at building permit: $43,185 per rental unit.

However, the City has failed to meet its RHNA in previous cycles. Under the 5th RHNA Cycle from 2015-2023, Berkeley was required to plan for 2,959 units.[89] This includes 532 at very low income, 442 at low income, 584 at moderate income, and 1,401 at above moderate income. The Housing Element states that 3,742 units have been built, or 126% of the target. However, the targets for affordable housing were missed, with 309 very low income (58%), 130 low income (29%), and 106 moderate income (18%) units completed. 3,197 units of above moderate, or market rate housing was built, which was 228% of the goal. Thus, the City already has adequate above moderate and market rate housing units to meet its RHNA requirements, but is short on production of affordable units.

Here, the Project fails to provide the City's required 20% affordable units on-site, contributing to the City's current shortage of affordable units, while at the same time taking a viable project site out of production for those additional affordable units. Although the Project will pay an in-lieu fee, the Project would not be consistent with the Housing Element because it places the burden on the City to identify alternate sites to construct affordable housing units in time to meet its RHNA requirements.[90]

The Applicant's proposal to pay in lieu fees instead of providing 20% on-site affordable units for the 3000 Shattuck Project is not unique. The Project is one of at least three concurrent projects proposed by the Applicant, which similarly fail to contribute an adequate percentage of affordable units. The Applicant also proposes to construct the 2900-2920 Shattuck Avenue Project,[91] a ten-story residential building containing 221 dwelling units (22 Very Low-Income unit).[92] The 2920 Shattuck Avenue project is seeking a 46.25% Density Bonus by providing only 14% of the base project units as affordable to very low-income households.[93] The Applicant's 1598 University Project similarly proposes to pay an in lieu fee for the affordable units required by the City in excess of the on-site affordable necessary to qualify for a density bonus. The Applicant's decision not to provide the recommended 20% of on-site affordable units for its pending projects contributes to a cumulative shortage of affordable units that the City should address before considering approval of this Project.

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[89] City of Berkeley, Adopted 2023-2031 Housing Element, pg. D-8.
[90] City of Berkeley, Adopted 2023-2031 Housing Element, p. 107.
[91] Use Permit #ZP2022-0116 (APN: 053 159000501).
[92] City of Berkeley, Zoning Project Application, 2920 Shattuck Ave. Berkeley CA 94705, APN 053 159000501, (Sept. 4, 2022), https://www.dropbox.com/s/528twax3fw4fw9p/2022-09-04_APP_PCKT_2920%20Shattuck.pdf?dl=0 ("Application Packet"), pdf pg. 2108 of 2143.
[93] City of Berkeley, Zoning Project Application, 2920 Shattuck Ave.
6154-007j

IX. CONCLUSION

CEQA requires that an agency prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved may have a significant environmental impact not previously considered in connection with the project as originally approved.[94] As discussed herein, there is substantial evidence supporting a fair argument that the Project would result in significant adverse impacts that were not considered in the prior 2018 IS/ND, and that are not adequately analyzed or mitigated. The Project is detrimental to the general welfare for failing to provide workforce and community benefits.

The Addendum also fails to contain the basic information and analysis required by CEQA, deficiencies which "cannot be dismissed as harmless or insignificant defects."[95] The City's findings regarding Project impacts do not comply with the law and are not supported by substantial evidence. The City cannot approve the Project until it prepares an EIR that resolves these issues and complies with CEQA's requirements.

Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Sincerely,

Kelilah Federman

Kelilah D. Federman

KDF:ljl

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[94] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.
[95] *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1220.
6154-007j

EXHIBIT A

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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April 10, 2023

Kelilah Federman
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd #1000
South San Francisco, CA 94080

Subject: Comments on the 3000 Shattuck Mixed-Use Project (SCH No. 2017062025)

Dear Ms. Federman,

We have reviewed the January 2023 Addendum ("Addendum") and the 2018 Final Initial Study and Negative Declaration ("FIS/ND") for the 3000 Shattuck Mixed-Use ("Project") located in the City of Berkeley ("City"). The Project proposes to demolish the existing 1,163-square-foot ("SF") gas station and construct 80,235-SF of residential space, as well as 1,095-SF of retail space on the 0.31-acre site.

Our review concludes that the Addendum fails to adequately evaluate the Project's air quality impacts. As a result, emissions associated with construction of the proposed Project are underestimated and inadequately addressed. An Environmental Impact Report ("EIR") should be prepared to adequately assess and mitigate the potential air quality impacts that the project may have on the environment.

Air Quality

Failure to Provide Complete CalEEMod Output Files

Land use development projects under the California Environmental Quality Act ("CEQA") typically evaluate air quality impacts and calculate potential criteria air pollutant emissions using the California Emissions Estimator Model ("CalEEMod").[1] CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but CEQA requires that such changes be justified by substantial evidence. Once all of the values are inputted into the model, the Project's

[1] "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide.

construction and operational emissions are calculated, and "output files" are generated. These output files disclose to the reader what parameters are utilized in calculating the Project's air pollutant emissions and make known which default values are changed as well as provide justification for the values selected. Regarding the evaluation of the criteria air pollutant emissions associated with Project construction and operation, the Addendum states:

> "Additionally, since the adoption of the 2018 Final IS-ND, a new version (2022.1) of California Emissions Estimator Model (CalEEMod) has been published. Based on these updates, updated emissions estimates for the modified project were calculated for this analysis" (p. 14).

As stated above, the Addendum relies on CalEEMod Version 2022.1 to estimate the Project's emissions. However, this poses a problem as the currently available version of CalEEMod 2022.1 is described as a "soft release" which fails to provide complete output files.[2] Specifically, the "User Changes to Default Data" table no longer provides the quantitative counterparts to the changes to the default values (see excerpt below) (Appendix A, pp. 83):

8. User Changes to Default Data

Screen	Justification
Land Use	Project site plans
Construction: Construction Phases	Applicant provided
Operations: Hearths	no fireplaces or woodstoves

However, previous CalEEMod Versions, such as 2020.4.0, include the specific numeric changes to the model's default values (see example excerpt below):

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	230.00	167.00
tblConstructionPhase	PhaseEndDate	11/22/2023	8/25/2023
tblConstructionPhase	PhaseEndDate	9/27/2023	6/30/2023
tblConstructionPhase	PhaseEndDate	10/25/2023	7/28/2023
tblConstructionPhase	PhaseStartDate	10/26/2023	7/29/2023
tblConstructionPhase	PhaseStartDate	9/28/2023	7/1/2023
tblLandUse	LandUseSquareFeet	160,000.00	160,371.00
tblLandUse	LandUseSquareFeet	119,000.00	41,155.00
tblLandUse	LotAcreage	3.67	3.68
tblLandUse	LotAcreage	2.73	2.74

Thus, the output files associated with CalEEMod Version 2022.1 fail to disclose the exact parameters utilized to calculate Project emissions. To remedy this issue, the Addendum should have provided access to the model's ".JSON" output files, which allow third parties to review the model's revised input parameters.[3] Without access to the complete output files, including the specific numeric changes to the

[2] "CalEEMod California Emissions Estimator Model Soft Release." California Air Pollution Control Officers Association (CAPCOA), 2022, *available at:* https://caleemod.com/.

[3] "Video Tutorials for CalEEMod Version 2022.1." California Air Pollution Control Officers Association (CAPCOA), May 2022, *available at:* https://www.caleemod.com/tutorials.

default values, we cannot verify that the Addendum's air modeling and subsequent analysis is an accurate reflection of the proposed Project. As a result, an EIR should be prepared to include an updated air quality analysis that correctly provides the complete output files for CalEEMod Version 2022.1, or includes an updated air model using an older release of CalEEMod.[4]

Unsubstantiated Input Parameters Used to Estimate Project Emissions

As previously discussed, the Addendum relies on CalEEMod Version 2022.1 to estimate the Project's air quality emissions and fails to provide the complete output files required to adequately evaluate model's analysis (p. 14).[5] Regardless, when reviewing the Project's CalEEMod output files, provided as Appendix A to the Addendum, we were able to identify several model inputs that are inconsistent with information disclosed in the Addendum. As such, the Project's construction emissions are underestimated. An EIR should be prepared to include an updated air quality analysis that adequately evaluates the impacts that construction of the Project will have on local and regional air quality.

Incorrect and Unsubstantiated Construction Schedule

Review of the CalEEMod output files demonstrates that the "3000 Shattuck Detailed Report" model includes the following construction schedule (see excerpt below) (Appendix A, pp. 70):

Phase Name	Phase Type	Start Date	End Date	Days Per Week	Work Days per Phase
Site Preparation	Site Preparation	7/3/2023	11/15/2023	5.00	98.0
Grading	Grading	11/16/2023	1/1/2024	5.00	33.0
Building Construction	Building Construction	1/2/2024	2/10/2025	5.00	290
Paving	Paving	1/2/2024	7/31/2024	5.00	152
Architectural Coating	Architectural Coating	2/11/2025	3/30/2025	5.00	34.0

According to the "User Changes to Default Data" table, the justification provided for this schedule is:

> "Applicant provided" (Appendix A, pp. 83).

Additionally, regarding Project construction, the Addendum states:

> "Site preparation, construction procedures, and proposed utility connections would remain like the original project. Please refer to the 2018 Final IS-ND for details regarding these project components. Overall construction of the modified project would occur over a similar time span as was anticipated for the original project but would be more intensive due to the height increase" (p. 2).

Furthermore, regarding the Project's anticipated construction duration, the FIS/ND states:

> "The project would include demolition of the existing building and surface parking lot on the site. [...] Construction would take place over an 18-month period" (p. 7).

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[4] "CalEEMod Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* http://www.aqmd.gov/caleemod/download-model.

[5] "CalEEMod Version 2022.1.0." California Air Pollution Control Officers Association (CAPCOA), May 2022, *available at:* https://www.caleemod.com/.

However, the model's construction schedule is incorrect and unsubstantiated for three reasons.

First, as discussed by the FIS/ND, the construction of the Project is anticipated to occur over 18 months. However, the model includes a 21-month total construction length, and is therefore overestimated by 3 months. By including an overestimated construction schedule, the model is incorrect and inconsistent with information provided by the Addendum and associated documents.

Second, the model does not include a demolition phase of construction. This is incorrect, as the Addendum clearly states that demolition would be required prior to Project construction:

> "Like the original project, the modified project would involve demolition of the existing structures on the site, as detailed in the 2018 Final IS-ND for the original project" (p. 6)

As such, the model's construction schedule is incorrect and inconsistent with information provided by the Addendum and associated documents.

Third, the model's revised construction schedule remains unsubstantiated as the Addendum and associated documents fail to mention the Project's proposed *individual* construction phases whatsoever. This is inconsistent with guidance provided by the CalEEMod User's Guide:

> "CalEEMod was also designed to allow the user to change the defaults to reflect site-or project-specific information, when available, provided that the information is supported by substantial evidence as required by CEQA."[6]

As the Addendum and associated documents only mention the Project's total construction duration of 18 months, the Addendum fails to provide substantial evidence to support the revised individual construction phase lengths. As such, we cannot verify the changes. Instead, the model should have proportionately altered all phase lengths to match the proposed construction duration of 18 months.[7]

By including an incorrect and overestimated construction schedule, the model assumes there are a greater number of days to complete the construction activities required by the prolonged phases. As a result, there will be less construction activities required per day and, consequently, less pollutants emitted per day. As such, the model underestimates the peak daily emissions associated with Project construction and should not be relied upon to determine Project significance.

Failure to Model Demolition

Regarding demolition of the existing building, the Addendum states:

> "Like the original project, the modified project would involve demolition of the existing structures on the site, as detailed in the 2018 Final IS-ND for the original project" (p. 6)

[6] "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: https://www.aqmd.gov/caleemod/user's-guide,p. 13,14.

[7] See Attachment A for proportionately altered construction schedule.

However, as previously mentioned, review of the CalEEMod output files demonstrates that the "3000 Shattuck Detailed Report" model fails to include a demolition phase of construction. Furthermore, the model fails to include any amount of demolition debris (see excerpt below) (Appendix A, pp. 72).

Phase Name	Material Imported (Ton of Debris)	Material Exported (Ton of Debris)	Acres Graded (acres)	Material Demolished (sq. ft.)
Site Preparation	0.00	0.00	20.5	0.00
Grading	0.00	0.00	15.8	0.00
Paving	0.00	0.00	0.00	0.00

By failing to include any amount of demolition material, the model is inconsistent with the information provided in the Addendum.

This inconsistency presents an issue, as demolition material is used by CalEEMod to determine emissions associated with the demolition phase of construction. The three primary operations that generate dust emission during the demolition phase are mechanical or explosive dismemberment, site removal of debris, and on-site truck traffic on paved and unpaved road.[8] By failing to include any amount of required demolition, the model underestimates the emissions associated with fugitive dust, debris removal, as well as exhaust from hauling trucks traveling to and from the site, and should not be relied upon to determine the significance of the Project's air quality impacts.

Updated Analysis Indicates a Potentially Significant Air Quality Impact

In an effort to more accurately estimate the Project's construction-related emissions we prepared an updated CalEEMod model, using the Project-specific information provided by the Addendum. In our updated model, we included the required amount of demolition and proportionately altered the individual construction phase lengths to match the proposed construction duration of 18 months.[9]

Our updated analysis estimates that the Reactive Organic Gas ("ROG") emissions associated with Project construction exceed the applicable BAAQMD threshold of 54 pounds per day ("lbs/day"), as referenced by the Addendum (p. 14) (see table below).[10]

[8] "CalEEMod User's Guide Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide, p. 11.

[9] See Attachment B for updated CalEEMod model.

[10] "California Environmental Quality Act Air Quality Guidelines." BAAQMD, May 2017, *available at:* https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en&rev=0d2d971e661d41f28a56953f1776bdde, p. 2-2.

SWAPE Criteria Air Pollutant Emissions	
Construction	**ROG** (lbs/day)
Addendum	3.0
SWAPE	71.55
% Increase	2,285%
BAAQMD Threshold	**54**
Exceeds?	*Yes*

As demonstrated above, construction-related ROG emissions, as estimated by SWAPE, increase by approximately 2,285% and exceed the applicable BAAQMD significance threshold. Our updated modeling demonstrates that the Project would result in a potentially significant air quality impact that was not previously identified or addressed by the Addendum. As a result, an EIR should be prepared to adequately assess and mitigate the potential air quality impacts that the Project may have on the environment.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

Our analysis demonstrates that the Project would result in potentially significant air quality impacts that should be mitigated further. As such, in an effort to reduce the Project's emissions, we identified several mitigation measures that are applicable to the proposed Project. Therefore, to reduce the Project's emissions, we recommend consideration of SCAG's 2020 *RTP/SCS* PEIR's Air Quality Project Level Mitigation Measures ("PMM-AQ-1"):[11]

SCAG RTP/SCS 2020-2045
Air Quality Project Level Mitigation Measures – PMM-AQ-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency:
a) Minimize land disturbance.
b) Suspend grading and earth moving when wind gusts exceed 25 miles per hour unless the soil is wet enough to prevent dust plumes.
c) Cover trucks when hauling dirt.
d) Stabilize the surface of dirt piles if not removed immediately.

[11] "4.0 Mitigation Measures." Connect SoCal Program Environmental Impact Report Addendum #1, September 2020, available at: https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocal_addendum_4_mitigationmeasures.pdf?1606004420, p. 4.0-2 – 4.0-10; 4.0-19 – 4.0-23; See also: "Certified Final Connect SoCal Program Environmental Impact Report." Southern California Association of Governments (SCAG), May 2020, *available at:* https://scag.ca.gov/peir.

e) Limit vehicular paths on unpaved surfaces and stabilize any temporary roads.
f) Minimize unnecessary vehicular and machinery activities.
g) Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
h) Revegetate disturbed land, including vehicular paths created during construction to avoid future off-road vehicular activities.
j) Require contractors to assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that could be used an aggregate of 40 or more hours for the construction project. Prepare a plan for approval by the applicable air district demonstrating achievement of the applicable percent reduction for a CARB-approved fleet.
k) Ensure that all construction equipment is properly tuned and maintained.
l) Minimize idling time to 5 minutes—saves fuel and reduces emissions.
m) Provide an operational water truck on-site at all times. Use watering trucks to minimize dust; watering should be sufficient to confine dust plumes to the project work areas. Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
n) Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators.
o) Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.
p) As appropriate require that portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, obtain CARB Portable Equipment Registration with the state or a local district permit. Arrange appropriate consultations with the CARB or the District to determine registration and permitting requirements prior to equipment operation at the site.
q) Require projects within 500 feet of residences, hospitals, or schools to use Tier 4 equipment for all engines above 50 horsepower (hp) unless the individual project can demonstrate that Tier 4 engines would not be required to mitigate emissions below significance thresholds.
s) Projects located within AB 617 communities should review the applicable Community Emissions Reduction Plan (CERP) for additional mitigation that can be applied to individual projects.
t) Where applicable, projects should provide information about air quality related programs to schools, including the Environmental Justice Community Partnerships (EJCP), Clean Air Ranger Education (CARE), and Why Air Quality Matters programs.
u) Projects should work with local cities and counties to install adequate signage that prohibits truck idling in certain locations (e.g., near schools and sensitive receptors).
x) As applicable for rail projects, the following measures should be considered...
z) Develop an ongoing monitoring, inspection, and maintenance program for the MERV filters.
bb) The following criteria related to diesel emissions shall be implemented on by individual project sponsors as appropriate and feasible: - Diesel nonroad vehicles on site for more than 10 total days shall have either (1) engines that meet EPA on road emissions standards or (2) emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85% - Diesel generators on site for more than 10 total days shall be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%. - Nonroad diesel engines on site shall be Tier 2 or higher. - Diesel nonroad construction equipment on site for more than 10 total days shall have either (1) engines meeting EPA Tier 4 nonroad emissions standards or (2) emission control technology verified by EPA or

CARB for use with nonroad engines to reduce PM emissions by a minimum of 85% for engines for 50 hp and greater and by a minimum of 20% for engines less than 50 hp.

- Emission control technology shall be operated, maintained, and serviced as recommended by the emission control technology manufacturer.
- Diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend approved by the original engine manufacturer with sulfur content of 15 ppm or less.
- The construction contractor shall maintain a list of all diesel vehicles, construction equipment, and generators to be used on site. The list shall include the following:
    i. Contractor and subcontractor name and address, plus contact person responsible for the vehicles or equipment.
    ii. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation.
    iii. For the emission control technology installed: technology type, serial number, make, model, manufacturer, EPA/CARB verification number/level, and installation date and hour-meter reading on installation date.
- The contractor shall establish generator sites and truck-staging zones for vehicles waiting to load or unload material on site. Such zones shall be located where diesel emissions have the least impact on abutters, the general public, and especially sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.
- The contractor shall maintain a monthly report that, for each on road diesel vehicle, nonroad construction equipment, or generator onsite, includes:
    i. Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
    ii. Any problems with the equipment or emission controls.
    iii. Certified copies of fuel deliveries for the time period that identify:
        1. Source of supply
        2. Quantity of fuel
        3. Quantity of fuel, including sulfur content (percent by weight)

These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduce emissions released during Project construction and operation.

Furthermore, as it is policy of the State that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045, we emphasize the applicability of incorporating solar power system into the Project design. Until the feasibility of incorporating on-site renewable energy production is considered, the Project should not be approved.

An EIR should be prepared to include all feasible mitigation measures, as well as include an updated air quality analysis to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds. The EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

Disclaimer

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,

Matt Hagemann, P.G., C.Hg.

Paul E. Rosenfeld, Ph.D.

Attachment A: Proportionately Altered Construction Schedule
Attachment B: Updated CalEEMod Output Files
Attachment C: Matt Hagemann CV
Attachment D: Paul Rosenfeld CV

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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Investigation and Remediation Strategies
Litigation Support and Testifying Expert
Industrial Stormwater Compliance
CEQA Review

Education:

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.
B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

Professional Certifications:

California Professional Geologist
California Certified Hydrogeologist
Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2104, 2017;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 – 2003);

- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt's responsibilities have included:

- Lead analyst and testifying expert in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.

With Komex H2O Science Inc., Matt's duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.
- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted

public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation-wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

<u>Policy:</u>

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9.

Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, Oxygenates in Water: Critical Information and Research Needs.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific

principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

Geology:

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt is currently a part time geology instructor at Golden West College in Huntington Beach, California where he taught from 2010 to 2014 and in 2017.

Invited Testimony, Reports, Papers and Presentations:

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Coloradao.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal repesentatives, Parker, AZ.

Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

Hagemann, M.F., 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

Hagemann, M.F., 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

Hagemann, M.F., 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

Hagemann, M.F., 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

Hagemann, M.F., 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and **Hagemann, M.F.** 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukanaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

Other Experience:

Selected as subject matter expert for the California Professional Geologist licensing examinations, 2009-2011.

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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Paul Rosenfeld, Ph.D.

Chemical Fate and Transport & Air Dispersion Modeling

Principal Environmental Chemist

Risk Assessment & Remediation Specialist

Education

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Thesis on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years' experience conducting environmental investigations and risk assessments for evaluating impacts to human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risk, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, industrial, military and agricultural sources, unconventional oil drilling operations, and locomotive and construction engines. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities. Dr. Rosenfeld has also successfully modeled exposure to contaminants distributed by water systems and via vapor intrusion.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particulate matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, creosote, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants. Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at sites and has testified as an expert witness on numerous cases involving exposure to soil, water and air contaminants from industrial, railroad, agricultural, and military sources.

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
UCLA School of Public Health; 2003 to 2006; Adjunct Professor
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
UCLA Institute of the Environment, 2001-2002; Research Associate
Komex H_2O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health.* 18:48

Simons, R.A., Seo, Y. **Rosenfeld, P.**, (2015) Modeling the Effect of Refinery Emission On Residential Property Value. Journal of Real Estate Research. 27(3):321-342

Chen, J. A, Zapata A. R., Sutherland A. J., Molmen, D.R., Chow, B. S., Wu, L. E., **Rosenfeld, P. E.,** Hesse, R. C., (2012) Sulfur Dioxide and Volatile Organic Compound Exposure To A Community In Texas City Texas Evaluated Using Aermod and Empirical Data. *American Journal of Environmental Science*, 8(6), 622-632.

Rosenfeld, P.E. & Feng, L. (2011). *The Risks of Hazardous Waste.* Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2011). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Agrochemical Industry*, Amsterdam: Elsevier Publishing.

Gonzalez, J., Feng, L., Sutherland, A., Waller, C., Sok, H., Hesse, R., **Rosenfeld, P.** (2010). PCBs and Dioxins/Furans in Attic Dust Collected Near Former PCB Production and Secondary Copper Facilities in Sauget, IL. *Procedia Environmental Sciences.* 113–125.

Feng, L., Wu, C., Tam, L., Sutherland, A.J., Clark, J.J., **Rosenfeld, P.E.** (2010). Dioxin and Furan Blood Lipid and Attic Dust Concentrations in Populations Living Near Four Wood Treatment Facilities in the United States. *Journal of Environmental Health.* 73(6), 34-46.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2010). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Wood and Paper Industries.* Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2009). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Petroleum Industry.* Amsterdam: Elsevier Publishing.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P**. (2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. *WIT Transactions on Ecology and the Environment, Air Pollution,* 123 (17), 319-327.

Tam L. K.., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, 70, 002252-002255.

Tam L. K.., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, 70, 000527-000530.

Hensley, A.R. A. Scott, J. J. J. Clark, **Rosenfeld, P.E.** (2007). Attic Dust and Human Blood Samples Collected near a Former Wood Treatment Facility. *Environmental Research.* 105, 194-197.

Rosenfeld, P.E., J. J. J. Clark, A. R. Hensley, M. Suffet. (2007). The Use of an Odor Wheel Classification for Evaluation of Human Health Risk Criteria for Compost Facilities. *Water Science & Technology* 55(5), 345-357.

Rosenfeld, P. E., M. Suffet. (2007). The Anatomy Of Odour Wheels For Odours Of Drinking Water, Wastewater, Compost And The Urban Environment. *Water Science & Technology* 55(5), 335-344.

Sullivan, P. J. Clark, J.J.J., Agardy, F. J., **Rosenfeld, P.E.** (2007). *Toxic Legacy, Synthetic Toxins in the Food, Water, and Air in American Cities.* Boston Massachusetts: Elsevier Publishing

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash. *Water Science and Technology*. 49(9),171-178.

Rosenfeld P. E., J.J. Clark, I.H. (Mel) Suffet (2004). The Value of An Odor-Quality-Wheel Classification Scheme For The Urban Environment. *Water Environment Federation's Technical Exhibition and Conference (WEFTEC) 2004.* New Orleans, October 2-6, 2004.

Rosenfeld, P.E., and Suffet, I.H. (2004). Understanding Odorants Associated With Compost, Biomass Facilities, and the Land Application of Biosolids. *Water Science and Technology*. 49(9), 193-199.

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash, *Water Science and Technology*, 49(9), 171-178.

Rosenfeld, P. E., Grey, M. A., Sellew, P. (2004). Measurement of Biosolids Odor and Odorant Emissions from Windrows, Static Pile and Biofilter. *Water Environment Research*. 76(4), 310-315.

Rosenfeld, P.E., Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office*, Publications Clearinghouse (MS–6), Sacramento, CA Publication #442-02-008.

Rosenfeld, P.E., and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution*. 127(1-4), 173-191.

Rosenfeld, P.E., and Henry C. L., (2000). Wood ash control of odor emissions from biosolids application. *Journal of Environmental Quality.* 29, 1662-1668.

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affect on biosolids odor emissions and microbial activity. *Water Environment Research.* 73(4), 363-367.

Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research.* 131(1-4), 247-262.

Chollack, T. and **P. Rosenfeld.** (1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

Rosenfeld, P. E. (1994). Potential Utilization of Small Diameter Trees on Sierra County Public Land. Masters thesis reprinted by the Sierra County Economic Council. Sierra County, California.

Rosenfeld, P. E. (1991). How to Build a Small Rural Anaerobic Digester & Uses Of Biogas In The First And Third World. Bachelors Thesis. University of California.

Presentations:

Rosenfeld, P.E., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

Rosenfeld, P.E., Sutherland, A; Hesse, R.; Zapata, A. (October 3-6, 2013). Air dispersion modeling of volatile organic emissions from multiple natural gas wells in Decatur, TX. *44th Western Regional Meeting, American Chemical Society.* Lecture conducted from Santa Clara, CA.

Sok, H.L.; Waller, C.C.; Feng, L.; Gonzalez, J.; Sutherland, A.J.; Wisdom-Stack, T.; Sahai, R.K.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Atrazine: A Persistent Pesticide in Urban Drinking Water. *Urban Environmental Pollution.* Lecture conducted from Boston, MA.

Feng, L.; Gonzalez, J.; Sok, H.L.; Sutherland, A.J.; Waller, C.C.; Wisdom-Stack, T.; Sahai, R.K.; La, M.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Bringing Environmental Justice to East St. Louis, Illinois. *Urban Environmental Pollution.* Lecture conducted from Boston, MA.

Rosenfeld, P.E. (April 19-23, 2009). Perfluoroctanoic Acid (PFOA) and Perfluoroactane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

Rosenfeld, P.E. (April 19-23, 2009). Cost to Filter Atrazine Contamination from Drinking Water in the United States" Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*. Lecture conducted from Tuscon, AZ.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P**. (20-22 July, 2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. Brebbia, C.A. and Popov, V., eds., *Air Pollution XVII: Proceedings of the Seventeenth International Conference on Modeling, Monitoring and Management of Air Pollution.* Lecture conducted from Tallinn, Estonia.

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water.* Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23rd Annual International*

Conferences on Soils Sediment and Water. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). Somerville Community Exposure To Contaminants From Wood Treatment Facility Emissions. The *23rd Annual International Conferences on Soils Sediment and Water*. Lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld P. E. (March 2007). Production, Chemical Properties, Toxicology, & Treatment Case Studies of 1,2,3-Trichloropropane (TCP). *The Association for Environmental Health and Sciences (AEHS) Annual Meeting*. Lecture conducted from San Diego, CA.

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Florala, Alabama. *The AEHS Annual Meeting*. Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.,** Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.,** Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition*. Lecture conducted from Boston Massachusetts.

Paul Rosenfeld Ph.D. (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey's C8/PFOA. *Science, Risk & Litigation Conference*. Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

Paul Rosenfeld Ph.D. (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

Paul Rosenfeld Ph.D. (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel in Irvine, California.

Paul Rosenfeld Ph.D. (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey's Groundwater Conference*. Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

Paul Rosenfeld Ph.D. (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus On Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water And Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, Toxicology and Remediation. *2005 National Groundwater Association Ground Water and Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference*. Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

Paul Rosenfeld, Ph.D. (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust*. Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives*. Lecture conducted from Parker, AZ.

Paul Rosenfeld, Ph.D. (April 7, 2004). A National Damage Assessment Model For PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association*. Lecture conducted from Radison Hotel, Sacramento, California.

Rosenfeld, P. E., Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference* Orlando, FL.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants*.. Lecture conducted from Hyatt Regency Phoenix Arizona.

Paul Rosenfeld, Ph.D. (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum*. Lecture conducted from Marriott Hotel, Anaheim California.

Paul Rosenfeld, Ph.D. (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable*. Lecture conducted from Sacramento California.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, *Wastewater and Industrial Processes. Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Grey, M. A. (September 22-24, 2002). Biocycle Composting For Coastal Sage Restoration. *Northwest Biosolids Management Association*. Lecture conducted from Vancouver Washington..

Rosenfeld, P.E. and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conferenc*e. Lecture conducted from Indianapolis, Maryland.

Rosenfeld. P.E. (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation.* Lecture conducted from Anaheim California.

Rosenfeld. P.E. (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest.* Lecture conducted from Ocean Shores, California.

Rosenfeld, P.E. (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association*. Lecture conducted from Sacramento California.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America*. Lecture conducted from Salt Lake City Utah.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell*. Lecture conducted from Seattle Washington.

Rosenfeld, P.E., C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest.* Lecture conducted from Lake Chelan, Washington.

Rosenfeld, P.E, C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions From Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America.* Lecture conducted from Anaheim California.

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

National Ground Water Association, Successful Remediation Technologies. Custom Course in Sante Fe, New Mexico. May 21, 2002. Focused on fate and transport of fuel contaminants associated with underground storage tanks.

National Ground Water Association; Successful Remediation Technologies Course in Chicago Illinois. April 1, 2002. Focused on fate and transport of contaminants associated with Superfund and RCRA sites.

California Integrated Waste Management Board, April and May, 2001. Alternative Landfill Caps Seminar in San Diego, Ventura, and San Francisco. Focused on both prescriptive and innovative landfill cover design.

UCLA Department of Environmental Engineering, February 5, 2002. Seminar on Successful Remediation Technologies focusing on Groundwater Remediation.

University Of Washington, Soil Science Program, Teaching Assistant for several courses including: Soil Chemistry, Organic Soil Amendments, and Soil Stability.

U.C. Berkeley, Environmental Science Program Teaching Assistant for Environmental Science 10.

Academic Grants Awarded:

California Integrated Waste Management Board. $41,000 grant awarded to UCLA Institute of the Environment. Goal: To investigate effect of high carbon wood ash on volatile organic emissions from compost. 2001.

Synagro Technologies, Corona California: $10,000 grant awarded to San Diego State University.
Goal: investigate effect of biosolids for restoration and remediation of degraded coastal sage soils. 2000.

King County, Department of Research and Technology, Washington State. $100,000 grant awarded to University of Washington: Goal: To investigate odor emissions from biosolids application and the effect of polymers and ash on VOC emissions. 1998.

Northwest Biosolids Management Association, Washington State. $20,000 grant awarded to investigate effect of polymers and ash on VOC emissions from biosolids. 1997.

James River Corporation, Oregon: $10,000 grant was awarded to investigate the success of genetically engineered Poplar trees with resistance to round-up. 1996.

United State Forest Service, Tahoe National Forest: $15,000 grant was awarded to investigating fire ecology of the Tahoe National Forest. 1995.

Kellogg Foundation, Washington D.C. $500 grant was awarded to construct a large anaerobic digester on St. Kitts in West Indies. 1993

Deposition and/or Trial Testimony:

In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition, 5-14-2021
Trial, October 8-4-2021

In the Circuit Court of Cook County Illinois
Joseph Rafferty, Plaintiff vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a AMTRAK,
Case No.: No. 18-L-6845
Rosenfeld Deposition, 6-28-2021

In the United States District Court For the Northern District of Illinois
Theresa Romcoe, Plaintiff vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail, Defendants
Case No.: No. 17-cv-8517
Rosenfeld Deposition, 5-25-2021

In the Superior Court of the State of Arizona In and For the Cunty of Maricopa
Mary Tryon et al., Plaintiff vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case Number CV20127-094749
Rosenfeld Deposition: 5-7-2021

In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al *Plaintiffs*, vs. CNA Insurance Company et al.
Case Number 1:17-cv-000508
Rosenfeld Deposition: 3-25-2021

In the Superior Court of the State of California, County of San Bernardino
Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021

In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse
Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020

In the Circuit Court of Jackson County, Missouri
Karen Cornwell, *Plaintiff,* vs. Marathon Petroleum, LP, *Defendant.*
Case No.: 1716-CV10006
Rosenfeld Deposition. 8-30-2019

In the United States District Court For The District of New Jersey
Duarte et al, *Plaintiffs,* vs. United States Metals Refining Company et. al. *Defendant.*
Case No.: 2:17-cv-01624-ES-SCM
Rosenfeld Deposition. 6-7-2019

In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk, *Plaintiffs,* vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS "Conti Perdido" *Defendant.*
Case No.: 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition. 5-9-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No.: No. BC615636
Rosenfeld Deposition, 1-26-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No.: No. BC646857
Rosenfeld Deposition, 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado
Bells et al. Plaintiff vs. The 3M Company et al., Defendants
Case No.: 1:16-cv-02531-RBJ
Rosenfeld Deposition, 3-15-2018 and 4-3-2018

In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosciences, LLC, et al., Defendants
Cause No.: 1923
Rosenfeld Deposition, 11-17-2017

In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No C12-01481
Rosenfeld Deposition, 11-20-2017

In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition, 8-23-2017

In United States District Court For The Southern District of Mississippi
Guy Manuel vs. The BP Exploration et al., Defendants
Case: No 1:19-cv-00315-RHW
Rosenfeld Deposition, 4-22-2020

In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC
Case No.: LC102019 (c/w BC582154)
Rosenfeld Deposition, 8-16-2017, Trail 8-28-2018

In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., *Plaintiffs,* vs. Meritor Inc., et al., *Defendants*
Case Number: 4:16-cv-52-DMB-JVM
Rosenfeld Deposition: July 2017

In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No.: No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial, March 2017

In The Superior Court of the State of California, County of Alameda
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No.: RG14711115
Rosenfeld Deposition, September 2015

In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No.: LALA002187
Rosenfeld Deposition, August 2015

In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action N0. 14-C-30000
Rosenfeld Deposition, June 2015

In The Iowa District Court For Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No 4980
Rosenfeld Deposition: May 2015

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case Number CACE07030358 (26)
Rosenfeld Deposition: December 2014

In the County Court of Dallas County Texas
Lisa Parr et al, *Plaintiff*, vs. Aruba et al, *Defendant.*
Case Number cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial: April 2014

In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., *Plaintiffs,* vs. Republic Services, Inc., et al., *Defendants*
Case Number: 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition: October 2012

In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., *Plaintiffs*, vs. International Paper Company, *Defendant.*
Civil Action Number 2:09-cv-232-WHA-TFM
Rosenfeld Deposition: July 2010, June 2011

In the Circuit Court of Jefferson County Alabama
Jaeanette Moss Anthony, et al., *Plaintiffs*, vs. Drummond Company Inc., et al., *Defendants*
Civil Action No. CV 2008-2076
Rosenfeld Deposition: September 2010

In the United States District Court, Western District Lafayette Division
Ackle et al., *Plaintiffs*, vs. Citgo Petroleum Corporation, et al., *Defendants.*
Case Number 2:07CV1052
Rosenfeld Deposition: July 2009



3000 Shattuck Avenue Mixed-Use Project

Responses to Appeal Comments on the 2023 Addendum to the 2018 Initial Study-Negative Declaration

SCH# 2017062025

prepared by

City of Berkeley
1947 Center Street, Second Floor
Berkeley, California 94704
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Rincon Consultants, Inc.
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March 2025

RINCON CONSULTANTS, INC. SINCE 1994

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Attachments

Attachment A Updated California Emissions Estimator Model Results

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1 Introduction

1.1 Purpose of the Response to Appeal Comments on the Addendum

This document contains responses to comments received on the Addendum to the 2018 Initial Study-Negative Declaration (IS-ND) prepared for the proposed 3000 Shattuck Mixed-Use Project (proposed project). The comments are associated with an appeal of the Zoning Adjustments Board's (ZAB) 2023 approval of the project.

1.2 Environmental Review Process

The 2018 IS-ND was circulated for public review from June 12, 2017 to July 11, 2017 and was adopted by the ZAB in November 2018, when the project was approved by the Berkeley City Council. An Addendum to the 2018 IS-ND was prepared in 2023 to address subsequent changes to the original project including an increase in building height, removal of all automobile parking spaces, increase in residential units and square footage, increase in affordable units, increase in open space, and decrease in retail square footage. The Addendum was adopted and the project was approved by the ZAB at a hearing on May 11, 2023. The City of Berkeley received three letters in May and June 2023 appealing the approval of the project to the City Council, which included comments on the Addendum. The City directed Rincon to prepare this Responses to Comments document addressing appeal comments related to the Addendum and compliance with the California Environmental Quality Act (CEQA). Copies of the appeal letters are included in Chapter 2 of this document.

1.3 Document Organization

This document consists of the following chapters:

- **Chapter 1: Introduction.** This chapter discusses the purpose and organization of this response to comments document and summarizes the environmental review process for the project.
- **Chapter 2: Written Comments and Responses.** This chapter contains copies of the appeal letters. A written response is provided for each CEQA-related written comment in the letters. Each response is keyed to the corresponding comment.
- **Chapter 3 Revisions to the IS-ND Addendum.** Revisions to the Addendum that have been made in response to the comments received, or to otherwise provide clarity, are contained in this chapter and in the 2025 Revised Addendum, and are shown in underline and strikeout.

2 Comments and Responses

This chapter includes written comments on the 2023 Addendum prepared for the 3000 Shattuck Avenue Mixed-Use Project as part of the appeal of the project approval, and responses to those comments. The commenters and the page number on which each commenter's letter appear are listed below.

Letter No. and Commenter		Page No.
1	Adam Frankel	3
2	Larisa Cummings et al	87
3	Kelilah D. Federman	109

The comment letters and responses follow. The comment letters have been numbered sequentially and each separate issue raised by the commenter, if more than one, has been assigned a number. The responses to each comment identify first the number of the comment letter, and then the number assigned to each issue (Response 1.1, for example, indicates that the response is for the first issue raised in comment Letter 1). Responses are not provided to the letters attached to the appeal letters because they were addressed in a memorandum to ZAB on May 11, 2023, or the points are the same as those in the appeal letters.

In some cases, specific changes to the text of the Addendum have been made in response to comments received. In no case do these revisions result in new significant impacts or impacts of a substantially greater severity than those identified in the 2018 IS-ND. Where revisions to the main text are called for, the page and paragraph of the Addendum are shown, followed by the text revision. Added text is indicated with <u>underlining</u> and deleted text is indicated with ~~strikeout~~. Page numbers correspond to the page numbers of the 2025 revised Addendum.

Appeal Letter 1

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CITY OF BERKELEY - CITY CLERK
2023 MAY 25 AM 11:40

Via Email

May 19, 2023

City Clerk Department
Attn: Mark Numainville, City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704
clerk@cityofberkeley.info

Re: Appeal of Zoning Adjustments Board Approval of the Addendum to the 2018 Initial Study-Negative Declaration for the 3000 Shattuck Avenue Project (State Clearinghouse # 2017062025) (Administrative Use Permit # ZP2022-0046)

Dear Mr. Numainville:

1 I am writing on behalf of the Laborers International Union of North America, Local Union 304 and its members living in the City of Berkeley ("LiUNA"), regarding the project known as 3000 Shattuck Avenue (Administrative Use Permit # ZP2022-0046), including all actions related or referring to the proposed development of a 10-story (114 feet) mixed-use building utilizing a Density Bonus, with 166 dwellings, including 17 Very Low-Income units, and 1,043 square-feet of commercial space, located at 3000 Shattuck Avenue in the City of Berkeley, California (the "Project").

2 The Project was approved by the Zoning Adjustments Board ("ZAB") at a public hearing on May 11, 2023. LiUNA wishes to appeal the ZAB's approval to the City Council for further review pursuant to Berkeley Municipal Code Section 23.410.030. LiUNA is concerned by the City's improperuse of an Addendum which, if approved, would violate the California Environmental Quality Act ("CEQA"). This letter incorporates by reference and adopts in their entirety the May 5, 2023 letter and exhibits submitted by LiUNA (attached as **Exhibit A)** and the May 9, 2023 letter and exhibits submitted by East Bay Residents for Responsible Development (attached as **Exhibit B).**

3 In November 2018, the City approved the Project and adopted an Initial Study and Negative Declaration ("2018 IS-ND") for a prior iteration of the Project, which included 44 units and was 5 stories high ("2018 Project"). Now, the City has approved an Addendum to allow the development of a 10-story building with 166 units ("2023 Project"). The 2018 IS-ND did not consider the significant environmental impacts that would result from the increased scale of the new Project nor did it consider new information of substantial importance which LiUNA and

others have presented regarding the Project's significant environmental effects.

3, con't

The use of an Addendum here is improper under CEQA. CEQA prohibits the use of an addendum if a revised Project may have one or more significant impacts that were not discussed in the originating negative declaration. To comply with CEQA, the City should prepare either a mitigated negative declaration ("MND") or an environmental impact report ("EIR") to properly analyze and mitigate the impacts of the proposed Project. LiUNA is specifically concerned by the following issues related to the Project:

4

1. **Indoor air quality:** Interior composite wood materials will off-gas indoor air emissions of formaldehyde, a known human carcinogen, resulting in significant health risks to future residents. Neither the Addendum nor the 2018 IS-ND have considered or mitigated this significant impact. Therefore, this issue must be addressed by an MND or an EIR.

5

2. **Hazardous materials:** The Project site is listed on the State Water Resources Control Board's Geotracker database and is therefore included on a Cortese List pursuant to California Government Code Section 65962.5. The Addendum states that the site's cleanup case is "closed." However, the site was closed because it met commercial/industrial screening levels, a determination which was based on the assumption that the land use at the site would remain unchanged from its current use as a gas station. The site has not been independently determined to meet environmental safety levels for residential development. This is a previously undisclosed significant impact which must be addressed by an MND or an EIR.

6

3. **ROG emissions:** The Project may result in potentially significant Reactive Organic Gas ("ROG") emissions which exceed the Bay Area Air Quality Management District ("BAAQMD") threshold of significance. These impacts were not considered by the 2018 IS-ND and thus constitute a significant impact which must be addressed by an MND or an EIR.

7

4. **Construction and demolition emissions:** The Addendum underestimates the Project's air emissions by inexplicably altering the estimated length of Project construction times and failing to account for emissions from the Project's demolition activities. These significant omissions are not supported by substantial evidence and must be addressed by an MND or an EIR.

8

5. **Trucking emissions:** The Addendum and the 2018 IS-ND fail to analyze or disclose the potentially significant air quality impacts that will result from the trucking of modular units to the Project site. This is a significant air quality impact which must be addressed by an MND or an EIR.

9

6. **Detriment to the General Welfare:** Pursuant to Berkeley Municipal Code Section 22.20.020(F):

9, con't

> development projects create individual and cumulative impacts, including changes in, and in many cases deterioration of, the visual environment; an increase in noise, air and water pollution levels; new and increased traffic and parking impacts; power, sewer and other utility demand and consumption; loss of valuable open space; and increased demands on parks, schools, libraries, police, fire and public facilities, services and amenities;...

When such impacts are not mitigated, Municipal Code Section 22.20.020(G) goes on to state that these and other "impacts generated by development projects, unless mitigated, are detrimental to the City's public health, safety and general welfare…." Here, the Addendum violates the Municipal Code because it fails to mitigate the Project's detrimental impacts to air quality.

CONCLUSION

The use of an Addendum to approve the proposed Project violates CEQA. An Addendum is not appropriate "if the proposed modification may produce a significant environmental effect that had not previously been studied." *(Friends of College of San Mateo Gardens* v. *San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.

10

Based on the foregoing, there is a fair argument that the Project will have numerous significant environmental impacts which have not been previously considered. These impacts were not adequately analyzed or mitigated by the Addendum nor by the 2018 IS-ND.

LiUNA therefore respectfully requests that the City Council grant its appeal and overturn the ZAB's approval of the Addendum. Thereafter, the City should return the Project to the Planning and Development Department for further consideration of its environmental impacts, including the necessary preparation and public review of either an MND or an EIR.

Sincerely,



Adam Frankel
LOZEAU | DRURY LLP

EXHIBIT A

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Via Email

May 5, 2023

Land Use Planning Division
Attn: Samantha Updegrave (Zoning Adjustments Board Secretary)
1947 Center Street, 2nd Floor
Berkeley, CA 94704
zab@cityofberkeley.info

Re: Proposed Addendum to the 2018 Initial Study-Negative Declaration for the 3000 Shattuck Avenue Project (State Clearinghouse # 2017062025) (Administrative Use Permit # ZP2022-0046) (Zoning Adjustments Board, Meeting of May 11, 2023, Agenda Item No. 5)

Dear Honorable Members of the Zoning Adjustments Board:

I am writing on behalf of the Laborers International Union of North America, Local Union 304 and its members living in the City of Berkeley ("LiUNA"), regarding the project known as 3000 Shattuck Avenue (Administrative Use Permit # ZP2022-0046), including all actions related or referring to the proposed development of a 10-story (114 feet) mixed-use building utilizing a Density Bonus, with 166 dwellings, including 17 Very Low-Income units, and 1,043 square-feet of commercial space, located at 3000 Shattuck Avenue in the City of Berkeley, California (the "Project").

LiUNA is concerned by the City's improper use of an Addendum which, if approved, would violate the California Environmental Quality Act ("CEQA"). In November 2018, the City approved the Project and adopted an Initial Study and Negative Declaration ("2018 IS-ND") for a prior iteration of the Project, which included 44 units and was 5 stories high ("2018 Project"). Now, the City proposes an Addendum to allow the development of a 10-story building with 166 units ("2023 Project"). The 2018 IS-ND did not consider the significant environmental impacts that would result from the increased scale of the new Project nor did it consider new information of substantial importance which LiUNA has presented regarding the Project's significant environmental effects.

The use of an Addendum here is improper under CEQA. CEQA prohibits the use of an addendum if a revised Project may have one or more significant impacts that were not discussed in the originating negative declaration. To comply with CEQA, the City should prepare either a

mitigated negative declaration ("MND") or an environmental impact report ("EIR") to properly analyze and mitigate the impacts of the proposed Project.

LEGAL REVIEW OF CEQA ADDENDUM

a. The Addendum Disregards Established Legal Precedent and Violates CEQA

A CEQA addendum must adhere to the courts' guidance informing when, and under what circumstances, its use is legally permissible. The courts have established a detailed, two-step inquiry for reviewing legal challenges to a CEQA addendum. This deliberative process is outlined in two important court decisions arising from the same case, *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016). The first decision was issued by the California Supreme Court and will be referred to here as "*San Mateo Gardens I.*"[1] A subsequent decision in the same case was issued by the Court of Appeal and will be referred to here as "*San Mateo Gardens II.*"[2]

The first step in this two-step analysis is for the reviewing court to determine whether **substantial evidence** supports the lead agency's determination that the original CEQA document, in this case the 2018 IS-ND, "retains some informational value." (*San Mateo Gardens I* at p. 952.) If the court finds that the original document "retains some informational value," it must hold that CEQA's subsequent review provisions apply (*San Mateo Gardens II* at 604-605.)

But this determination is "only the first step" in the court's analysis. (*San Mateo Gardens I* at 956.) "[T]he next—and critical—step is to determine whether the agency has properly determined how to comply with its obligations under those provisions." (*San Mateo Gardens I* at 953.) "[W]hen a project is initially approved by negative declaration, a "major revision" to the initial negative declaration will necessarily be required if the proposed modification *may* produce a significant environmental effect that had not previously been studied. (San Mateo Gardens I, 1 Cal. 5th 937, 958, citing CEQA Guidelines, § 15162.) "Indeed, if the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR." (*Id.*)

The *San Mateo Gardens II* opinion helpfully outlines the analysis required during this second stage of review:

> [O]nce we have determined that the [CEQA] subsequent review provisions apply to a project approved through a negative declaration, **our application of the standard of review changes and is *less deferential to the agency.*** It is less deferential because a negative declaration requires a major revision—i.e., a subsequent EIR or mitigated negative declaration—whenever there is substantial evidence to support a fair argument that proposed changes 'might have a significant environmental impact not previously

[1] 1 Cal.5th 937 (2016).
[2] 11 Cal.App.5th 596 (2017).

> considered in connection with the project as originally approved.' (quoting *San Mateo Gardens I* at 959 [additional citations omitted].)
>
> Proposed changes might have a significant environmental impact when there is some competent evidence to suggest such an impact, even if other evidence suggests otherwise. (See *Friends of "B" Street* (1980) 106 Cal.App.3d 988, 1002.) This means that an agency's determination that a major revision to a negative declaration is not required will necessarily lack substantial evidence when **a fair argument exists that the project might have a previously unstudied significant environmental impact.** (*San Mateo Gardens II* at 607-608 [emph. added].)

Under the "fair argument" standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency's decision. (14 CCR § 15064(f)(1); *Pocket Protectors,* 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.) The "fair argument" standard creates a "low threshold" favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.)

The "fair argument" standard is virtually the opposite of the typical deferential standard accorded to agencies. As a leading CEQA treatise explains:

> This 'fair argument' standard is very different from the standard normally followed by public agencies in their decision making. Ordinarily, public agencies weigh the evidence in the record and reach a decision based on a preponderance of the evidence. [Citation]. The fair argument standard, by contrast, prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact.

(Kostka & Zischke, *Practice Under the California Environmental Quality Act*, §6.37 (2d ed. Cal. CEB 2021).) The Courts have explained that "it is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency's determination. Review is de novo, with *a preference for resolving doubts in favor of environmental review.*" (*Pocket Protectors*, 124 Cal.App.4th at 928 (emphasis in original).)

In proposing the Addendum, the City seeks to make substantial revisions to the 2018 Project without performing a legally sufficient environmental review or offering appropriate mitigation for the Project's potentially significant environmental effects. The expert evidence which LiUNA presents today constitutes substantial evidence of a fair argument that the expanded Project will have significant environmental effects which the Addendum has not adequately addressed. Therefore, to comply with CEQA, the City should refrain from approving the Addendum and undertake the necessary efforts to prepare an MND or EIR for the Project.

DISCUSSION

I. The Project Will Have Significant Indoor Air Quality Impacts.

Certified Industrial Hygienist, Francis "Bud" Offermann, PE, CIH, has conducted a review of the proposed Project and relevant documents regarding the Project's indoor air emissions. Mr. Offermann concludes that the Project will likely expose future residents of the Project to significant impacts related to indoor air quality, and in particular, emissions of the cancer-causing chemical formaldehyde. Mr. Offermann is a leading expert on indoor air quality and has published extensively on the topic. Mr. Offermann's expert comments and CV are attached as **Exhibit A**.

Mr. Offermann explains that many composite wood products used in building materials and furnishings commonly found in offices, warehouses, residences, and hotels contain formaldehyde-based glues which off-gas formaldehyde over a very long time period. He states that "[t]he primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims." (Ex. A., pp. 2-3.)

Formaldehyde is a known human carcinogen. Mr. Offermann estimates that future residents of the Project would be exposed to a cancer risk of 120 per million. (Ex. A., p. 4.) This calculation assumes that all materials would be compliant with the California Air Resources Board's ("CARB") Phase 2 formaldehyde airborne toxics control measure ("Phase 2 Formaldehyde ATCM"). (*Id.*, p. 3.) These potential exposure levels exceed the Bay Area Air Quality Management District's ("BAAQMD") CEQA significance threshold for airborne cancer risks of 10 per million. (*Id.*, p. 2.)

Mr. Offermann concludes that these significant environmental impacts should be analyzed in an MND or EIR and that mitigation measures should be imposed to reduce the risk of formaldehyde exposure. (*Id.*, p. 5.) Mr. Offermann identifies mitigation measures that are available to reduce these significant health risks, including the installation of air filters and a requirement that the Applicant use only composite wood materials (e.g., hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins, or ultra-low emitting formaldehyde (ULEF) resins, for all of the buildings' interior spaces. (*Id.*, pp. 11-13.)

Mr. Offermann's comments constitute new information of substantial importance related to the presence of a significant environmental effect which was not discussed by the 2018 IS-ND. Furthermore, they provide substantial evidence of a fair argument that the Project will likely cause significant impacts on human health and indoor air quality. The City must therefore prepare an MND or an EIR to fully evaluate and mitigate these likely impacts to future Project residents.

II. The Increased Size and Height of the Project May Cause Significant Noise Impacts on the Adjacent Residents.

The Addendum asserts that noise impacts from the expanded Project would be less than significant. However, it provides no quantified analysis of the Project's noise impacts to support this assertion. This is a clear oversight. For instance, the significantly increased height of the expanded building will likely require the use of larger construction equipment which may generate more significant noise impacts than would have resulted from construction of the original project. Additionally, operational noise impacts will be distinct from those of the original project because of the building's increased height and the differing angles from which sound will travel to surrounding receptors. The City must prepare an EIR or an MND to fully evaluate the Project's noise impacts and analyze if, and to what extent, these impacts will be greater than those that would have been generated by the original project.

III. The Project's Additional Height May Have Significant Visual Impacts From its Increased Shadow Effects.

The Addendum concedes that "the modified Project could result in potentially greater impacts associated with the increased building height." (Addendum, p. 12.) These potential impacts would be especially significant for the surrounding residences which will experience increased shadow effects from the building's significantly increased height, which itself is much higher than any of the area's surrounding structures. Appendix G of the CEQA Guidelines asks whether a Project would "[s]ubstantially degrade the existing visual character or quality of the site and its surroundings." (CEQA Guidelines, Appen. G, § I, subd. (d).) Here, there is substantial evidence of a fair argument that a Project may have significant aesthetic impacts, thus requiring the preparation of either an MND or an EIR. (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 938.)

CONCLUSION

The use of an Addendum to approve the proposed Project violates CEQA. An Addendum is not appropriate "if the proposed modification may produce a significant environmental effect that had not previously been studied" (*San Mateo Gardens*, 1 Cal.5th at 958). Based on the foregoing, there is a fair argument that the Project will have significant health and indoor air quality impacts which have not been previously considered, and that it may have significant noise and aesthetic impacts. These impacts were not adequately analyzed or mitigated by the Addendum.

LiUNA therefore respectfully requests that the Zoning Adjustments Board refrain from taking any action on the Project and instead return the Project to the Planning and Development Department for further consideration of its environmental impacts, including the necessary preparation and public review of either an MND or an EIR.

Sincerely,

Adam Frankel
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EXHIBIT A

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Date: April 26, 2023

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From: Francis J. Offermann PE CIH

Subject: Indoor Air Quality: 3000 Shattuck Avenue Project, Berkeley, CA
(IEE File Reference: P-4704)

Pages: 19

Indoor Air Quality Impacts

NOTE: This Indoor Air Quality letter contains similar comments as the letter I wrote for 2900-2920 Shattuck Avenue Project, but is specific for a separate adjacent project, 3000 Shattuck Avenue Project.

Indoor air quality (IAQ) directly impacts the comfort and health of building occupants, and the achievement of acceptable IAQ in newly constructed and renovated buildings is a well-recognized design objective. For example, IAQ is addressed by major high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014). Indoor air quality in homes is particularly important because occupants, on average, spend approximately ninety percent of their time indoors with the majority of this time spent at home (EPA, 2011). Some segments of the population that are most susceptible to the effects of poor IAQ, such as the very young and the elderly, occupy their homes almost continuously. Additionally, an increasing number of adults are working from home at least some of the time during the workweek.

Indoor air quality also is a serious concern for workers in hotels, offices and other business establishments.

The concentrations of many air pollutants often are elevated in homes and other buildings relative to outdoor air because many of the materials and products used indoors contain and release a variety of pollutants to air (Hodgson et al., 2002; Offermann and Hodgson, 2011). With respect to indoor air contaminants for which inhalation is the primary route of exposure, the critical design and construction parameters are the provision of adequate ventilation and the reduction of indoor sources of the contaminants.

Indoor Formaldehyde Concentrations Impact. In the California New Home Study (CNHS) of 108 new homes in California (Offermann, 2009), 25 air contaminants were measured, and formaldehyde was identified as the indoor air contaminant with the highest cancer risk as determined by the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), No Significant Risk Levels (NSRL) for carcinogens. The NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed population of 100,000 (i.e., ten in one million cancer risk) and for formaldehyde is 40 μg/day. The NSRL concentration of formaldehyde that represents a daily dose of 40 μg is 2 $\mu g/m^3$, assuming a continuous 24-hour exposure, a total daily inhaled air volume of 20 m^3, and 100% absorption by the respiratory system. All of the CNHS homes exceeded this NSRL concentration of 2 $\mu g/m^3$. The median indoor formaldehyde concentration was 36 $\mu g/m^3$, and ranged from 4.8 to 136 $\mu g/m^3$, which corresponds to a median exceedance of the 2 $\mu g/m^3$ NSRL concentration of 18 and a range of 2.3 to 68.

Therefore, the cancer risk of a resident living in a California home with the median indoor formaldehyde concentration of 36 $\mu g/m^3$, is 180 per million as a result of formaldehyde alone. The CEQA significance threshold for airborne cancer risk is 10 per million, as established by the Bay Area Air Quality Management District (BAAQMD, 2017).

Besides being a human carcinogen, formaldehyde is also a potent eye and respiratory irritant. In the CNHS, many homes exceeded the non-cancer reference exposure levels (RELs) prescribed by California Office of Environmental Health Hazard Assessment

(OEHHA, 2017b). The percentage of homes exceeding the RELs ranged from 98% for the Chronic REL of 9 $\mu g/m^3$ to 28% for the Acute REL of 55 $\mu g/m^3$.

The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.

In January 2009, the California Air Resources Board (CARB) adopted an airborne toxics control measure (ATCM) to reduce formaldehyde emissions from composite wood products, including hardwood plywood, particleboard, medium density fiberboard, and also furniture and other finished products made with these wood products (California Air Resources Board 2009). While this formaldehyde ATCM has resulted in reduced emissions from composite wood products sold in California, they do not preclude that homes built with composite wood products meeting the CARB ATCM will have indoor formaldehyde concentrations below cancer and non-cancer exposure guidelines.

A follow up study to the California New Home Study (CNHS) was conducted in 2016-2018 (Singer et. al., 2019), and found that the median indoor formaldehyde in new homes built after 2009 with CARB Phase 2 Formaldehyde ATCM materials had lower indoor formaldehyde concentrations, with a median indoor concentrations of 22.4 $\mu g/m^3$ (18.2 ppb) as compared to a median of 36 $\mu g/m^3$ found in the 2007 CNHS. Unlike in the CNHS study where formaldehyde concentrations were measured with pumped DNPH samplers, the formaldehyde concentrations in the HENGH study were measured with passive samplers, which were estimated to under-measure the true indoor formaldehyde concentrations by approximately 7.5%. Applying this correction to the HENGH indoor formaldehyde concentrations results in a median indoor concentration of 24.1 $\mu g/m^3$, which is 33% lower than the 36 $\mu g/m^3$ found in the 2007 CNHS.

Thus, while new homes built after the 2009 CARB formaldehyde ATCM have a 33% lower median indoor formaldehyde concentration and cancer risk, the median lifetime cancer risk is still 120 per million for homes built with CARB compliant composite wood

products. This median lifetime cancer risk is more than 12 times the OEHHA 10 in a million cancer risk threshold (OEHHA, 2017a).

With respect to 3000 Shattuck Avenue Project, Berkeley, CA, the buildings consist of residential spaces and commercial spaces.

The residential occupants will potentially have continuous exposure (e.g. 24 hours per day, 52 weeks per year). These exposures are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in residential construction.

Because these residences will be constructed with CARB Phase 2 Formaldehyde ATCM materials, and be ventilated with the minimum code required amount of outdoor air, the indoor residential formaldehyde concentrations are likely similar to those concentrations observed in residences built with CARB Phase 2 Formaldehyde ATCM materials, which is a median of 24.1 $\mu g/m^3$ (Singer et. al., 2020).

Assuming that the residential occupants inhale 20 m^3 of air per day, the average 70-year lifetime formaldehyde daily dose is 482 µg/day for continuous exposure in the residences. This exposure represents a cancer risk of 120 per million, which is more than 12 times the CEQA cancer risk of 10 per million. For occupants that do not have continuous exposure, the cancer risk will be proportionally less but still substantially over the CEQA cancer risk of 10 per million (e.g. for 12/hour/day occupancy, more than 6 times the CEQA cancer risk of 10 per million).

The employees of the commercial spaces are expected to experience significant indoor exposures (e.g., 40 hours per week, 50 weeks per year). These exposures for employees are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in offices, warehouses, residences and hotels.

Because the commercial spaces will be constructed with CARB Phase 2 Formaldehyde

ATCM materials, and be ventilated with the minimum code required amount of outdoor air, the indoor formaldehyde concentrations are likely similar to those concentrations observed in residences built with CARB Phase 2 Formaldehyde ATCM materials, which is a median of 24.1 $\mu g/m^3$ (Singer et. al., 2020)

Assuming that the employees of commercial spaces work 8 hours per day and inhale 20 m^3 of air per day, the formaldehyde dose per work-day at the offices is 161 µg/day.

Assuming that these employees work 5 days per week and 50 weeks per year for 45 years (start at age 20 and retire at age 65) the average 70-year lifetime formaldehyde daily dose is 70.9 µg/day.

This is 1.77 times the NSRL (OEHHA, 2017a) of 40 µg/day and represents a cancer risk of 17.7 per million, which exceeds the CEQA cancer risk of 10 per million. This impact should be analyzed in an environmental impact report ("EIR"), and the agency should impose all feasible mitigation measures to reduce this impact. Several feasible mitigation measures are discussed below and these and other measures should be analyzed in an EIR.

In addition, we note that the average outdoor air concentration of formaldehyde in California is 3 ppb, or 3.7 $\mu g/m^3$, (California Air Resources Board, 2004), and thus represents an average pre-existing background airborne cancer risk of 1.85 per million. Thus, the indoor air formaldehyde exposures describe above exacerbate this pre-existing risk resulting from outdoor air formaldehyde exposures.

Appendix A, Indoor Formaldehyde Concentrations and the CARB Formaldehyde ATCM, provides analyses that show utilization of CARB Phase 2 Formaldehyde ATCM materials will not ensure acceptable cancer risks with respect to formaldehyde emissions from composite wood products.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of

formaldehyde the meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

The following describes a method that should be used, prior to construction in the environmental review under CEQA, for determining whether the indoor concentrations resulting from the formaldehyde emissions of specific building materials/furnishings selected exceed cancer and non-cancer guidelines. Such a design analyses can be used to identify those materials/furnishings prior to the completion of the City's CEQA review and project approval, that have formaldehyde emission rates that contribute to indoor concentrations that exceed cancer and non-cancer guidelines, so that alternative lower emitting materials/furnishings may be selected and/or higher minimum outdoor air ventilation rates can be increased to achieve acceptable indoor concentrations and incorporated as mitigation measures for this project.

Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment

This formaldehyde emissions assessment should be used in the environmental review under CEQA to assess the indoor formaldehyde concentrations from the proposed loading of building materials/furnishings, the area-specific formaldehyde emission rate data for building materials/furnishings, and the design minimum outdoor air ventilation rates. This assessment allows the applicant (and the City) to determine, before the conclusion of the environmental review process and the building materials/furnishings are specified, purchased, and installed, if the total chemical emissions will exceed cancer and non-cancer guidelines, and if so, allow for changes in the selection of specific material/furnishings and/or the design minimum outdoor air ventilations rates such that cancer and non-cancer guidelines are not exceeded.

1.) Define Indoor Air Quality Zones. Divide the building into separate indoor air quality zones, (IAQ Zones). IAQ Zones are defined as areas of well-mixed air. Thus, each

ventilation system with recirculating air is considered a single zone, and each room or group of rooms where air is not recirculated (e.g. 100% outdoor air) is considered a separate zone. For IAQ Zones with the same construction material/furnishings and design minimum outdoor air ventilation rates. (e.g. hotel rooms, apartments, condominiums, etc.) the formaldehyde emission rates need only be assessed for a single IAQ Zone of that type.

2.) Calculate Material/Furnishing Loading. For each IAQ Zone, determine the building material and furnishing loadings (e.g., m^2 of material/m^2 floor area, units of furnishings/m^2 floor area) from an inventory of all potential indoor formaldehyde sources, including flooring, ceiling tiles, furnishings, finishes, insulation, sealants, adhesives, and any products constructed with composite wood products containing urea-formaldehyde resins (e.g., plywood, medium density fiberboard, particleboard).

3.) Calculate the Formaldehyde Emission Rate. For each building material, calculate the formaldehyde emission rate (µg/h) from the product of the area-specific formaldehyde emission rate (µg/m^2-h) and the area (m^2) of material in the IAQ Zone, and from each furnishing (e.g. chairs, desks, etc.) from the unit-specific formaldehyde emission rate (µg/unit-h) and the number of units in the IAQ Zone.

NOTE: As a result of the high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014), most manufacturers of building materials furnishings sold in the United States conduct chemical emission rate tests using the California Department of Health "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers," (CDPH, 2017), or other equivalent chemical emission rate testing methods. Most manufacturers of building furnishings sold in the United States conduct chemical emission rate tests using ANSI/BIFMA M7.1 Standard Test Method for Determining VOC Emissions (BIFMA, 2018), or other equivalent chemical emission rate testing methods.

CDPH, BIFMA, and other chemical emission rate testing programs, typically certify that a material or furnishing does not create indoor chemical concentrations in excess of the

maximum concentrations permitted by their certification. For instance, the CDPH emission rate testing requires that the measured emission rates when input into an office, school, or residential model do not exceed one-half of the OEHHA Chronic Exposure Guidelines (OEHHA, 2017b) for the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017). These certifications themselves do not provide the actual area-specific formaldehyde emission rate (i.e., $\mu g/m^2$-h) of the product, but rather provide data that the formaldehyde emission rates do not exceed the maximum rate allowed for the certification. Thus, for example, the data for a certification of a specific type of flooring may be used to calculate that the area-specific emission rate of formaldehyde is less than 31 $\mu g/m^2$-h, but not the actual measured specific emission rate, which may be 3, 18, or 30 $\mu g/m^2$-h. These area-specific emission rates determined from the product certifications of CDPH, BIFA, and other certification programs can be used as an initial estimate of the formaldehyde emission rate.

If the actual area-specific emission rates of a building material or furnishing is needed (i.e. the initial emission rates estimates from the product certifications are higher than desired), then that data can be acquired by requesting from the manufacturer the complete chemical emission rate test report. For instance if the complete CDPH emission test report is requested for a CDHP certified product, that report will provide the actual area-specific emission rates for not only the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017), but also all of the cancer and reproductive/developmental chemicals listed in the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), all of the toxic air contaminants (TACs) in the California Air Resources Board Toxic Air Contamination List (CARB, 2011), and the 10 chemicals with the greatest emission rates.

Alternatively, a sample of the building material or furnishing can be submitted to a chemical emission rate testing laboratory, such as Berkeley Analytical Laboratory (https://berkeleyanalytical.com), to measure the formaldehyde emission rate.

4.) Calculate the Total Formaldehyde Emission Rate. For each IAQ Zone, calculate the total formaldehyde emission rate (i.e. $\mu g/h$) from the individual formaldehyde emission

rates from each of the building material/furnishings as determined in Step 3.

5.) Calculate the Indoor Formaldehyde Concentration. For each IAQ Zone, calculate the indoor formaldehyde concentration ($\mu g/m^3$) from Equation 1 by dividing the total formaldehyde emission rates (i.e. $\mu g/h$) as determined in Step 4, by the design minimum outdoor air ventilation rate (m^3/h) for the IAQ Zone.

$$C_{in} = \frac{E_{total}}{Q_{oa}} \quad \text{(Equation 1)}$$

where:

C_{in} = indoor formaldehyde concentration ($\mu g/m^3$)

E_{total} = total formaldehyde emission rate ($\mu g/h$) into the IAQ Zone.

Q_{oa} = design minimum outdoor air ventilation rate to the IAQ Zone (m^3/h)

The above Equation 1 is based upon mass balance theory, and is referenced in Section 3.10.2 "Calculation of Estimated Building Concentrations" of the California Department of Health "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers", (CDPH, 2017).

6.) Calculate the Indoor Exposure Cancer and Non-Cancer Health Risks. For each IAQ Zone, calculate the cancer and non-cancer health risks from the indoor formaldehyde concentrations determined in Step 5 and as described in the OEHHA Air Toxics Hot Spots Program Risk Assessment Guidelines; Guidance Manual for Preparation of Health Risk Assessments (OEHHA, 2015).

7.) Mitigate Indoor Formaldehyde Exposures of exceeding the CEQA Cancer and/or Non-Cancer Health Risks. In each IAQ Zone, provide mitigation for any formaldehyde exposure risk as determined in Step 6, that exceeds the CEQA cancer risk of 10 per million or the CEQA non-cancer Hazard Quotient of 1.0.

Provide the source and/or ventilation mitigation required in all IAQ Zones to reduce the health risks of the chemical exposures below the CEQA cancer and non-cancer health risks.

Source mitigation for formaldehyde may include:

1.) reducing the amount materials and/or furnishings that emit formaldehyde
2.) substituting a different material with a lower area-specific emission rate of formaldehyde

Ventilation mitigation for formaldehyde emitted from building materials and/or furnishings may include:

1.) increasing the design minimum outdoor air ventilation rate to the IAQ Zone.

NOTE: Mitigating the formaldehyde emissions through use of less material/furnishings, or use of lower emitting materials/furnishings, is the preferred mitigation option, as mitigation with increased outdoor air ventilation increases initial and operating costs associated with the heating/cooling systems.

Further, we are not asking that the builder "speculate" on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers," (CDPH, 2017), and use the procedure described earlier above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Impact. Another important finding of the CNHS, was that the outdoor air ventilation rates in the homes were very low. Outdoor air ventilation is a very important factor influencing the indoor concentrations of air contaminants, as it is the primary removal mechanism of all indoor air generated contaminants. Lower outdoor air exchange rates cause indoor generated air contaminants to accumulate to higher indoor air concentrations. Many homeowners rarely open their windows or doors for ventilation as a result of their concerns for security/safety, noise, dust, and odor concerns (Price, 2007). In

the CNHS field study, 32% of the homes did not use their windows during the 24-hour Test Day, and 15% of the homes did not use their windows during the entire preceding week. Most of the homes with no window usage were homes in the winter field session. Thus, a substantial percentage of homeowners never open their windows, especially in the winter season. The median 24-hour measurement was 0.26 air changes per hour (ach), with a range of 0.09 ach to 5.3 ach. A total of 67% of the homes had outdoor air exchange rates below the minimum California Building Code (2001) requirement of 0.35 ach. Thus, the relatively tight envelope construction, combined with the fact that many people never open their windows for ventilation, results in homes with low outdoor air exchange rates and higher indoor air contaminant concentrations.

According to the Addendum to the 3000 Shattuck Avenue Project Initial Study – Negative Declaration (City of Berkeley, 2023), the Project is close to roads with moderate to high traffic (e.g., Shattuck Avenue, Adeline Street, Ashby Avenue, Russell Street, Newbury Street etc.). As a result the Project site is a sound impacted site.

According to the Addendum to the 3000 Shattuck Avenue Project Initial Study – Negative Declaration (City of Berkeley, 2023), no assessment of the ambient noise levels resulting from the local traffic has been conducted. In order to design the building for this Project such that interior noise levels are acceptable, an acoustic study with actual on site measurements of the existing ambient noise levels and modeled future ambient noise levels needs to be conducted. The acoustic study of the existing ambient noise levels should be conducted over a one-week period and report the dBA CNEL or Ldn. This study will allow for the selection of a building envelope and windows with a sufficient STC such that the indoor noise levels are acceptable. A mechanical supply of outdoor air ventilation to allow for a habitable interior environment with closed windows and doors will also be required. Such a ventilation system would allow windows and doors to be kept closed at the occupant's discretion to control exterior noise within building interiors.

$PM_{2.5}$ Outdoor Concentrations Impact. An additional impact of the nearby motor vehicle traffic associated with this project, are the outdoor concentrations of $PM_{2.5}$. According to the Addendum to the 3000 Shattuck Avenue Project Initial Study – Negative

Declaration (City of Berkeley, 2023), the Project is located in the San Francisco Bay Area Basin, which is a State and Federal non-attainment area for $PM_{2.5}$.

An air quality analyses should be conducted to determine the concentrations of $PM_{2.5}$ in the outdoor and indoor air that people inhale each day. This air quality analyses needs to consider the cumulative impacts of the project related emissions, existing and projected future emissions from local $PM_{2.5}$ sources (e.g. stationary sources, motor vehicles, and airport traffic) upon the outdoor air concentrations at the Project site. If the outdoor concentrations are determined to exceed the California and National annual average $PM_{2.5}$ exceedence concentration of 12 $\mu g/m^3$, or the National 24-hour average exceedence concentration of 35 $\mu g/m^3$, then the buildings need to have a mechanical supply of outdoor air that has air filtration with sufficient removal efficiency, such that the indoor concentrations of outdoor $PM_{2.5}$ particles is less than the California and National $PM_{2.5}$ annual and 24-hour standards.

It is my experience that based on the projected high traffic noise levels, the annual average concentration of $PM_{2.5}$ will exceed the California and National $PM_{2.5}$ annual and 24-hour standards and warrant installation of high efficiency air filters (i.e. MERV 13 or higher) in all mechanically supplied outdoor air ventilation systems.

Indoor Air Quality Impact Mitigation Measures

The following are recommended mitigation measures to minimize the impacts upon indoor quality:

Indoor Formaldehyde Concentrations Mitigation. Use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins (CARB, 2009). CARB Phase 2 certified composite wood products, or ultra-low emitting formaldehyde (ULEF) resins, do not insure indoor formaldehyde concentrations that are below the CEQA cancer risk of 10 per million. Only composite wood products manufactured with CARB approved no-added formaldehyde (NAF) resins, such as resins

made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

Alternatively, conduct the previously described Pre-Construction Building Material/Furnishing Chemical Emissions Assessment, to determine that the combination of formaldehyde emissions from building materials and furnishings do not create indoor formaldehyde concentrations that exceed the CEQA cancer and non-cancer health risks.

It is important to note that we are not asking that the builder "speculate" on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers", (CDPH, 2017), and use the procedure described above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Mitigation. Provide each habitable room with a continuous mechanical supply of outdoor air that meets or exceeds the California 2016 Building Energy Efficiency Standards (California Energy Commission, 2015) requirements of the greater of 15 cfm/occupant or 0.15 cfm/ft^2 of floor area. Following installation of the system conduct testing and balancing to insure that required amount of outdoor air is entering each habitable room and provide a written report documenting the outdoor airflow rates. Do not use exhaust only mechanical outdoor air systems, use only balanced outdoor air supply and exhaust systems or outdoor air supply only systems. Provide a manual for the occupants or maintenance personnel, that describes the purpose of the mechanical outdoor air system and the operation and maintenance requirements of the system.

$PM_{2.5}$ Outdoor Air Concentration Mitigation. Install air filtration with sufficient $PM_{2.5}$ removal efficiency (e.g. MERV 13 or higher) to filter the outdoor air entering the

mechanical outdoor air supply systems, such that the indoor concentrations of outdoor $PM_{2.5}$ particles are less than the California and National $PM_{2.5}$ annual and 24-hour standards. Install the air filters in the system such that they are accessible for replacement by the occupants or maintenance personnel. Include in the mechanical outdoor air ventilation system manual instructions on how to replace the air filters and the estimated frequency of replacement.

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APPENDIX A

INDOOR FORMALDEHYDE CONCENTRATIONS
AND THE
CARB FORMALDEHYDE ATCM

With respect to formaldehyde emissions from composite wood products, the CARB ATCM regulations of formaldehyde emissions from composite wood products, do not assure healthful indoor air quality. The following is the stated purpose of the CARB ATCM regulation - *The purpose of this airborne toxic control measure is to "reduce formaldehyde emissions from composite wood products, and finished goods that contain composite wood products, that are sold, offered for sale, supplied, used, or manufactured for sale in California"*. In other words, the CARB ATCM regulations do not "assure healthful indoor air quality", but rather "reduce formaldehyde emissions from composite wood products".

Just how much protection do the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products? Definitely some, but certainly the regulations do not "*assure healthful indoor air quality*" when CARB Phase 2 products are utilized. As shown in the Chan 2019 study of new California homes, the median indoor formaldehyde concentration was of 22.4 $\mu g/m^3$ (18.2 ppb), which corresponds to a cancer risk of 112 per million for occupants with continuous exposure, which is more than 11 times the CEQA cancer risk of 10 per million.

Another way of looking at how much protection the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products is to calculate the maximum number of square feet of composite wood product that can be in a residence without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy.

For this calculation I utilized the floor area (2,272 ft^2), the ceiling height (8.5 ft), and the number of bedrooms (4) as defined in Appendix B (New Single-Family Residence Scenario) of the Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers, Version 1.1, 2017, California

Department of Public Health, Richmond, CA. https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/EHLB/IAQ/Pages/VOC.aspx.

For the outdoor air ventilation rate I used the 2019 Title 24 code required mechanical ventilation rate (ASHRAE 62.2) of 106 cfm (180 m^3/h) calculated for this model residence. For the composite wood formaldehyde emission rates I used the CARB ATCM Phase 2 rates.

The calculated maximum number of square feet of composite wood product that can be in a residence, without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 15 ft^2 (0.7% of the floor area), or
Particle Board – 30 ft^2 (1.3% of the floor area), or
Hardwood Plywood – 54 ft^2 (2.4% of the floor area), or
Thin MDF – 46 ft^2 (2.0 % of the floor area).

For offices and hotels the calculated maximum amount of composite wood product (% of floor area) that can be used without exceeding the CEQA cancer risk of 10 per million for occupants, assuming 8 hours/day occupancy, and the California Mechanical Code minimum outdoor air ventilation rates are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 3.6 % (offices) and 4.6% (hotel rooms), or
Particle Board – 7.2 % (offices) and 9.4% (hotel rooms), or
Hardwood Plywood – 13 % (offices) and 17% (hotel rooms), or
Thin MDF – 11 % (offices) and 14 % (hotel rooms)

Clearly the CARB ATCM does not regulate the formaldehyde emissions from composite wood products such that the potentially large areas of these products, such as for flooring, baseboards, interior doors, window and door trims, and kitchen and bathroom cabinetry,

could be used without causing indoor formaldehyde concentrations that result in CEQA cancer risks that substantially exceed 10 per million for occupants with continuous occupancy.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde the meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

If CARB Phase 2 compliant or ULEF composite wood products are utilized in construction, then the resulting indoor formaldehyde concentrations should be determined in the design phase using the specific amounts of each type of composite wood product, the specific formaldehyde emission rates, and the volume and outdoor air ventilation rates of the indoor spaces, and all feasible mitigation measures employed to reduce this impact (e.g. use less formaldehyde containing composite wood products and/or incorporate mechanical systems capable of higher outdoor air ventilation rates). See the procedure described earlier (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Alternatively, and perhaps a simpler approach, is to use only composite wood products (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins.

EXHIBIT B

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May 9, 2023

Via Email and US Mail
Yes Duffy, Chairperson
Kimberly Gaffney, Vice Chairperson
Igor Tregub, Member
Michael Thompson, Member
Holly Scheider, Member
Shoshana O'Keefe, Member
Charles Kahn, Member
Brandon Yung, Member
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Re: Comments on Agenda Item 5: 3000 Shattuck Avenue Project Addendum to the Initial Study Negative Declaration (SCH #2017062025)

Dear Chairperson Duffy, Vice Chairperson Gaffney, Members: Tregub, Thompson, Schneider, O'Keefe, Kahn, Yung, Sanderson, and Ms. Riemer:

On behalf of East Bay Residents for Responsible Development ("East Bay Residents"), we submit these comments on the Addendum to the 3000 Shattuck Avenue Project Initial Study Negative Declaration (SCH #2017062025) prepared by the City of Berkeley (the "City") for the 3000 Shattuck Avenue Project ("Project") proposed by Mark Rhoades of the Rhoades Planning Group and Khan Shazada & Farhat (collectively, "Applicant").[1] The City adopted the IS/ND ("2018 IS/ND") for the original 3000 Shattuck Avenue Project ("original project") and approved the

[1] City of Berkeley, Addendum to the 3000 Shattuck Avenue Project Initial Study – Negative Declaration (Permit No. ZP2015-0229, SCH # 2017062025) (January 2023), https://www.dropbox.com/s/kr0fme3neozjqyf/2023-01-27_CEQA_Addendum%20to%20IS-ND_3000%20Shattuck.pdf?dl=0 (hereinafter "Addendum").

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original project on November 27, 2018.[2] These comments precede the hearing of the City of Berkeley Zoning Adjustment Board ("ZAB") on May 11, 2023 at 7:00 pm.[3]

The Project consists of changes to the original project considered in the 2018 IS/ND. The Project proposes to demolish the existing 1,163-square-foot ("SF") gas station and construct 80,235 sf of residential space including 166 residential units, 1,095 SF of retail space, and zero parking spaces on the 0.31-acre site. Construction of the Project is anticipated to last eighteen (18) months. The Project site is located at 3000 Shattuck Avenue, Berkeley, CA 94705 (APNs 53-1592-1 & 53-1592-2). The Project site is designated as Avenue Commercial in the City's General Plan and is located in the South Area Commercial (C-SA) zoning district. The original project proposed 32,603 SF of residential uses, with 44 units including 4 affordable units. This Project proposes 80,235 SF of residential uses, with 166 units including 17 affordable units. The original project proposed the inclusion of 17 parking spaces for automobiles, this Project proposes zero parking spaces.[4]

We prepared these comments with the assistance of air quality and hazards expert Matt Hagemann and Paul Rosenfeld of Soil Water Air Protection Enterprise (SWAPE), whose technical comments and curriculum vitae are attached hereto as Exhibit A.[5] Our review of the Addendum and 2018 IS/ND demonstrates that the Project fails to comply with CEQA. As explained more fully below, the Addendum fails to accurately disclose the extent of the Project's potentially significant air quality, public health, hazardous contamination, land use, and cumulative impacts which are new or more severe than the impacts analyzed in the 2018 IS/ND. There is substantial evidence to support a fair argument that the Project will result in significant, unmitigated impacts in each of these areas. Further, the Project fails to comply with the City's General Plan and Housing Element. The City may not approve the Project until the City prepares an EIR that adequately analyzes the Project's potentially significant impacts and incorporates all feasible mitigation measures to avoid or minimize these impacts.

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[2] City of Berkeley, 3000 Shattuck Avenue Mixed Use Project Initial Study–Negative Declaration, https://www.dropbox.com/s/ui1snla3csdgpik/IS-ND%20with%20appendices_3000%20Shattuck.pdf?dl=0 (hereinafter "2018 IS/ND").
[3] City of Berkeley Zoning Adjustments Meeting Agenda, May 11, 2023, https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-05-11_ZAB_Agenda_Linked.pdf.
[4] Addendum p. 3.
[5] See **Exhibit A,** Matt Hagemann, P.G., C.Hg., Paul E. Rosenfeld, Ph.D., Comments on the 3000 Shattuck Mixed-Use Project (SCH No. 2017062025) (April 10, 2023) ("SWAPE Comments").
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Moreover, the City prepared the Addendum in violation of CEQA and the court's holding in *Friends of College of San Mateo Gardens v. San Mateo County Community College District.* There, the court held that the Community College District improperly prepared an addendum to an MND, because there was substantial evidence to support a fair argument that the project changes may result in a significant effect on the environment.[6] Agencies are permitted to prepare an addendum to an adopted MND, rather than a subsequent EIR or negative declaration, if only "minor technical changes or additions are necessary or none of the conditions described in [CEQA Guidelines] Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred."[7] Here, the changes proposed in the Addendum are not "minor technical changes or additions" but constitute major revisions to the MND based on new significant environmental effects thus requiring preparation of an Environmental Impact Report ("EIR") if the impacts cannot be mitigated. Substantial evidence supports a fair argument that the Project's potentially significant impacts cannot be adequately mitigated by the measures proposed in the Addendum and 2018 IS/ND.

For the reasons discussed herein, and in the attached expert comments, East Bay Residents urges the City to remedy the deficiencies in the Addendum by preparing a legally adequate EIR and circulating it for public review and comment.[8] East Bay Residents and their expert consultants have identified numerous potentially significant impacts that the Addendum either mischaracterizes, underestimates, or fails to identify.

I. STATEMENT OF INTEREST

East Bay Residents for Responsible Development ("ERRBD" or "Residents") is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential impacts associated with Project development. The association includes the UA Plumbers and Pipefitters Local 342, International Brotherhood of Electrical Workers Local 595, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, and their members and their families who live and/or work in the City of Berkeley and Alameda County.

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[6] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2022) 11 Cal.App.5th 596, 600.
[7] CEQA Guidelines, § 15164, subd. (b).
[8] We reserve the right to supplement these comments at later hearings on this Project. Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199–1203; *see Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.
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The individual members of EBRRD live, work, and raise their families in the City and in Alameda County. They would be directly affected by the Project's impacts. Individual members may also work on the Project itself. They will therefore be first in line to be exposed to any health and safety hazards that may exist on the Project site.

The organizational members of EBRRD also have an interest in enforcing the City's planning and zoning laws and the State's environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making it less desirable for businesses to locate and people to live there. Indeed, continued degradation can, and has, caused restrictions on growth that reduce future employment opportunities. Finally, Residents' members are concerned about projects that are built without providing opportunities to improve local recruitment, apprenticeship training, and retention of skilled workforces, and without providing lifesaving healthcare expenditures for the construction workforce.

II. LEGAL BACKGROUND

CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project.[9] "CEQA's fundamental goal [is] fostering informed decision-making."[10] "The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind."[11]

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an EIR, except in certain limited circumstances.[12] The EIR is the very heart of CEQA.[13] The EIR acts like an "environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return."[14] The EIR aids an agency in identifying, analyzing, disclosing, and, to the extent possible, avoiding a project's significant environmental effects through implementing feasible

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[9] 14 Cal. Code Regs. ("CEQA Guidelines") § 15002, subd. (a)(1).
[10] *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 402.
[11] *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283.
[12] See, e.g., Pub. Resources Code, § 21100.
[13] *Dunn-Edwards v. Bay Area Air Quality Management Dist.* (1992) 9 Cal.App.4th 644, 652.
[14] *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1220.
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mitigation measures.[15] The EIR also serves "to demonstrate to an apprehensive citizenry that the [agency] has analyzed and considered the ecological implications of its action."[16] Thus, an EIR "protects not only the environment but also informed self-government."[17]

An EIR is required if "there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment."[18] The EIR aids an agency in identifying, analyzing, disclosing, and, to the extent possible, avoiding a project's significant environmental effects through implementing feasible mitigation measures.[19] In very limited circumstances, an agency may avoid preparing an EIR by issuing a negative declaration, a written statement briefly indicating that a project will have no significant impact. Because "[t]he adoption of a negative declaration . . . has a terminal effect on the environmental review process" by allowing the agency to dispense with the duty to prepare an EIR, negative declarations are allowed only in cases where there is not even a "fair argument" that the project will have a significant environmental effect.[20]

Under the fair argument standard, a lead agency "shall" prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.[21] The phrase "significant effect on the environment" is defined as "a substantial, or potentially substantial, adverse change in the environment."[22] In certain circumstances, a project with potentially significant impacts can be modified by the adoption of mitigation measures to reduce the impacts to a level of insignificance. In such cases, an agency may satisfy its CEQA obligation by preparing a mitigated

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[15] Pub. Resources Code § 21002.1(a); CEQA Guidelines § 15002(a), (f).
[16] *No Oil, Inc. v. City of Richmond* (1974) 13 Cal.3d 68, 86.
[17] *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.
[18] Pub. Resources Code, § 21080, subd. (d) (emphasis added); CEQA Guidelines, § 15064; see also *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927; *Mejia v. City of Richmond* (2005) 13 Cal.App.4th 322.
[19] Pub. Resources Code, § 21002.1, subd. (a); CEQA Guidelines, § 15002, subd. (a) & (f).
[20] *Citizens of Lake Murray v. San Diego* (1989) 129 Cal.App.3d 436, 440; Pub. Resources Code, §§ 21100, 21064.
[21] Pub. Res. Code §§21080(d), 21082.2(d); 14 Cal. Code Reg. §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Richmond* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.
[22] Pub. Resources Code, § 21068.
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negative declaration.[23] A mitigated negative declaration, however, is also subject to the fair argument standard. Thus, an MND is also inadequate, and an EIR is required, whenever substantial evidence in the record supports a "fair argument" that significant impacts may occur, even with the imposition of mitigation measures.

The "fair argument" standard is an exceptionally "low threshold" favoring environmental review in an EIR rather than a negative declaration.[24] The "fair argument" standard requires the preparation of an EIR if any substantial evidence in the record indicates that a project may have an adverse environmental effect.[25] As a matter of law, substantial evidence includes both expert and lay opinion.[26] Even if other substantial evidence supports the opposite conclusion, the agency nevertheless must prepare an EIR.[27] Under the "fair argument" test, CEQA always resolves the benefit of the doubt in favor of the public and the environment.

Agencies are permitted to prepare an addendum to an adopted MND, rather than a subsequent EIR or negative declaration, if only "minor technical changes or additions are necessary or none of the conditions described in [CEQA Guidelines] Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred."[28] "If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration," and if no subsequent EIR is required, the agency "shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation." (CEQA Guidelines, § 15162, subd. (b).) Additionally, CEQA requires preparation of an EIR where "[s]ubstantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects."

Here, the changes proposed in the Addendum are not "minor technical changes or additions" but constitute major revisions to the 2018 IS/ND based on new significant environmental effects thus requiring the preparation of a negative

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[23] Pub. Resources Code, § 21064.5; CEQA Guidelines, § 15064, subd. (f)(2).
[24] *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.
[25] CEQA Guidelines, § 15064, subd. (f)(1); *Pocket Protectors v. City of Sacramento, supra*, 124 Cal.App.4th at 931.
[26] Pub. Resources Code, § 21080, subd. (e)(1); CEQA Guidelines, § 15064, subd. (f)(5).
[27] *Arviv Enterprises v. South Valley Area Planning Comm.* (2002) 101 Cal.App.4th 1333, 1346; *Stanislaus Audubon v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597.
[28] CEQA Guidelines, § 15164, subd. (b).
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declaration at a minimum, and an EIR if the impacts cannot be mitigated. As shown below, SWAPE provided substantial evidence that ROG emissions, and construction and demolition emissions may be significant and were not analyzed or mitigated in the 2018 IS/ND.

The California Supreme Court held that if "the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR."[29] Thus, "an agency [must] prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved, and courts must enforce that standard."[30]

In *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.*, the court held that the Community College District improperly prepared an addendum to an MND, because there was substantial evidence to support a fair argument that the project changes may result in a significant effect on the environment.[31] In that case, the court found that the change in the Project as detailed in the Addendum was significant enough to require additional environmental review, and that an Addendum was not the appropriate CEQA document. Similarly, here, the Project's changes, including the doubling of its height, increased air quality, public health, and hazards impacts results in new significant impact such that an Addendum is inappropriate and an EIR must be prepared. The ZAB must remand the Project to Staff to prepare a legally adequate EIR for the Project, because substantial evidence supports a fair argument that the Project's changes may result in significant impacts, which have not been avoided through the revisions in the Addendum. Project impacts remain significant and unmitigated, as detailed herein.

Moreover, the ZAB lacks the evidence necessary to approve the requested Use Permit for the Project because substantial evidence demonstrates that the Project will be detrimental to the general welfare. The Project Applicant has not made a commitment to ensure the Project is built with local skilled and trained workforce, or that the Project will provide apprenticeship training opportunities or

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[29] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.
[30] *Id.* at p. 959.
[31] (2022) 11 Cal.App.5th 596.
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healthcare benefits or other workforce benefits for City of Berkeley or East Bay residents. The Project may be built with low-wage, out-of-area workers who lack the livable wages, health benefits, stability, and basic standard of living that Berkeley has committed to ensuring for all of its workers on all housing developments constructed in the City. The Project would therefore be detrimental to the health, safety, peace, morals, comfort, and general welfare of the City and its residents, especially its local construction workforce who may not have the opportunity to build much-needed housing in their own community. The Project is also inconsistent with the workforce and economic requirements of the City of Berkeley General Plan ("General Plan").

The ZAB should remand the Project to Staff to prepare a legally adequate EIR and include conditions of approval requesting community benefits, including local hire provisions, workforce standards, and healthcare benefits for workers, to ensure the Project does not cause a detriment to the general welfare of the City.

III. THE PROJECT'S POTENTIALLY SIGNIFICANT HAZARDS IMPACTS REQUIRE PREPARATION OF AN EIR

The Project site is contaminated with hazardous contaminants from its historical use as a service station operated by Atlantic Richfield Company (ARCO).[32] ARCO later became an affiliate of BP and the site was operated as BP Station No. 00414 until it was sold to Mr. Shahzada Khan on February 25, 2004.[33] The Project site is listed on the State Water Resources Control Board's Geotracker database as Site T0600100094. The site is therefore on a Cortese List per Section 65962.5 of the Government Code. The Project site is currently an operational gas station and smog check location operated by Berkeley Gas & Smog. The Project site contained three underground storage tanks (USTs) that contained gasoline, and one waste oil UST.[34]

The Addendum tiers from the IS which states:

> The site is included on the list of hazardous materials sites compiled pursuant to Government Code 65962.5 (Cortese List) as "closed" cases. As

[32] Atlantic Richfield Company, Case Closure Summary Report Former British Petroleum Station #00414 City of Berkeley case #27540. 3000 Shattuck Avenue Berkeley, California (June 9, 2010), https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/8836282312/T0600100094.PDF p. 2/16 (hereinafter "Case Closure Summary Report").
[33] *Id.*
[34] *Id.*
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> described in the Environmental Setting, the RWQCB issued a case closure letter for the clean-up case in September 2014, concluding that the current plume is restricted to the site and does not present a current or potential risk to human health or the environment. Therefore, the project would not create a significant hazard to the public or the environment and the impact would be less than significant.[35]

The IS relies on the misleading statement that the cleanup case is "closed."[36] The Addendum then relies on the same misleading proposition. The Addendum states that "[t]here are two closed State Water Quality Control Board GeoTracker investigations on the project site (T0600100094 [closed 2013] and T10000004483 [closed 2014])."[37]

These statements are misleading because the site was closed to commercial/industrial screening levels, "based on the assumption that land use at the site will remain unchanged."[38] The Project site fails to meet the residential ESL levels necessary to place housing on the site. The site must undergo additional soil remediation to remove excess contaminants and reach acceptable residential ESLs because the site is being converted from commercial/industrial to residential use. People will live on the site, their children may play on the grounds, but the site was cleaned only to commercial/industrial screening levels. The contamination that currently remains onsite may result in health risk impacts to the residents and the community.

Moreover, the Addendum includes the Case Closure Summary Report that states that "[s]oil vapor samples have not been collected at the site."[39] The Case Closure Summary was required to include "Cumulative data tables for all soil, groundwater samples, including grab samples, and soil vapor ***must*** be included."[40] Data on soil vapor samples and cumulative data on the potential for soil vapor intrusion was not included in the Case Closure Summary, the Initial Study, or the Addendum and is not available for public review and scrutiny.

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[35] IS, https://www.dropbox.com/s/19ieh5spqqet2qb/IS-ND%20with%20appendices_3000%20Shattuck.pdf?dl=0, p. 23.
[36] *Id.*
[37] Addendum p. 22.
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[39] Case Closure Summary Report, p. 10/16.
[40] *Id.* at pdf 83 of 86.
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At the time of the site's closure in 2010, "[a] station building [was] present at the site and the entire site [was] paved, with no exposed soil present at the ground surface."[41] Project construction here, will disrupt and expose soil, potentially exposing dangerous and previously untested levels of soil vapor. At the time of the closure, the "potential for soil vapor intrusion was evaluated by comparing current groundwater concentrations to groundwater ESLs...for the protection of the vapor intrusion pathway in a ***commercial setting***."[42] The soil vapor and potential health risk impacts have not been analyzed for a residential setting and may pose a significant risk to residents of the Project site.

The City must draft an EIR because substantial evidence supports a fair argument that hazardous contamination and soil vapor may result in a significant environmental impact. The courts have repeatedly held that an EIR must be prepared, whenever it can be fairly argued on the basis of substantial evidence that a project may have a significant environmental impact.[43] Here, the City cannot approve the Project based on an Addendum to the Initial Study because project modification results in potentially significant impacts from hazardous contamination and soil vapor which were unstudied at the time of preparation of the 2018 IS/ND.

The California Supreme Court held that if "the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR."[44] Thus, "an agency [must] prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved, and courts must enforce that standard."[45] The City must prepare an EIR to adequately analyze and mitigate the Project's potentially significant and as yet unstudied impacts from soil vapor and hazardous contamination, before the Project can lawfully be approved.

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[41] Case Closure Summary Report, p. 10/16.
[42] *Id.*
[43] Pub. Resources Code § 21151; CEQA Guidelines § 15064(f); *Citizens for Responsible Equitable Envt'l Dev. v. City of Chula Vista* ("*CREED*") (2011) 197 Cal.App.4th 327, 330-31; *Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319 ("*CBE v. SCAQMD*").
[44] Friends of College of San Mateo Gardens v. San Mateo County Community College Dist. (2016) 1 Cal.5th 937, 958.
[45] Id. at p. 959.
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IV. THE PROJECT RESULTS IN SIGNIFICANT AIR QUALITY IMPACTS REQUIRING PREPARATION OF AN EIR

An EIR must be prepared, whenever it can be fairly argued on the basis of substantial evidence that a project may have a significant environmental impact.[46] "[S]ignificant effect on the environment" is defined as "a substantial, or potentially substantial, adverse change in the environment."[47] An effect on the environment need not be "momentous" to meet the CEQA test for significance; it is enough that the impacts are "not trivial."[48] Substantial evidence, for purposes of the fair argument standard, includes "fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact."[49] The Project may result in potentially significant impacts to air quality. Air quality impacts constitute new or increased significant environmental effects "not previously considered in connection with the project as originally approved."[50]

A. The Project Results in Significant ROG Emissions

East Bay Resident's air quality expert consultants at SWAPE found that the Project results in significant emissions from Reactive Organic Gas ("ROG") which exceed the Bay Area Air Quality Management District ("BAAQMD") threshold. BAAQMD provides that ROG emissions shall not exceed 54 pounds per day ("lbs/day"), but the Project would result in ROG emissions of 71.55 lbs/day.[51] The 2018 IS/ND makes no mention of ROG emissions, but the Addendum states that the ROG emissions would be 3 lbs/day.[52] This conclusion is not supported by substantial evidence. SWAPE found that the changes to the Project result in a 2,285% increase in ROG emissions, far and away exceeding the BAAQMD significance threshold. Therefore, ROG emissions remain significant and the Addendum nor the 2018 IS/ND adequately mitigate such impacts. The City must prepare an EIR to satisfy CEQA.

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[46] Pub. Resources Code § 21151; CEQA Guidelines § 15064(f); *Citizens for Responsible Equitable Envt'l Dev. v. City of Chula Vista* ("*CREED*") (2011) 197 Cal.App.4th 327, 330-31; *Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319 ("*CBE v. SCAQMD*").
[47] Pub. Resources Code § 21068; CEQA Guidelines § 15382; *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1581.
[48] *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83.
[49] Pub. Resources Code § 21080(e)(1) (emphasis added); *CREED*, 197 Cal.App.4th at 331.
[50] *Friends of College of San Mateo Gardens v. San Mateo Community College District, supra*, 1 Cal.5th at 959.
[51] SWAPE Comments, p. 5.
[52] Addendum, p. 14.
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The California Supreme Court held that if "the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR."[53] Further, "an agency [must] prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved, and courts must enforce that standard."[54]

East Bay Residents present substantial evidence, in these comments and in our expert comments attached, showing that the Project may result in potentially significant ROG emissions, which must be mitigated before the Project can be approved. These impacts were not considered in the prior 2018 IS/ND, and must be analyzed in an EIR. SWAPE's comments present dozens of effective mitigation measures to help reduce Project ROG, construction, and operational air emissions. Such measures should be implemented in an EIR's Mitigation Monitoring and Reporting Program. The City must prepare an EIR to study the previously unstudied and potentially significant air quality impacts from the Project, particularly with respect to ROG emissions, to satisfy CEQA.

B. The Addendum Underestimates the Project's Construction and Demolition Emissions

The Addendum states that Project construction will last 18 months.[55] The Addendum states that the original project included a construction period of 18 months as well.[56] But, the 2018 IS/ND provided that the construction period will last 20 months.[57] Thus, it is particularly troubling, that the Addendum's air quality analysis relies on a 21-month construction period, resulting in an underestimation of the Project's construction emissions. SWAPE concludes that the elongated construction duration results in an underestimation of the daily emissions resultant from construction equipment onsite. SWAPE concludes that the analysis improperly relies on the assumption that "there will be less construction activities

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[53] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.
[54] Id. at p. 959.
[55] Addendum, p. 3.
[56] *Id.*
[57] 2018 IS/ND.
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required per day and, consequently, less pollutants emitted per day."[58] The Addendum's air quality construction emissions calculations underestimate the Project's daily emissions and are therefore not supported by substantial evidence. The City must prepare a legally adequate EIR which accurately analyzes the Project's daily construction emissions with an accurate construction schedule guiding the analysis.

Further, the Addendum fails as an informational document under CEQA for failing to model the emissions associated with demolition of the existing building on the Project site. SWAPE concludes that the Addendum fails altogether to analyze the demolition phase of construction and inputted zeros into the calculations for square feet being demolished.[59] This is not an accurate assessment of the required demolition of the existing gas station, two gas pump islands, and related infrastructure.[60] Demolition of existing infrastructure will obviously exceed zero square feet of demolition activity, counter to the Addendum's unsupported calculations. SWAPE concludes that the failure to include the demolition emissions presents a significant issue, because by failing to include any amount of required demolition, the model underestimates the emissions associated with fugitive dust, debris removal, as well as exhaust from hauling trucks traveling to and from the site, which may be significant and remain unmitigated.[61] These impacts were not considered in the prior 2018 IS/ND, and must be analyzed in an EIR.

C. The Addendum Underestimates the Project's Construction Emissions from Trucking the Modular Units

The Addendum fails as an informational document under CEQA for failing to quantify and analyze the Project's potentially significant air pollution impacts from trucking the modular units potentially hundreds of miles to the Project site. The Addendum and 2018 IS/ND failed to quantify the potentially significant air quality, health risk, and cumulative impact associated with trucking the modular units. These modular units may be transported from out of state or hundreds of miles from the Project site. Absent an analysis of the emissions associated with trucking these modular units, the Addendum fails as an informational document under CEQA, and the conclusion that air impacts from Project construction are less than significant is not supported by substantial evidence.

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[58] SWAPE Comments, p. 4.
[59] *Id.*
[60] 2018 IS/ND, p. 6.
[61] SWAPE Comments, p. 5. s
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V. THE PROJECT RESULTS IN SIGNIFICANT CUMULATIVE IMPACTS REQUIRING PREPARATION OF AN EIR

CEQA requires agencies to analyze whether a project has impacts that are individually limited, but cumulatively considerable.[62] Cumulatively considerable means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects). Cumulative impacts are defined as "two or more individual effects, which, when considered together, are considerable or which compound or increase other environmental impacts."[63]

The Addendum fails to include any analysis supported by substantial evidence to conclude that the Project does not result in cumulatively considerable impacts. In fact, the Addendum only mentions cumulative impacts for traffic and air quality impacts, but dismisses all other potentially significant cumulative impacts out of hand, without providing substantial evidence to support the conclusions. The 2018 IS/ND concluded that because the Project is "an infill location" cumulative impacts are less than significant for all resource areas.[64] But, it is particularly because this Project is an infill project, that a cumulative analysis of concurrent construction impacts is so critical. Here, the Project is proposed to be constructed concurrently with the 2920 Shattuck Project, just down the street, among other new Berkeley high rise developments. Both this Project and the 2920 Shattuck project will result in potentially cumulatively significant air quality, hazards, and land use impacts that were not analyzed in conjunction with either Project's analysis.

The City must prepare an EIR which accurately analyzes the Project's potentially significant cumulative impacts before the Project can lawfully be approved.

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[62] 14 CCR § 15355(b); *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 905.
[63] 14 CCR § 15355.
[64] 2018 IS/ND, p. 38.
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VI. THE PROJECT MAY BE DETRIMENTAL TO THE GENERAL WELFARE OF THE CITY, RESIDENTS, AND WORKERS

In order to approve a Use Permit, under Berkeley Municipal Code Section 23.406.040, the Zoning Adjustments Board must find that the proposed project:

1) Will not be detrimental to the health, safety, peace, morals, comfort, or **general welfare** of persons residing or visiting in the area or neighborhood of the proposed use; and
2) Will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

Municipal Code Section 22.20.020 defines detrimental impacts to include, *inter alia*, increased demand for workforce housing, training, and benefits: "The increased demand for affordable housing, child care and public services, ***adequate employment training and placement facilities and amenities***, and the other impacts generated by development projects, unless mitigated, are detrimental to the City's public health, safety and general welfare."[65] Under Section 22.20.020, a detriment to the general welfare occurs when the City fails to mitigate the impacts of a development project, including the increased demand for housing, workforce training, and public services that may result from the Project.[66] Pursuant to Municipal Code Section 22.20.020, the Project's impacts to the general welfare for failure to provide employment training, placement facilities, and amenities, require mitigation.[67]

Further, the ZAB may approve a Use Permit for demolition of a non-residential building or structure only if the ZAB finds that "demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City of Berkeley"[68] Here, the ZAB cannot make the necessary findings that demolition of the existing structure and construction of the Project is in the public interest, absent community and workforce benefits to promote the general welfare.

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[65] BMC § 22.20.020(G) (emphasis added).
[66] *Id.*
[67] BMC § 22.20.020(G).
[68] *Id.* at § 23.326.070(D)(1).
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Housing projects, like this one, that are constructed with low-wage or uninsured construction workers are detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or visiting the City and the Project's Downtown neighborhood, as well as to the general welfare of the City. The City should request the Applicant include community benefits in the Project conditions of approval, including local hire provisions and healthcare standards and benefits in order to promote the general welfare.

A. The Project is Detrimental to the General Welfare for Failing to Hire Locally

Absent a provision requiring the Applicant to hire locally, the Project may be detrimental to the general welfare of Berkeley residents. Local hire commitments are a critical way not only to hire local residents, but to use project hiring needs to target opportunities to low-income residents and people of color who might otherwise not benefit from new development.[69] Local hire programs help address the fragmentation inherent in the development process, establishing better communication among developers, employers, community organizations, local job training resources, and the workforce development system that can provide job readiness and job retention support services.[70] Here, the Project Applicant has not made a commitment to ensure the Project is built with local skilled and trained workforce. The Project is therefore likely to be detrimental to City goals and the Berkeley community – particularly to its highly qualified construction workforce, who may not have the opportunity to build much-needed housing in their own community. The City should request the Applicant provide a local hire percentage of 30 percent as a community benefit for the Project.

B. The Project is Detrimental to the General Welfare for Failing to Provide Healthcare to Construction Workers

Further, the Project has not committed to healthcare standards or benefits for the construction workers building the Project. This results in a detriment to the general welfare of the City and its residents, including in particular, to its construction worker residents. By failing to provide healthcare for its construction

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[69] Kathleen Mulligan-Hansel, *Making Development Work for Local Residents: Local Hire Programs and Implementation Strategies that Serve Low-Income Communities,* (July 2008). Available at: https://s3.amazonaws.com/proggov21-uploads/uploads/asset/asset_file/Making_Development_Work_Local_Residents_Mulligan-HanselPWF2008.pdf.

[70] *Id.*

workers, the Project leaves the responsibility of providing for the health, safety, and welfare of the workers and the community on the workers themselves, or on taxpayer-funded public assistance, thus externalizing the cost of construction. By failing to provide healthcare standards, the Project would perpetuate existing income and healthcare inequities for construction workers, causing a detriment to the general welfare by failing to provide for the health and safety of its workers. The City should request the Applicant provide healthcare benefits as a community benefit of the Project.

Project construction will increase the local demand for a construction workforce. The Project's lack of workforce standards and worker healthcare may exacerbate the existing demand for local affordable housing and public services by construction workers that currently receive low pay without benefits. Without mitigation, these impacts remain significant, and the ZAB cannot make the necessary findings that the Project complies with the General Plan and zoning code. To comply with the General Plan Economic Development and Employment Element, the City must ensure that new housing developments provide jobs that go to Berkeley residents and provide job training programs and job readiness.

Moreover, the Municipal Code provides that the "Zoning Ordinance establishes *minimum* requirements to promote the public health, safety, and general welfare."[71] The Municipal Code also provides that, "[t]o the extent possible, it is the government's responsibility to balance the responsibility to ensure the health, safety, and general welfare of the public at large in a fiscally and environmentally sustainable manner."[72] It is therefore the responsibility of the Zoning Adjustment Board to promote the general welfare beyond the minimum required by law. Here, the ZAB must require the Project to include community benefits like those detailed herein, otherwise, the Project contravenes the Municipal Code and General Plan.

VII. THE PROJECT IS INCONSISTENT WITH THE GENERAL PLAN

CEQA requires an agency to analyze whether a project conforms with the applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an

[71] BMC § 22.104.030.
[72] *Id.* at § 2.09.020.
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environmental effect.[73] The Addendum fails as an informational document under CEQA for failing to analyze the Project's inconsistency with the General Plan.

A. The Project is Inconsistent with the General Plan Economic Development & Employment Element

The Project is inconsistent with the General Plan Economic Development & Employment Element, and thus cannot be approved until consistency is demonstrated.[74] The General Plan Economic Development and Employment Element Policy (ED-1) provides that the City must "[i]ncrease the number of jobs that go to Berkeley citizens by coordinating economic development efforts with employment placement."[75] Further, the General Plan provides that the City intends to "[w]ork with job training programs and encourage training for life skills, job readiness, and specific target industries."[76] The Project does not include any commitment to provide construction jobs to Berkeley or East Bay residents, and does not contribute to any apprenticeship or other construction job training programs. Housing development projects in the City must also implement the goals and policies of the General Plan, including the following:

1) Ensure that Berkeley has an adequate supply of decent housing, living wage jobs, and businesses providing basic goods and services.
2) New housing will be developed to expand housing opportunities in Berkeley to meet the needs of all income groups.[77]

The City has determined that "it is in the City of Berkeley's economic interest to support a pipeline of skilled workers to accomplish the construction objectives and policies of the Berkeley General Plan."[78] The Project must support this goal by

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[73] CEQA Guidelines Appendix G, XI Land Use and Planning.
[74] SB 330 requires conformance with applicable, objective general plan and zoning standards. Gov. Code § 65905.5. (a).
[75] Berkeley General Plan Economic Development and Employment Element, p. ED-5. Available at: https://berkeleyca.gov/sites/default/files/documents/12_Economic%20Development%20and%20Employment%20Element-FINAL.pdf.
[76] *Id.*
[77] Berkeley General Plan Economic Development and Employment Element, p. ED-5.
[78] City of Berkeley, Agenda and Staff Report, Berkeley City Council, Council Consent Item 14 Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS), https://berkeleyca.gov/sites/default/files/city-council-meetings/2022-09-20%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf ("HARD HATS Staff Report") (Sept. 20, 2022) p. 7.
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including community benefits such as local hire and healthcare and workforce benefits, otherwise the Project is detrimental to the general welfare, violates the General Plan, and may not be approved.

Moreover, the Project's failure to provide sufficient affordable housing onsite contravenes the General Plan's objective that development in the City should ensure an "adequate supply of decent housing."[79] The City may allow the Applicant to pay a fee, in-lieu of providing an adequate supply of affordable housing on the Project site.[80] If the City continues this practice of allowing developers to get away with paying in lieu fees, instead of providing onsite affordable housing, the City will have an insufficient supply of decent affordable housing as required by the General Plan. The Project's failure to provide *onsite* affordable housing for local residents therefore contravenes the General Plan's Economic Development and Employment Element and cannot be approved by ZAB.

VIII. THE PROJECT IS INCONSISTENT WITH THE CITY'S HOUSING ELEMENT

CEQA requires an agency to analyze whether a project conforms with the applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.[81] The Addendum fails as an informational document under CEQA for failing to analyze the Project's inconsistency with the Housing Element.

The Project proposes to construct a ten-story residential building containing 166 dwelling units (17 Very Low-Income unit).[82] The project is seeking a 50% Density Bonus by providing 15% of the base project units as affordable to very low-income households. The Developer stated in their application for the Project that in order to "comply with City of Berkeley Affordable Housing rental requirements, the project will also be providing additional Affordable Units and/or/or-in-combination-

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[79] Berkeley General Plan Economic Development and Employment Element, p. ED-5.
[80] City of Berkeley Planning and Development, Zoning Project Application, 3000 Shattuck Ave. Berkeley CA 94705 (March 14, 2022), https://www.dropbox.com/s/n987ldxqb6pesmp/2022-03-29_APP_PCKT_3000%20Shattuck%20%281%29.pdf?dl=0.
[81] CEQA Guidelines Appendix G, XI Land Use and Planning.
[82] Addendum p. 2.
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with providing an in-lieu Mitigation Fee per the City of Berkeley requirements."[83] More affordable units must be provided for the Project to be consistent with the City's Housing Element and state law.

The Regional Housing Needs Assessment is the California State-required process that seeks to ensure cities and counties plan for enough housing in their Housing Element cycle to accommodate all economic segments of the community.[84] Accordingly, the Housing Element of the City's General Plan identifies the City's housing conditions and needs, evaluates the City's ability to meet its Regional Housing Needs Allocation ("RHNA"), establishes the goals, objectives, and policies of the City's housing strategy, and provides an array of programs to create mixed-income neighborhoods across the City.[85] The Housing Element, which was amended on February 17, 2023, states that "the City has a remaining RHNA of 5,033 units (1,923 very low income; 852 low income; 1,227 moderate income; and 1,031 above moderate income units)... The City must identify adequate sites capacity for this remaining RHNA."[86] Accordingly, Policy H-1 – Extremely Low, Very Low, Low and Moderate-Income Housing – provides: "Increase the number of housing units affordable to Berkeley residents with lower income levels."[87] Because the City has not produced and is not expected to produce enough affordable housing to meet its RHNA, projects that do not contribute to the City's RHNA are inconsistent with the City's Housing Element, a primary goal of which is to meet the RHNA.

Berkeley Municipal Code Section 23.328.010 provides that residential housing projects constructing five or more dwelling units must include at least 20 percent of the total number of dwelling units within the project as inclusionary units. As an alternative to providing inclusionary units required in an ownership project, the applicant may elect to enter in an agreement with the City to pay fees in-lieu of providing below-market rate units.[88]

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[83] City of Berkeley Planning and Development, Zoning Project Application, 3000 Shattuck Ave. Berkeley CA 94705 (March 14, 2022), https://www.dropbox.com/s/n987ldxqb6pesmp/2022-03-29_APP_PCKT_3000%20Shattuck%20%281%29.pdf?dl=0.

[84] Cal. Gov. Code Section 65580 – 65589.9; *see* City of Berkeley, Adopted 2023-2031 Housing Element, available at https://berkeleyca.gov/sites/default/files/documents/Berkeley_2023-2031%20Housing%20Element_02-17-2023v2_0.pdf.

[85] *Id.*

[86] City of Berkeley, Adopted 2023-2031 Housing Element, p 107.

[87] *Id.* at 15.

[88] Effective July 1, 2022, the fee is set at follows: Paid at Certificate of Occupancy: $46,185 per rental unit; or Paid at building permit: $43,185 per rental unit.

However, the City has failed to meet its RHNA in previous cycles. Under the 5th RHNA Cycle from 2015-2023, Berkeley was required to plan for 2,959 units.[89] This includes 532 at very low income, 442 at low income, 584 at moderate income, and 1,401 at above moderate income. The Housing Element states that 3,742 units have been built, or 126% of the target. However, the targets for affordable housing were missed, with 309 very low income (58%), 130 low income (29%), and 106 moderate income (18%) units completed. 3,197 units of above moderate, or market rate housing was built, which was 228% of the goal. Thus, the City already has adequate above moderate and market rate housing units to meet its RHNA requirements, but is short on production of affordable units.

Here, the Project fails to provide the City's required 20% affordable units on-site, contributing to the City's current shortage of affordable units, while at the same time taking a viable project site out of production for those additional affordable units. Although the Project will pay an in-lieu fee, the Project would not be consistent with the Housing Element because it places the burden on the City to identify alternate sites to construct affordable housing units in time to meet its RHNA requirements.[90]

The Applicant's proposal to pay in lieu fees instead of providing 20% on-site affordable units for the 3000 Shattuck Project is not unique. The Project is one of at least three concurrent projects proposed by the Applicant, which similarly fail to contribute an adequate percentage of affordable units. The Applicant also proposes to construct the 2900-2920 Shattuck Avenue Project,[91] a ten-story residential building containing 221 dwelling units (22 Very Low-Income unit).[92] The 2920 Shattuck Avenue project is seeking a 46.25% Density Bonus by providing only 14% of the base project units as affordable to very low-income households.[93] The Applicant's 1598 University Project similarly proposes to pay an in lieu fee for the affordable units required by the City in excess of the on-site affordable necessary to qualify for a density bonus. The Applicant's decision not to provide the recommended 20% of on-site affordable units for its pending projects contributes to a cumulative shortage of affordable units that the City should address before considering approval of this Project.

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[89] City of Berkeley, Adopted 2023-2031 Housing Element, pg. D-8.
[90] City of Berkeley, Adopted 2023-2031 Housing Element, p. 107.
[91] Use Permit #ZP2022-0116 (APN: 053 159000501).
[92] City of Berkeley, Zoning Project Application, 2920 Shattuck Ave. Berkeley CA 94705, APN 053 159000501, (Sept. 4, 2022), https://www.dropbox.com/s/528twax3fw4fw9p/2022-09-04_APP_PCKT_2920%20Shattuck.pdf?dl=0 ("Application Packet"), pdf pg. 2108 of 2143.
[93] City of Berkeley, Zoning Project Application, 2920 Shattuck Ave.
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IX. CONCLUSION

CEQA requires that an agency prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved may have a significant environmental impact not previously considered in connection with the project as originally approved.[94] As discussed herein, there is substantial evidence supporting a fair argument that the Project would result in significant adverse impacts that were not considered in the prior 2018 IS/ND, and that are not adequately analyzed or mitigated. The Project is detrimental to the general welfare for failing to provide workforce and community benefits.

The Addendum also fails to contain the basic information and analysis required by CEQA, deficiencies which "cannot be dismissed as harmless or insignificant defects."[95] The City's findings regarding Project impacts do not comply with the law and are not supported by substantial evidence. The City cannot approve the Project until it prepares an EIR that resolves these issues and complies with CEQA's requirements.

Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Sincerely,



Kelilah D. Federman

KDF:ljl

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[94] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.
[95] *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1220.
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EXHIBIT A

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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April 10, 2023

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601 Gateway Blvd #1000
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Subject: Comments on the 3000 Shattuck Mixed-Use Project (SCH No. 2017062025)

Dear Ms. Federman,

We have reviewed the January 2023 Addendum ("Addendum") and the 2018 Final Initial Study and Negative Declaration ("FIS/ND") for the 3000 Shattuck Mixed-Use ("Project") located in the City of Berkeley ("City"). The Project proposes to demolish the existing 1,163-square-foot ("SF") gas station and construct 80,235-SF of residential space, as well as 1,095-SF of retail space on the 0.31-acre site.

Our review concludes that the Addendum fails to adequately evaluate the Project's air quality impacts. As a result, emissions associated with construction of the proposed Project are underestimated and inadequately addressed. An Environmental Impact Report ("EIR") should be prepared to adequately assess and mitigate the potential air quality impacts that the project may have on the environment.

Air Quality

Failure to Provide Complete CalEEMod Output Files

Land use development projects under the California Environmental Quality Act ("CEQA") typically evaluate air quality impacts and calculate potential criteria air pollutant emissions using the California Emissions Estimator Model ("CalEEMod").[1] CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but CEQA requires that such changes be justified by substantial evidence. Once all of the values are inputted into the model, the Project's

[1] "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide.

construction and operational emissions are calculated, and "output files" are generated. These output files disclose to the reader what parameters are utilized in calculating the Project's air pollutant emissions and make known which default values are changed as well as provide justification for the values selected. Regarding the evaluation of the criteria air pollutant emissions associated with Project construction and operation, the Addendum states:

> "Additionally, since the adoption of the 2018 Final IS-ND, a new version (2022.1) of California Emissions Estimator Model (CalEEMod) has been published. Based on these updates, updated emissions estimates for the modified project were calculated for this analysis" (p. 14).

As stated above, the Addendum relies on CalEEMod Version 2022.1 to estimate the Project's emissions. However, this poses a problem as the currently available version of CalEEMod 2022.1 is described as a "soft release" which fails to provide complete output files.[2] Specifically, the "User Changes to Default Data" table no longer provides the quantitative counterparts to the changes to the default values (see excerpt below) (Appendix A, pp. 83):

8. User Changes to Default Data

Section	Justification
Land Use	Project site plans
Construction: Construction Phases	Applicant provided
Operations: Hearths	no fireplaces or woodstoves

However, previous CalEEMod Versions, such as 2020.4.0, include the specific numeric changes to the model's default values (see example excerpt below):

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	230.00	167.00
tblConstructionPhase	PhaseEndDate	11/22/2023	8/25/2023
tblConstructionPhase	PhaseEndDate	9/27/2023	6/30/2023
tblConstructionPhase	PhaseEndDate	10/25/2023	7/28/2023
tblConstructionPhase	PhaseStartDate	10/26/2023	7/29/2023
tblConstructionPhase	PhaseStartDate	9/28/2023	7/1/2023
tblLandUse	LandUseSquareFeet	160,000.00	160,371.00
tblLandUse	LandUseSquareFeet	119,000.00	41,155.00
tblLandUse	LotAcreage	3.67	3.68
tblLandUse	LotAcreage	2.73	2.74

Thus, the output files associated with CalEEMod Version 2022.1 fail to disclose the exact parameters utilized to calculate Project emissions. To remedy this issue, the Addendum should have provided access to the model's ".JSON" output files, which allow third parties to review the model's revised input parameters.[3] Without access to the complete output files, including the specific numeric changes to the

[2] "CalEEMod California Emissions Estimator Model Soft Release." California Air Pollution Control Officers Association (CAPCOA), 2022, *available at:* https://caleemod.com/.
[3] "Video Tutorials for CalEEMod Version 2022.1." California Air Pollution Control Officers Association (CAPCOA), May 2022, *available at:* https://www.caleemod.com/tutorials.

default values, we cannot verify that the Addendum's air modeling and subsequent analysis is an accurate reflection of the proposed Project. As a result, an EIR should be prepared to include an updated air quality analysis that correctly provides the complete output files for CalEEMod Version 2022.1, or includes an updated air model using an older release of CalEEMod.[4]

Unsubstantiated Input Parameters Used to Estimate Project Emissions

As previously discussed, the Addendum relies on CalEEMod Version 2022.1 to estimate the Project's air quality emissions and fails to provide the complete output files required to adequately evaluate model's analysis (p. 14).[5] Regardless, when reviewing the Project's CalEEMod output files, provided as Appendix A to the Addendum, we were able to identify several model inputs that are inconsistent with information disclosed in the Addendum. As such, the Project's construction emissions are underestimated. An EIR should be prepared to include an updated air quality analysis that adequately evaluates the impacts that construction of the Project will have on local and regional air quality.

Incorrect and Unsubstantiated Construction Schedule

Review of the CalEEMod output files demonstrates that the "3000 Shattuck Detailed Report" model includes the following construction schedule (see excerpt below) (Appendix A, pp. 70):

Phase Name	Phase Type	Start Date	End Date	Days Per Week	Work Days per Phase
Site Preparation	Site Preparation	7/3/2023	11/15/2023	5.00	98.0
Grading	Grading	11/16/2023	1/1/2024	5.00	33.0
Building Construction	Building Construction	1/2/2024	2/10/2025	5.00	290
Paving	Paving	1/2/2024	7/31/2024	5.00	152
Architectural Coating	Architectural Coating	2/11/2025	3/30/2025	5.00	34.0

According to the "User Changes to Default Data" table, the justification provided for this schedule is:

> "Applicant provided" (Appendix A, pp. 83).

Additionally, regarding Project construction, the Addendum states:

> "Site preparation, construction procedures, and proposed utility connections would remain like the original project. Please refer to the 2018 Final IS-ND for details regarding these project components. Overall construction of the modified project would occur over a similar time span as was anticipated for the original project but would be more intensive due to the height increase" (p. 2).

Furthermore, regarding the Project's anticipated construction duration, the FIS/ND states:

> "The project would include demolition of the existing building and surface parking lot on the site. [...] Construction would take place over an 18-month period" (p. 7).

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[4] "CalEEMod Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* http://www.aqmd.gov/caleemod/download-model.
[5] "CalEEMod Version 2022.1.0." California Air Pollution Control Officers Association (CAPCOA), May 2022, *available at:* https://www.caleemod.com/.

However, the model's construction schedule is incorrect and unsubstantiated for three reasons.

First, as discussed by the FIS/ND, the construction of the Project is anticipated to occur over 18 months. However, the model includes a 21-month total construction length, and is therefore overestimated by 3 months. By including an overestimated construction schedule, the model is incorrect and inconsistent with information provided by the Addendum and associated documents.

Second, the model does not include a demolition phase of construction. This is incorrect, as the Addendum clearly states that demolition would be required prior to Project construction:

> "Like the original project, the modified project would involve demolition of the existing structures on the site, as detailed in the 2018 Final IS-ND for the original project" (p. 6)

As such, the model's construction schedule is incorrect and inconsistent with information provided by the Addendum and associated documents.

Third, the model's revised construction schedule remains unsubstantiated as the Addendum and associated documents fail to mention the Project's proposed *individual* construction phases whatsoever. This is inconsistent with guidance provided by the CalEEMod User's Guide:

> "CalEEMod was also designed to allow the user to change the defaults to reflect site-or project-specific information, when available, provided that the information is supported by substantial evidence as required by CEQA."[6]

As the Addendum and associated documents only mention the Project's total construction duration of 18 months, the Addendum fails to provide substantial evidence to support the revised individual construction phase lengths. As such, we cannot verify the changes. Instead, the model should have proportionately altered all phase lengths to match the proposed construction duration of 18 months.[7]

By including an incorrect and overestimated construction schedule, the model assumes there are a greater number of days to complete the construction activities required by the prolonged phases. As a result, there will be less construction activities required per day and, consequently, less pollutants emitted per day. As such, the model underestimates the peak daily emissions associated with Project construction and should not be relied upon to determine Project significance.

Failure to Model Demolition

Regarding demolition of the existing building, the Addendum states:

> "Like the original project, the modified project would involve demolition of the existing structures on the site, as detailed in the 2018 Final IS-ND for the original project" (p. 6)

[6] "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: https://www.aqmd.gov/caleemod/user's-guide,p. 13,14.

[7] See Attachment A for proportionately altered construction schedule.

However, as previously mentioned, review of the CalEEMod output files demonstrates that the "3000 Shattuck Detailed Report" model fails to include a demolition phase of construction. Furthermore, the model fails to include any amount of demolition debris (see excerpt below) (Appendix A, pp. 72).

Phase Name	Material Imported (Ton of Debris)	Material Exported (Ton of Debris)	Acres Graded (acres)	Material Demolished (sq. ft.)
Site Preparation	0.00	0.00	20.5	0.00
Grading	0.00	0.00	15.8	0.00
Paving	0.00	0.00	0.00	0.00

By failing to include any amount of demolition material, the model is inconsistent with the information provided in the Addendum.

This inconsistency presents an issue, as demolition material is used by CalEEMod to determine emissions associated with the demolition phase of construction. The three primary operations that generate dust emission during the demolition phase are mechanical or explosive dismemberment, site removal of debris, and on-site truck traffic on paved and unpaved road.[8] By failing to include any amount of required demolition, the model underestimates the emissions associated with fugitive dust, debris removal, as well as exhaust from hauling trucks traveling to and from the site, and should not be relied upon to determine the significance of the Project's air quality impacts.

Updated Analysis Indicates a Potentially Significant Air Quality Impact

In an effort to more accurately estimate the Project's construction-related emissions we prepared an updated CalEEMod model, using the Project-specific information provided by the Addendum. In our updated model, we included the required amount of demolition and proportionately altered the individual construction phase lengths to match the proposed construction duration of 18 months.[9]

Our updated analysis estimates that the Reactive Organic Gas ("ROG") emissions associated with Project construction exceed the applicable BAAQMD threshold of 54 pounds per day ("lbs/day"), as referenced by the Addendum (p. 14) (see table below).[10]

[8] "CalEEMod User's Guide Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide, p. 11.
[9] See Attachment B for updated CalEEMod model.
[10] "California Environmental Quality Act Air Quality Guidelines." BAAQMD, May 2017, *available at:* https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en&rev=0d2d971e661d41f28a56953f1776bdde, p. 2-2.

SWAPE Criteria Air Pollutant Emissions	
Construction	**ROG (lbs/day)**
Addendum	3.0
SWAPE	71.55
% Increase	2,285%
BAAQMD Threshold	**54**
Exceeds?	*Yes*

As demonstrated above, construction-related ROG emissions, as estimated by SWAPE, increase by approximately 2,285% and exceed the applicable BAAQMD significance threshold. Our updated modeling demonstrates that the Project would result in a potentially significant air quality impact that was not previously identified or addressed by the Addendum. As a result, an EIR should be prepared to adequately assess and mitigate the potential air quality impacts that the Project may have on the environment.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

Our analysis demonstrates that the Project would result in potentially significant air quality impacts that should be mitigated further. As such, in an effort to reduce the Project's emissions, we identified several mitigation measures that are applicable to the proposed Project. Therefore, to reduce the Project's emissions, we recommend consideration of SCAG's 2020 *RTP/SCS* PEIR's Air Quality Project Level Mitigation Measures ("PMM-AQ-1"):[11]

SCAG RTP/SCS 2020-2045
Air Quality Project Level Mitigation Measures – PMM-AQ-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency:
a) Minimize land disturbance.
b) Suspend grading and earth moving when wind gusts exceed 25 miles per hour unless the soil is wet enough to prevent dust plumes.
c) Cover trucks when hauling dirt.
d) Stabilize the surface of dirt piles if not removed immediately.

[11] "4.0 Mitigation Measures." Connect SoCal Program Environmental Impact Report Addendum #1, September 2020, available at: https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocal_addendum_4_mitigationmeasures.pdf?1606004420, p. 4.0-2 – 4.0-10; 4.0-19 – 4.0-23; See also: "Certified Final Connect SoCal Program Environmental Impact Report." Southern California Association of Governments (SCAG), May 2020, *available at:* https://scag.ca.gov/peir.

e) Limit vehicular paths on unpaved surfaces and stabilize any temporary roads.
f) Minimize unnecessary vehicular and machinery activities.
g) Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
h) Revegetate disturbed land, including vehicular paths created during construction to avoid future off-road vehicular activities.
j) Require contractors to assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that could be used an aggregate of 40 or more hours for the construction project. Prepare a plan for approval by the applicable air district demonstrating achievement of the applicable percent reduction for a CARB-approved fleet.
k) Ensure that all construction equipment is properly tuned and maintained.
l) Minimize idling time to 5 minutes—saves fuel and reduces emissions.
m) Provide an operational water truck on-site at all times. Use watering trucks to minimize dust; watering should be sufficient to confine dust plumes to the project work areas. Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
n) Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators.
o) Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.
p) As appropriate require that portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, obtain CARB Portable Equipment Registration with the state or a local district permit. Arrange appropriate consultations with the CARB or the District to determine registration and permitting requirements prior to equipment operation at the site.
q) Require projects within 500 feet of residences, hospitals, or schools to use Tier 4 equipment for all engines above 50 horsepower (hp) unless the individual project can demonstrate that Tier 4 engines would not be required to mitigate emissions below significance thresholds.
s) Projects located within AB 617 communities should review the applicable Community Emissions Reduction Plan (CERP) for additional mitigation that can be applied to individual projects.
t) Where applicable, projects should provide information about air quality related programs to schools, including the Environmental Justice Community Partnerships (EJCP), Clean Air Ranger Education (CARE), and Why Air Quality Matters programs.
u) Projects should work with local cities and counties to install adequate signage that prohibits truck idling in certain locations (e.g., near schools and sensitive receptors).
x) As applicable for rail projects, the following measures should be considered...
z) Develop an ongoing monitoring, inspection, and maintenance program for the MERV filters.
bb) The following criteria related to diesel emissions shall be implemented on by individual project sponsors as appropriate and feasible: - Diesel nonroad vehicles on site for more than 10 total days shall have either (1) engines that meet EPA on road emissions standards or (2) emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85% - Diesel generators on site for more than 10 total days shall be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%. - Nonroad diesel engines on site shall be Tier 2 or higher. - Diesel nonroad construction equipment on site for more than 10 total days shall have either (1) engines meeting EPA Tier 4 nonroad emissions standards or (2) emission control technology verified by EPA or

CARB for use with nonroad engines to reduce PM emissions by a minimum of 85% for engines for 50 hp and greater and by a minimum of 20% for engines less than 50 hp.

- Emission control technology shall be operated, maintained, and serviced as recommended by the emission control technology manufacturer.
- Diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend approved by the original engine manufacturer with sulfur content of 15 ppm or less.
- The construction contractor shall maintain a list of all diesel vehicles, construction equipment, and generators to be used on site. The list shall include the following:
    i. Contractor and subcontractor name and address, plus contact person responsible for the vehicles or equipment.
    ii. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation.
    iii. For the emission control technology installed: technology type, serial number, make, model, manufacturer, EPA/CARB verification number/level, and installation date and hour-meter reading on installation date.
- The contractor shall establish generator sites and truck-staging zones for vehicles waiting to load or unload material on site. Such zones shall be located where diesel emissions have the least impact on abutters, the general public, and especially sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.
- The contractor shall maintain a monthly report that, for each on road diesel vehicle, nonroad construction equipment, or generator onsite, includes:
    i. Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
    ii. Any problems with the equipment or emission controls.
    iii. Certified copies of fuel deliveries for the time period that identify:
        1. Source of supply
        2. Quantity of fuel
        3. Quantity of fuel, including sulfur content (percent by weight)

These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduce emissions released during Project construction and operation.

Furthermore, as it is policy of the State that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045, we emphasize the applicability of incorporating solar power system into the Project design. Until the feasibility of incorporating on-site renewable energy production is considered, the Project should not be approved.

An EIR should be prepared to include all feasible mitigation measures, as well as include an updated air quality analysis to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds. The EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

Disclaimer

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,

Matt Hagemann, P.G., C.Hg.

Paul E. Rosenfeld, Ph.D.

Attachment A: Proportionately Altered Construction Schedule
Attachment B: Updated CalEEMod Output Files
Attachment C: Matt Hagemann CV
Attachment D: Paul Rosenfeld CV

Attachment A

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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Geologic and Hydrogeologic Characterization
Investigation and Remediation Strategies
Litigation Support and Testifying Expert
Industrial Stormwater Compliance
CEQA Review

Education:

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.
B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

Professional Certifications:

California Professional Geologist
California Certified Hydrogeologist
Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2104, 2017;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989-- 1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt's responsibilities have included:

- Lead analyst and testifying expert in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.

With Komex H2O Science Inc., Matt's duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.
- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted

public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation-wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

Policy:

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9.

Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, Oxygenates in Water: Critical Information and Research Needs.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific

principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

Geology:

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt is currently a part time geology instructor at Golden West College in Huntington Beach, California where he taught from 2010 to 2014 and in 2017.

Invited Testimony, Reports, Papers and Presentations:

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Coloradao.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal repesentatives, Parker, AZ.

Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

Hagemann, M.F., 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

Hagemann, M.F., 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

Hagemann, M.F., 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

Hagemann, M.F., 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

Hagemann, M.F., 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and **Hagemann, M.F.** 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukanaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

Other Experience:

Selected as subject matter expert for the California Professional Geologist licensing examinations, 2009-2011.

Attachment B

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

SOIL WATER AIR PROTECTION ENTERPRISE
2656 29th Street, Suite 201
Santa Monica, California 90405
Attn: Paul Rosenfeld, Ph.D.
Mobil: (310) 795-2335
Office: (310) 452-5555
Fax: (310) 452-5550
Email: prosenfeld@swape.com

Paul Rosenfeld, Ph.D.

Chemical Fate and Transport & Air Dispersion Modeling

Principal Environmental Chemist

Risk Assessment & Remediation Specialist

Education

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Thesis on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years' experience conducting environmental investigations and risk assessments for evaluating impacts to human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risk, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, industrial, military and agricultural sources, unconventional oil drilling operations, and locomotive and construction engines. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities. Dr. Rosenfeld has also successfully modeled exposure to contaminants distributed by water systems and via vapor intrusion.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particulate matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, creosote, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants. Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at sites and has testified as an expert witness on numerous cases involving exposure to soil, water and air contaminants from industrial, railroad, agricultural, and military sources.

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
UCLA School of Public Health; 2003 to 2006; Adjunct Professor
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
UCLA Institute of the Environment, 2001-2002; Research Associate
Komex H_2O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health.* 18:48

Simons, R.A., Seo, Y. **Rosenfeld, P.**, (2015) Modeling the Effect of Refinery Emission On Residential Property Value. Journal of Real Estate Research. 27(3):321-342

Chen, J. A, Zapata A. R., Sutherland A. J., Molmen, D.R., Chow, B. S., Wu, L. E., **Rosenfeld, P. E.,** Hesse, R. C., (2012) Sulfur Dioxide and Volatile Organic Compound Exposure To A Community In Texas City Texas Evaluated Using Aermod and Empirical Data. *American Journal of Environmental Science*, 8(6), 622-632.

Rosenfeld, P.E. & Feng, L. (2011). *The Risks of Hazardous Waste.* Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2011). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Agrochemical Industry*, Amsterdam: Elsevier Publishing.

Gonzalez, J., Feng, L., Sutherland, A., Waller, C., Sok, H., Hesse, R., **Rosenfeld, P.** (2010). PCBs and Dioxins/Furans in Attic Dust Collected Near Former PCB Production and Secondary Copper Facilities in Sauget, IL. *Procedia Environmental Sciences*. 113–125.

Feng, L., Wu, C., Tam, L., Sutherland, A.J., Clark, J.J., **Rosenfeld, P.E.** (2010). Dioxin and Furan Blood Lipid and Attic Dust Concentrations in Populations Living Near Four Wood Treatment Facilities in the United States. *Journal of Environmental Health*. 73(6), 34-46.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2010). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Wood and Paper Industries.* Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2009). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Petroleum Industry*. Amsterdam: Elsevier Publishing.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P**. (2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. *WIT Transactions on Ecology and the Environment, Air Pollution,* 123 (17), 319-327.

Tam L. K.., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, 70, 002252-002255.

Tam L. K.., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, 70, 000527-000530.

Hensley, A.R. A. Scott, J. J. J. Clark, **Rosenfeld, P.E.** (2007). Attic Dust and Human Blood Samples Collected near a Former Wood Treatment Facility. *Environmental Research.* 105, 194-197.

Rosenfeld, P.E., J. J. J. Clark, A. R. Hensley, M. Suffet. (2007). The Use of an Odor Wheel Classification for Evaluation of Human Health Risk Criteria for Compost Facilities. *Water Science & Technology* 55(5), 345-357.

Rosenfeld, P. E., M. Suffet. (2007). The Anatomy Of Odour Wheels For Odours Of Drinking Water, Wastewater, Compost And The Urban Environment. *Water Science & Technology* 55(5), 335-344.

Sullivan, P. J. Clark, J.J.J., Agardy, F. J., **Rosenfeld, P.E.** (2007). *Toxic Legacy, Synthetic Toxins in the Food, Water, and Air in American Cities.* Boston Massachusetts: Elsevier Publishing

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash. *Water Science and Technology.* 49(9),171-178.

Rosenfeld P. E., J.J. Clark, I.H. (Mel) Suffet (2004). The Value of An Odor-Quality-Wheel Classification Scheme For The Urban Environment. *Water Environment Federation's Technical Exhibition and Conference (WEFTEC) 2004.* New Orleans, October 2-6, 2004.

Rosenfeld, P.E., and Suffet, I.H. (2004). Understanding Odorants Associated With Compost, Biomass Facilities, and the Land Application of Biosolids. *Water Science and Technology.* 49(9), 193-199.

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash, *Water Science and Technology*, 49(9), 171-178.

Rosenfeld, P. E., Grey, M. A., Sellew, P. (2004). Measurement of Biosolids Odor and Odorant Emissions from Windrows, Static Pile and Biofilter. *Water Environment Research.* 76(4), 310-315.

Rosenfeld, P.E., Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office*, Publications Clearinghouse (MS–6), Sacramento, CA Publication #442-02-008.

Rosenfeld, P.E., and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution.* 127(1-4), 173-191.

Rosenfeld, P.E., and Henry C. L., (2000). Wood ash control of odor emissions from biosolids application. *Journal of Environmental Quality.* 29, 1662-1668.

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affect on biosolids odor emissions and microbial activity. *Water Environment Research.* 73(4), 363-367.

Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research.* 131(1-4), 247-262.

Chollack, T. and **P. Rosenfeld.** (1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

Rosenfeld, P. E. (1994). Potential Utilization of Small Diameter Trees on Sierra County Public Land. Masters thesis reprinted by the Sierra County Economic Council. Sierra County, California.

Rosenfeld, P. E. (1991). How to Build a Small Rural Anaerobic Digester & Uses Of Biogas In The First And Third World. Bachelors Thesis. University of California.

Presentations:

Rosenfeld, P.E., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

Rosenfeld, P.E., Sutherland, A; Hesse, R.; Zapata, A. (October 3-6, 2013). Air dispersion modeling of volatile organic emissions from multiple natural gas wells in Decatur, TX. *44th Western Regional Meeting, American Chemical Society.* Lecture conducted from Santa Clara, CA.

Sok, H.L.; Waller, C.C.; Feng, L.; Gonzalez, J.; Sutherland, A.J.; Wisdom-Stack, T.; Sahai, R.K.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Atrazine: A Persistent Pesticide in Urban Drinking Water. *Urban Environmental Pollution.* Lecture conducted from Boston, MA.

Feng, L.; Gonzalez, J.; Sok, H.L.; Sutherland, A.J.; Waller, C.C.; Wisdom-Stack, T.; Sahai, R.K.; La, M.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Bringing Environmental Justice to East St. Louis, Illinois. *Urban Environmental Pollution.* Lecture conducted from Boston, MA.

Rosenfeld, P.E. (April 19-23, 2009). Perfluoroctanoic Acid (PFOA) and Perfluoroactane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

Rosenfeld, P.E. (April 19-23, 2009). Cost to Filter Atrazine Contamination from Drinking Water in the United States" Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*. Lecture conducted from Tuscon, AZ.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (20-22 July, 2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. Brebbia, C.A. and Popov, V., eds., *Air Pollution XVII: Proceedings of the Seventeenth International Conference on Modeling, Monitoring and Management of Air Pollution.* Lecture conducted from Tallinn, Estonia.

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water.* Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23rd Annual International*

Conferences on Soils Sediment and Water. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). Somerville Community Exposure To Contaminants From Wood Treatment Facility Emissions. The *23rd Annual International Conferences on Soils Sediment and Water*. Lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld P. E. (March 2007). Production, Chemical Properties, Toxicology, & Treatment Case Studies of 1,2,3-Trichloropropane (TCP). *The Association for Environmental Health and Sciences (AEHS) Annual Meeting*. Lecture conducted from San Diego, CA.

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Florala, Alabama. *The AEHS Annual Meeting.* Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.,** Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.,** Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition.* Lecture conducted from Boston Massachusetts.

Paul Rosenfeld Ph.D. (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey's C8/PFOA. *Science, Risk & Litigation Conference.* Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

Paul Rosenfeld Ph.D. (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

Paul Rosenfeld Ph.D. (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference.* Lecture conducted from Hilton Hotel in Irvine, California.

Paul Rosenfeld Ph.D. (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey's Groundwater Conference.* Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

Paul Rosenfeld Ph.D. (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus On Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water And Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, Toxicology and Remediation. *2005 National Groundwater Association Ground Water and Environmental Law Conference.* Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference.* Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

Paul Rosenfeld, Ph.D. (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust.* Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives*. Lecture conducted from Parker, AZ.

Paul Rosenfeld, Ph.D. (April 7, 2004). A National Damage Assessment Model For PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association*. Lecture conducted from Radison Hotel, Sacramento, California.

Rosenfeld, P. E., Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference* Orlando, FL.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants*.. Lecture conducted from Hyatt Regency Phoenix Arizona.

Paul Rosenfeld, Ph.D. (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum*. Lecture conducted from Marriott Hotel, Anaheim California.

Paul Rosenfeld, Ph.D. (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable*. Lecture conducted from Sacramento California.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, *Wastewater and Industrial Processes. Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Grey, M. A. (September 22-24, 2002). Biocycle Composting For Coastal Sage Restoration. *Northwest Biosolids Management Association*. Lecture conducted from Vancouver Washington..

Rosenfeld, P.E. and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conferenc*e. Lecture conducted from Indianapolis, Maryland.

Rosenfeld. P.E. (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation.* Lecture conducted from Anaheim California.

Rosenfeld. P.E. (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest.* Lecture conducted from Ocean Shores, California.

Rosenfeld, P.E. (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association.* Lecture conducted from Sacramento California.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America*. Lecture conducted from Salt Lake City Utah.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell.* Lecture conducted from Seattle Washington.

Rosenfeld, P.E., C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest.* Lecture conducted from Lake Chelan, Washington.

Rosenfeld, P.E, C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions From Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America.* Lecture conducted from Anaheim California.

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

National Ground Water Association, Successful Remediation Technologies. Custom Course in Sante Fe, New Mexico. May 21, 2002. Focused on fate and transport of fuel contaminants associated with underground storage tanks.

National Ground Water Association; Successful Remediation Technologies Course in Chicago Illinois. April 1, 2002. Focused on fate and transport of contaminants associated with Superfund and RCRA sites.

California Integrated Waste Management Board, April and May, 2001. Alternative Landfill Caps Seminar in San Diego, Ventura, and San Francisco. Focused on both prescriptive and innovative landfill cover design.

UCLA Department of Environmental Engineering, February 5, 2002. Seminar on Successful Remediation Technologies focusing on Groundwater Remediation.

University Of Washington, Soil Science Program, Teaching Assistant for several courses including: Soil Chemistry, Organic Soil Amendments, and Soil Stability.

U.C. Berkeley, Environmental Science Program Teaching Assistant for Environmental Science 10.

Academic Grants Awarded:

California Integrated Waste Management Board. $41,000 grant awarded to UCLA Institute of the Environment. Goal: To investigate effect of high carbon wood ash on volatile organic emissions from compost. 2001.

Synagro Technologies, Corona California: $10,000 grant awarded to San Diego State University.
Goal: investigate effect of biosolids for restoration and remediation of degraded coastal sage soils. 2000.

King County, Department of Research and Technology, Washington State. $100,000 grant awarded to University of Washington: Goal: To investigate odor emissions from biosolids application and the effect of polymers and ash on VOC emissions. 1998.

Northwest Biosolids Management Association, Washington State. $20,000 grant awarded to investigate effect of polymers and ash on VOC emissions from biosolids. 1997.

James River Corporation, Oregon: $10,000 grant was awarded to investigate the success of genetically engineered Poplar trees with resistance to round-up. 1996.

United State Forest Service, Tahoe National Forest: $15,000 grant was awarded to investigating fire ecology of the Tahoe National Forest. 1995.

Kellogg Foundation, Washington D.C. $500 grant was awarded to construct a large anaerobic digester on St. Kitts in West Indies. 1993

Deposition and/or Trial Testimony:

In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition, 5-14-2021
Trial, October 8-4-2021

In the Circuit Court of Cook County Illinois
Joseph Rafferty, Plaintiff vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a AMTRAK,
Case No.: No. 18-L-6845
Rosenfeld Deposition, 6-28-2021

In the United States District Court For the Northern District of Illinois
Theresa Romcoe, Plaintiff vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail, Defendants
Case No.: No. 17-cv-8517
Rosenfeld Deposition, 5-25-2021

In the Superior Court of the State of Arizona In and For the Cunty of Maricopa
Mary Tryon et al., Plaintiff vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case Number CV20127-094749
Rosenfeld Deposition: 5-7-2021

In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al *Plaintiffs*, vs. CNA Insurance Company et al.
Case Number 1:17-cv-000508
Rosenfeld Deposition: 3-25-2021

In the Superior Court of the State of California, County of San Bernardino
Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021

In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse
Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020

In the Circuit Court of Jackson County, Missouri
Karen Cornwell, *Plaintiff,* vs. Marathon Petroleum, LP, *Defendant.*
Case No.: 1716-CV10006
Rosenfeld Deposition. 8-30-2019

In the United States District Court For The District of New Jersey
Duarte et al, *Plaintiffs,* vs. United States Metals Refining Company et. al. *Defendant.*
Case No.: 2:17-cv-01624-ES-SCM
Rosenfeld Deposition. 6-7-2019

In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk, *Plaintiffs,* vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS "Conti Perdido" *Defendant.*
Case No.: 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition. 5-9-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No.: No. BC615636
Rosenfeld Deposition, 1-26-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No.: No. BC646857
Rosenfeld Deposition, 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado
Bells et al. Plaintiff vs. The 3M Company et al., Defendants
Case No.: 1:16-cv-02531-RBJ
Rosenfeld Deposition, 3-15-2018 and 4-3-2018

In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosciences, LLC, et al., Defendants
Cause No.: 1923
Rosenfeld Deposition, 11-17-2017

In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No C12-01481
Rosenfeld Deposition, 11-20-2017

In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition, 8-23-2017

In United States District Court For The Southern District of Mississippi
Guy Manuel vs. The BP Exploration et al., Defendants
Case: No 1:19-cv-00315-RHW
Rosenfeld Deposition, 4-22-2020

In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC
Case No.: LC102019 (c/w BC582154)
Rosenfeld Deposition, 8-16-2017, Trail 8-28-2018

In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., *Plaintiffs,* vs. Meritor Inc., et al., *Defendants*
Case Number: 4:16-cv-52-DMB-JVM
Rosenfeld Deposition: July 2017

In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No.: No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial, March 2017

In The Superior Court of the State of California, County of Alameda
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No.: RG14711115
Rosenfeld Deposition, September 2015

In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No.: LALA002187
Rosenfeld Deposition, August 2015

In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action N0. 14-C-30000
Rosenfeld Deposition, June 2015

In The Iowa District Court For Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No 4980
Rosenfeld Deposition: May 2015

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case Number CACE07030358 (26)
Rosenfeld Deposition: December 2014

In the County Court of Dallas County Texas
Lisa Parr et al, *Plaintiff*, vs. Aruba et al, *Defendant.*
Case Number cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial: April 2014

In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., *Plaintiffs,* vs. Republic Services, Inc., et al., *Defendants*
Case Number: 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition: October 2012

In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., *Plaintiffs*, vs. International Paper Company, *Defendant.*
Civil Action Number 2:09-cv-232-WHA-TFM
Rosenfeld Deposition: July 2010, June 2011

In the Circuit Court of Jefferson County Alabama
Jaeanette Moss Anthony, et al., *Plaintiffs*, vs. Drummond Company Inc., et al., *Defendants*
Civil Action No. CV 2008-2076
Rosenfeld Deposition: September 2010

In the United States District Court, Western District Lafayette Division
Ackle et al., *Plaintiffs*, vs. Citgo Petroleum Corporation, et al., *Defendants.*
Case Number 2:07CV1052
Rosenfeld Deposition: July 2009

Letter 1

COMMENTER: Adam Frankel

DATE: May 19, 2023

Response 1.1

The commenter states that he represents the Laborers International Union of North America, Local Union 304 and its members living in the City of Berkeley (LiUNA). This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 1.2

The commenter states that LiUNA wishes to appeal the ZAB's approval of the project to the City Council due to the "improper use of an Addendum."

As discussed in Section 3, *Decision Not to Prepare Subsequent Negative Declaration or EIR*, of the Addendum, pursuant to Section 15164 of the *CEQA Guidelines*, a lead agency may prepare an addendum to a previously certified negative declaration if some changes or additions are necessary, but none of the conditions described in *CEQA Guidelines* Section 15162 calling for preparation of a subsequent EIR or negative declaration have occurred. The Addendum acknowledges that the modified project would result in changes in density and intensity compared to the original project, and explains based on substantial evidence that the modified project would not require major revisions to the 2018 IS-ND due to new or substantially more severe significant environmental impacts that were not identified in the 2018 Final IS-ND, and that there are no substantial changes in the project or circumstances or new information of substantial importance that would cause the project to have significant new impacts or substantially increase previously identified significant impacts. None of the conditions described in *CEQA Guidelines* Section 15162 that would call for preparation of a subsequent EIR or subsequent negative declaration have occurred or would occur because of the modified project. Therefore, the Addendum is the appropriate level of environmental documentation to provide under CEQA.

Response 1.3

The commenter states that the 2018 IS-ND did not consider the significant environmental impacts that would result from the increased scale of the modified project or consider new information of substantial importance which LiUNA and others have presented regarding the modified project's significant environmental effects. The commenter states that to comply with CEQA, an IS-MND or an EIR should have been prepared.

Please refer to Response 1.2.

Response 1.4

The commenter states that interior composite wood materials in the proposed building would emit off-gas indoor air emissions of formaldehyde, resulting in significant health risks to future residents. The commenter states that the Addendum and the 2018 IS-ND did not consider or mitigate this significant impact.

In response to this comment, Section 4.3, *Air Quality*, of the Addendum has been revised to include a discussion of formaldehyde. The revisions are shown in Chapter3 of this document.

Response 1.5

The commenter states that the project site is listed on the State Water Resources Control Board's Geotracker database and is included on a Cortese List pursuant to the California Government Code Section 65962.5. The commenter states that the Addendum incorrectly states the site's cleanup case is "closed" because it only met commercial or industrial screening levels and not residential screening levels.

In response to this comment, Section 4.7, *Hazards and Hazardous Materials*, has been revised to include a discussion of residential screening levels. As discussed therein, the two closed investigations on the site were closed in 2013 and 2014, before the site was considered for residential use. Further research was done after the site closure, including the 2022 Phase II Environmental Site Assessment (ESA). Section 4.7, *Hazards and Hazardous Materials*, now contains additional information, including that concentrations of detected compounds in soil samples were all below their respective residential and commercial/industrial San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) groundwater vapor intrusion environmental screening levels (ESLs), except for arsenic. However, the range of arsenic concentrations found were within regional background concentrations and therefore was determined to be naturally occurring. The revisions are listed in Chapter 3 of this document.

Response 1.6

The commenter states that the modified project may result in potentially significant Reactive Organic Gas (ROG) emissions which would exceed Bay Area Air Quality Management District (BAAQMD) thresholds.

In response to this comment, Section 4.3, *Air Quality*, of the Addendum has been revised to include a discussion of air quality emissions modeling (CalEEMod) methodology and updated ROG emissions. As shown in Table 1, ROG emissions during both construction and operation would be below BAAQMD thresholds of 54 pounds per day. The revisions are listed in Chapter3 of this document.

Response 1.7

The commenter states that the Addendum underestimates the modified project's air emissions by altering the estimated length of construction and failing to account for demolition.

As explained in Section 2, *Project Description*, and Section 4.3, *Air Quality*, of the Addendum, the duration of construction is expected to occur within an 18-month period, which also accounts for the demolition phase. This is also reflected in the updated Appendix A, CalEEMod modeling results, included as Attachment A to this document.

Response 1.8

The commenter states that the Addendum and the 2018 IS-ND did not analyze potentially significant air quality impacts resulting from the trucking of modular units to the project site.

In response to this comment, Section 4.3, *Air Quality*, of the Addendum has been revised to include a discussion of air quality impacts resulting from the trucking of modular units to the project site. Construction modeling for the building construction phase includes 17.9 one-way vendor trips per day, which over a 321-day phase length equates to 5,745 vendor trips and over 48,000 vendor trucking miles during this phase. Long-range trucking was not analyzed in this analysis, as it was

assumed those emissions were considered out of the range of considerable direct or indirect effects. CEQA only requires analysis of impacts that are directly or indirectly attributable to the project under consideration (State CEQA Guidelines, § 15064(d)). There is no indication that long-range trucking beyond that analyzed here would be directly related to or caused by the project.

The included emissions were those reasonably estimated to be related directly or indirectly to the project under consideration. Potential long-range trucking may be necessary for numerous different projects as a result of general market demand, regardless of whether this project would proceed or not. Thus, such emissions may not be "caused by" the project under consideration. Similarly, a lead agency may not be able to require mitigation for emissions that result out of the scope of the project under consideration; mitigation can only be required for emissions that are actually caused by the project (State CEQA Guidelines, § 15126.4(a)(4)). This approach was discussed in detail with the removal of the term "lifecycle" from Appendix F of the CEQA Guidelines in the California Natural Resources Agency's December 2009 *Final Statement of Reasons for Regulatory Action: Amendments to the State CEQA Guidelines Addressing Analysis and Mitigation of Greenhouse Gas Emissions Pursuant to SB97.* It is similarly consistent with the "lifecycle" discussion in the California Department of Transportation's February 2019 *CEQA Guidelines Update*.

Therefore, the Addendum is an appropriate informational document under CEQA with regard to air quality emissions. The revisions are listed in Chapter 3 of this document.

Response 1.9

The commenter states that the Addendum violates Berkeley Municipal Code Section 22.20.020(F) because it fails to mitigate the modified project's detrimental impacts to air quality.

As explained in Section 4.3, *Air Quality*, of the Addendum, the modified project's estimated air pollutant emissions would not exceed BAAQMD's thresholds and impacts related to criteria air pollutants or contribution to a cumulative air quality impact would be less than significant. In addition, compliance with the City's standard condition of approval, *Air Quality – Diesel Particulate Matter Controls During Construction,* as well as proximity to alternative transportation would ensure less than significant impacts related to construction and operational toxic air contaminants (TACs). Therefore, impacts related to air quality would be less than significant, like the original project, and no significant new or substantially increased air quality impacts would occur.

Response 1.10

The commenter restates that the use of an Addendum is inappropriate and states, without citing substantial evidence, that there is a fair argument that the modified project would result in significant impacts that have not been previously analyzed. The commenter requests that the City Council grant the appeal and overturn the ZAB's approval of the Addendum.

There is no substantial evidence in support of the commenter's arguments. Please refer to Responses 1.2 – 1.9.

Appeal Letter 2

CITY OF BERKELEY - CITY CLERK
2023 MAY 31 pm2:26

City Council, City of Berkeley
2180 Milvia Street
Berkeley, CA 94704

May 31, 2023
Hand-delivered to City Clerk's Office

Emailed to council@berkelevca.gov:
clerk@citvofberkelev.info

Dear City Council Members:

1 This an appeal of the May 11, 2023 decision of the Zoning Adjustments Board ("ZAB") to issue a Use Permit for the project known as 3000 Shattuck, (ZP#2022-00046! ("Project"), on all the grounds stated in the May 9, 2023 Objections ("Objections", copied below), which were provided to ZAB by a group of neighbors to the Project. The grounds are summarized here with further arguments following the ZAB meeting:

2 There can be no dispute that the City has failed to perform the required *cumulative impact* analysis. City Council must deny the Use Permit and direct the City to perform a proper CEQA analysis as required by law, including, but not limited to, the following.

1. Applicable Law

- State law SB330 expressly requires the City to comply with CEQA per Govt. Code Section 65589.5(e).
- CEQA requires an "Initial Study" per CEQA Guidelines ("Guidelines"), Title 14, California Code of Regulations, Sections 15063-15365.
- The purpose of the Initial Study is to determine whether there may be a significant environmental impact. Id. "Careful judgment […] based on scientific and factual data" is required. Guidelines Section 15064(b)(1). Under Section 15064(b)(2), "[t]hresholds of significance, as defined in Section 15064(a), may assist lead agencies in determining whether a project may cause a significant impact. When using a threshold, the lead agency should briefly explain how compliance with the threshold means that the project's impacts are less than significant. *Compliance with the threshold does not relieve a lead agency of the obligation to consider substantial evidence indicating that the project's environmental effects may still be significant."* (emphasis added)

3

- Under Guidelines Section 15065(a), the City is required to find that a project may have a significant effect on the environment and thereby require an Environmental Impact Report (EIR) to be prepared for the project "where there is

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substantial evidence, in light of the whole record, that any of the following conditions may occur: [...] (3) The project has possible environmental effects that are individually limited but cumulatively considerable. 'Cumulatively considerable' means that the *incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."* (emphasis added) "Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." Guidelines Section 15355. When analyzing the cumulative impacts of a project, the City is required to discuss not only approved projects under construction and approved related projects not yet under construction, but also unapproved projects currently under environmental review and probable projects (e.g., here, Ashby BART) with related impacts or which result in significant cumulative impacts. CEQA requires the City to undertake a legitimate good faith effort in characterizing the future cumulative condition. Performing cumulative impact analyses helps to implement the overall goal of CEQA, which is to insert environmental considerations into the planning process as early as possible and provide a sound basis for government decision-making.

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- Under Guidelines Section 15064(c), the lead agency must consider input from the public as part of its determination of whether to conduct an EIR. "In determining whether an effect will be adverse or beneficial, the lead agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency."

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- Under Guideline Section 15162(b), "If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subdivision (a) [a determination of whether there is substantial evidence of substantial changes or new information of substantial importance having significant effect]. Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation."

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2. Neither the 2018 Initial Study - Negative Declaration ("Initial Study") nor the January 2023 Addendum to Initial Study - Negative Declaration ("Addendum") contains any analysis or determinations per above, in particular, there is *no analysis* of the Project in connection with other projects, past, current or future. The same omission is true of the CEQA Consultant's May 5, 2023 Supplemental Analysis ("Rincon Supplement") identifying "minor project revisions" without mention of cumulative impacts. *Additionally, the Initial Study, Addendum, and Ricon Supplement each show no evidence of consideration of public input.*

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With regard to the fifteen projects identified in the Objections, very few were known to the City at the time of the 2018 Initial Study. See attached May 2023 revisions to the spreadsheet submitted with the Objections, including several additional new projects that have been located, beyond fifteen. (2023 COB Multi-family Housing Projects - in/nr S. Berk (revised 5/2023) docs.google.com/document/d/1XJjfwOBuzCHNYv-mm-6vmLFWXVIgVcFan_4DAYsEBgE/)

Per Section 15162(b), these conditions are new information, which requires further determinations:

A) The City listed only four projects in the Addendum, which were not analyzed; and
8 B) More than fifteen projects are currently under development, approved, proposed, or probable within the surrounding area. The impacts are likely to be greater than shown by any relevant, in any event scant, analysis in the Initial Study and the Addendum.

Furthermore, the original project proposed only 32,603 square feet of residential uses, with 44 units including 4 affordable units, whereas the current Project proposes 80,235 square feet of residential uses, with 166 units including 17 affordable units. The original project proposed the inclusion of 17 parking spaces for automobiles, whereas the current Project plans for zero parking spaces (Addendum, p. 3).[1]

3. The Objections include evidence regarding potential construction and traffic impacts in the dangerous Russell-Shattuck-Ashby corridors (including long-standing evidence of one of the highest crash rates in the city), where there are currently five proposed
9 projects, with one currently under construction. This core area, only a couple blocks in size, may become home to the three tallest of the fifteen plus local projects, at 9-10 stories, which will have by far the most units.[2] ***This community is facing myriad***

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[1] Further, the Addendum assesses duration of construction and foundation work to be comparable despite the massive change in the building design since 2018. Addendum, p. 2. This is highly suspect as explained in the Objections.

[2] Indeed, both the CEQA Consultant's Supplement (Rincon Supplement, bottom p. 4) and the Addendum fail to analyze very serious traffic hazards identified in the Objections, and ignore City standards, as described by the City's own Traffic and Parking Requirements for Development Projects | City of Berkeley. See, e.g., City of Berkeley Guidelines for Development of Traffic Impact Reports, pp. 3-4: "Many neighborhoods are located adjacent to major trip generators, and in many cases studies will require analysis of on-street parking in the adjacent area. Developers are encouraged to provide transportation demand management measures; such measures likely will be required if variances are sought in required off-street parking. The City requires the analysis of cumulative conditions for larger projects in order to identify

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prospects of very significant environmental effects, without the protection that CEQA is intended to provide.

4. The City Planner, the City's Consultant, and ZAB members ignored or misinterpreted the Objections below at the May 11, 2023 meeting. The condition of fifteen contemporaneous projects in the vicinity, in particular, was ignored by ZAB. Collectively, the representatives incorrectly made the following statements:

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a) that it was the Objectors' responsibility - and failure - to identify cumulative impacts regarding the projects;

b) that the Objectors asserted that an automatic finding of significant impact must be made; and,

c) that no further action needed to be performed to meet the requirements of CEQA.

For details, see the transcript of May 11, 2023 meeting (with timestamps):

a) 21:32:41 to 21:35:29. ZAB discussion with City Planner and CEQA Consultant refers to Objections below, and failure of Objectors to identify specific impacts, suggesting, for
11 that reason, that Objections may be ignored and there are no significant impacts. The condition of fifteen contemporaneous projects was ignored.

b) 21:35:06 to 21:35:27. CEQA Consultant asserts to ZAB that the "threshold" to analyze cumulative impact was not met:

> "K. Green: YEAH, DOES REQUIRE COMMUTATIVE [SIC] IMPACT TO GET DISCUSSION BUT NOT IN THIS ONE."

c) 21:43:45 to 21:47:12, and 22:35:06 to 22:36:17. Project architect makes several confusing statements about proposals for a loading zone. One statement describes a potential 35-foot loading zone on Shattuck Avenue beyond the south portion of the building, in front of private residences, where southbound traffic merges from two lanes to one. Another statement describes a potential loading zone in front of the proposed building, where a bus stop may be relocated. The City Planner responds not with clear guidance on the process for making determinations about a loading zone, but only with

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whether mitigations in the future are required and the extent to which the project contributes to unacceptable conditions. [...] The assessment of impacts may be based on one or more of the following factors: counts for bicycle and pedestrian movements, location of bus stops, street width, collision history, transit boardings and alightings, and approved land use and transportation plans and capital improvement projects." Id., p. 8.

guesses. Questions from ZAB members about providing a safe loading zone were not resolved in any meaningful way;

d) 22:03:52 to 22:05:51. Objectors' effort to alert ZAB to requirements of CEQA in light of foregoing misleading discussion;

e) 22:29:14 to 22:31:05. CEQA Consultant falsely states that other projects in the area have been acknowledged in public documents. CEQA Consultant states that no further analysis is necessary, as no automatic finding of significant cumulative impact can be made;

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f) 22:46:05 to 22:46:13. ZAB member makes a motion, which passed under the misinformed belief that the Project must be approved per state law:

> "I AM MAKING A MOTION BECAUSE WE ARE REQUIRED TO APPROVE THIS PROJECT TONIGHT, OR AT LEAST THAT IS MY BELIEF BASED ON MY UNDERSTANDING OF STATE LAW AS IT CURRENTLY STANDS."[3]

See also, further transcript of May 11, 2023 meeting (with timestamps):

20:53:45 to 20:54:44. The City does not clarify to ZAB the Project's unit size and unit type–all studio apartments–although this is clearly stated in the Rincon Supplement. A ZAB member speculates that a family of four earning $42,000 would benefit from housing like this, and thus expresses support for the Project. The City does not inform ZAB or the public how much money this Project would contribute to the Affordable Housing Trust Fund.

> ZAB member: "AND THOSE WOULD BE 21 FAMILIES THAT MAKE THOSE INCOMES THAT WOULD BE ABLE TO MOVE IN."

5. ZAB was misguided in its deliberations and discussion during its May 11 meeting, and thus has overlooked several relevant laws. These oversights place at risk public health and safety through its failure to conduct the required careful judgment analysis. This decision must be reversed.

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[3]The May 11, 2023 ZAB hearing was only the second hearing on the applicable SB 330 application submitted December 14, 2021. This would allow three more hearings, because SB 330 mandates a maximum of five hearings before project approval. Therefore, the ZAB was incorrect to conclude that the Project was required by SB 330 to be approved on May 11.

13 6. The City Council has no recourse under the law but to deny the Use Permit. The City must conduct a legally compliant further review and analysis under CEQA and demonstrate its consideration of public input under Guideline Section 15064(c).

Sincerely yours,

Larisa Cummings, 2913 Newbury Street, 510-435-9812
Paul Dillingham, 2927 Newbury Street, 510-575-6852
Dave Auerbach, 2907 Newbury Street, 310-954-7102
Les Shipnuck, 2071 Emerson Street, 510-542-4559
Lynn Cooper, 2129 Emerson Street, 510-542-6082

Additional 29 signatories to this appeal who own or lease within 300 feet of 3000 Shattuck - please see attached list with handwritten signatures.

---------- Forwarded message ---------
From: **Larisa Cummings** <pidicummings@gmail.com>
Date: Tue, May 9, 2023 at 4:08 PM
Subject: SUPPLEMENTAL OBJECTIONS TO 3000 SHATTUCK PROJECT PLANS, #ZP2022-00046 5/11/23 ZAB MEETING
To: <zab@cityofberkeley.info>
Cc: Gong, Sharon <SGong@cityofberkeley.info>, Burns, Anne M <ABurns@cityofberkeley.info>, <council@cityofberkeley.info>, Berkeley Mayor's Office <mayor@cityofberkeley.info>

Dear ZAB members:

As neighbors to the proposed plans to develop 3000 Shattuck Avenue, we strenuously object to the project on numerous health and safety grounds, per applicable state law. Far from being merely obstructionist, we bring to your attention that the City is overlooking state laws that exist to protect public health and safety. Further, we are concerned about the obvious inequities at hand; clearly, this part of Berkeley is bearing

the brunt of intensive multi-family housing development, whereas this kind of housing should be spread equitably throughout the city and its transit hubs.

We are asking the ZAB to deny issuance of Use Permit #ZP2022-0046 at the upcoming May 11, 2023 meeting until the concerns below are appropriately addressed:

1. The City's recommendation – that ZAB adopt the Addendum to the Initial Study/Negative Declaration and approve Use Permit #ZP2022-0046 pursuant to BMC Section 23.406.040 – is not in compliance with the California Environmental Quality Act (CEQA). To protect public health and safety, a subsequent Environmental Impact Review pursuant to CEQA is clearly required.

A. State law SB330 expressly requires the City to comply with CEQA per Govt. Code Section 65589.5(e).

The City's January 2023 Addendum to the 3000 Shattuck Avenue Project Initial Study - Negative Declaration largely fails to comply with its obligations under CEQA.

i. No Cumulative Impact Study Has Been Performed

Section 15355 of the State CEQA Guidelines defines a cumulative impact as the condition under which "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. (a) The individual effects may be changes resulting from a single project or a number of separate projects. (b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." Title 14, California Code of Regulations, Section 15355. Further,

Section 15130 explicitly requires a factual analysis. Section 15332 addresses in-fill development projects and requires a finding that "(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality." Section 15065 lists mandatory findings of significant effect, which must be evaluated. In other words, the City is required to evaluate these potential impacts, including analysis of cumulative impacts of all closely related projects. Note that there are quite a number of closely related current projects.

In its January 2023 Addendum (pp. 11-12) to the 3000 Shattuck Avenue Project Initial Study - Negative Declaration, the City listed only four projects in the vicinity of 3000 Shattuck: 2650 Telegraph, 2801 Adeline, 2440 Shattuck, and Ashby BART. In its January Addendum, the City made no analysis of those sites or impacts, but rather simply listed them in its determination that "The existing environmental conditions on and around the project site are substantially the same under present conditions as those described in the 2018 Final IS-ND, with the exception of two relevant changes described below in Section 4.1." Addendum p. 11. Section 4.1 similarly makes no analysis of the sites or impacts, but simply lists the same four projects. However, a careful recent search of several sources has identified fifteen projects in the vicinity. No comprehensive listing by the City could be located, which makes it very difficult for the public to follow these developments. Note the following developments:

- Five (5) projects are very intensively situated in a one to two block radius. 3000 Shattuck and two more projects are *the tallest (9-10 stories) with the most units* of the 15 projects, in the vulnerable and dangerous Russell-Shattuck-Ashby corridor, and where the Russell Bike Boulevard traverses Shattuck. **None of them provide for onsite loading zones, or any planning for right-of-way improvements or features to facilitate safe loading in an age of intensive loading activity, e.g., ride-hailing, food and commercial deliveries, service**

vehicles, etc., which often double park. For an example of the long-standing traffic hazards, note that the Shattuck/Ashby intersection is second only to San Pablo/Ashby intersection in the City's crash rate for the period from 2011 through 2022 - https://tims.berkeley.edu/tools/gismap/



- Four (4) projects surround these projects within another one to three block radius (including where the Russell Bike Boulevard traverses Adeline),
- the remaining six (6) projects fall within the area covered by the January 2023 Addendum's original listing of four projects. See this appendix:
2023 COB Multi-family Housing Projects - in/nr S. Berk.xlsx

In summary, the City must fully comply with CEQA; the January 2023 Addendum has no analysis of cumulative impacts at all, nor does the 2018 Final Initial Study - Negative Declaration, regarding a much smaller design for 3000 Shattuck.

ii. Erroneous or Misleading Conclusions

In the January 2023 Addendum, Section 2, Project Description, two statements are inaccurate and misleading, overlooking adverse impacts on the surrounding community, including but not limited to, extra traffic congestion, noise, odors, etc. Although they pertain to the construction phase only, they need to be reconsidered or rewritten.

--Duration of construction, estimated to be 18 months to construct the five-story structure in the previously proposed project (see 2018 Final Initial Study - Negative Declaration cited in January 2023 Addendum), is estimated to be the *same length of time to build* out the revised building of ten-stories. This is highly unrealistic. Construction duration can be foreshortened somewhat, by accelerating the work, but not without incurring large amounts of additional costs, raising the overall project budget far beyond levels of competitive pricing. Addendum p. 2 and p. 3, Table 1.

--Foundation work for the ten-story building is similarly projected to be comparable to the foundation's scope for the five-story building. It might be similar in terms of foundation type (spread footings, most likely) but with a doubling of the size of the structure, a stronger type of foundation might be necessitated (drilled pier-and-grade beam) at considerable additional cost. Addendum p. 2. This increases the construction costs and duration, and is dependent on soil-types, and access at the site.

While statements of this type may not devalue the January 2023 Addendum as a whole, they reflect a very casual attitude about construction realities, and as such, raise questions about the accuracy of other assertions in the study.

We ask the ZAB either to deny the issuance of a Use Permit, or to delay issuance of such Use Permit until these and all other related concerns are appropriately addressed by the City, as required by applicable state law. Thank you for your due consideration.

Sincerely yours,

Larisa Cummings (2913 Newbury Street),
Les Shipnuck, retired architect, construction manager (2071 Emerson Street),
Janis Ching (1937 Oregon Street),
Reed Dillingham (2903 Newbury Street),
Paul Dillingham (2927 Newbury Street)


https://tims.berkeley.edu/tools/gismap/
Most Visited
Getting Started
Other Bookmarks
SWITRS GIS Map
By SafeTREC, UC Berkeley
Map SWITRS
Tools
Options
Layers
Basemaps
Print
Help
Rank By Intersection
Rank Intersection # of Coll
1 ASHBY AVE & SAN PABLO AVE 76
2 ASHBY AVE & SHATTUCK AVE 63
3 ASHBY AVE & MARTIN LUTHER KING JR WAY 59
4 ASHBY AVE & SACRAMENTO ST 56
5 SAN PABLO AVE & UNIVERSITY AVE 49
6 MARTIN LUTHER KING JR WAY & UNIVERSITY AVE 45
7 SHATTUCK AVE & UNIVERSITY AVE 44
8 EASTSHORE HWY & GILMAN ST 41
9 ACTON ST & UNIVERSITY AVE 40
9 ASHBY AVE & COLLEGE AVE 40
Results
Selected Factors:
Date 01/01/2011 - 12/31/2022
County Alameda
City Berkeley
Result Summary:
2021 - 2022 data is provisional and subject to change.
6,953 of 7,187 (96.7%) crashes mapped.
500 ft
Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, Intermap, NGA, USGS
Powered by Esri

Neighbor Appeal, 3000 Shattuck Avenue, ZP#2022-00046 (May 2023)

No.	Distance to Site (ft)	Cited in 1/23 IS/ND Addendum	Address	Existing or Previous Business or Use	Developer	Number of Stories	Number of Units	Number of BMR Units	Approvals and General Status	Commercial Space	Architect
--			**3000 Shattuck**	**Berkeley Gas & Smog**	**NX Ventures**	**10 stories**	**166**	**17**	**Passed DRC, ZAB mtg, May 2023**	**1040 SF**	**Trachtenburg**
1	325'		2001 Ashby ⟐	Cooperative Center Federal Credit Union	Resources for Community Development (RCD)	6 stories	87	87	Approved / Under construction, anticipated completion 2024		MWA Architects
2	350'		2900 / 2920 Shattuck ⟐	Eastern Supply Hardware / Model Garage	NX Ventures	10 stories	221	22	CEQA review pending, April 2023 DRC negative recommendation, March 2023, passed April 2023	4090 SF	Trachtenburg
3	565'		3031 Adeline ⟐	Flacos (restaurant)	Athan Magganas (owner)	7 stories	64	16	Passed DRC Review, January 2023	4030 SF	Dinar and Associates
4	610'		2847 Shattuck ⟐	Direct Line Tele Response	NX Ventures	9 stories	112	11	Application for Density Bonus, submitted January 2023		Trachtenburg
5	670'		2902 Adeline ⊙	AW Pottery	Realtex	6 stories	50	9	Passed Final DRC Review, July 2021		
6	755'	◆	3100 Adeline ⊙	Ashby BART	(Owner: BART / City of Berkeley)	*undetermined*	*undetermined*	*undetermined*			
7	780'		3120 Shattuck ⊙	community and non-profit offices	Northern California Land Trust	7-8 stories	65	100% ? co-op & condo	pre-application, filed December 2022		SCB
8	935'	◆	2801 Adeline ⊙	Walgreens	NX Ventures	7 stories	84	35	Incomplete, pending applicant, November 2021		
9	1700'		3030 Telegraph	Sutter Alta Bates	Riaz Capital	5 stories	144	8	Went to DRC, May 2023	1550 SF	Left Coast
10	1740'		2701 Shattuck	(vacant)	BayRock Multifamily, LLC	5 stories	57	5	Approved / Under construction, anticipated to open 2024		HDO Architects
11	1995'		3031 Telegraph	Berkeley Central Medical Building	Riaz Capital	6 stories	127	9	Passed DRC, February 2023		
12	2465'		2800 Telegraph	Karim Cycle	West Builders	5 stories	16	1	Approved by ZAB, April 2023		Trachtenburg
13	2675'		1708 Harmon	Church parking	Community Housing Development Organization / Ephesian Church of God in Christ	5 stories	80	80	Pre-application filed		Kodama Diseno Architects
14	2750'		2550 Shattuck	Acupuncture and Integrative Medicine	4Terra Investments, Natural Green Corporation	7 stories	72 +	*undetermined*	pre-application, filed April 2023	1520 SF	Kava Massih Architects
15	2915'		2712-2714 Telegraph	Offices / Pacific Center for Human Growth	Panoramic Interests	6 stories	40	3			
16	3050'		2000 Dwight	Medical offices	MorningStar Senior Living /	6 stories	113		Approved (in construction)		Trachtenberg
17	3075	◆	2650 Telegraph	Bachessos	OSM Development	5 stories	45	4	Passed Final DRC Review March 2020		
18	3580'	◆	2440 Shattuck	Dollar Store	Austin Group, LLC	8 stories	40	3	Approved / Under construction, anticipated completion 2024	2700 SF, 2 units	Johnson Lyman Architects
19	3660'		2420 Shattuck	Noodles Fresh / Gio's Pizza	NX Ventures	14 stories	132			2800 SF	Trachtenburg

Legend

◆ Listed in COB Addendum (1/2023) to the 3000 Shattuck IS/ND (Initial Study - Negative Declaration)

⊙ Within 4 blocks of 3000 Shattuck

⟐ Within 1-2 blocks of 3000 Shattuck

RE May 31, 2023 APPEAL of the May 11, 2023 decision of the Zoning Adjustments Board ("ZAB") to issue a Use Permit for the project known as 3000 Shattuck, ZP#2022-00046

Additional 29 signatories to this appeal who own or lease within 300 feet of 3000 Shattuck - please see attached list with handwritten signatures.

Janet Wood, 2071 Emerson Street
Les Shipnuck, 2071 Emerson Street
Tsering Dhundup, 2057 Emerson Street
Dikki Dolkar, 2057 Emerson Street
Marisa Weinstock, 2045 Emerson Street
Katherine Adames, 2070 Emerson Street
Tony Drummond, 2075 Emerson Street
Rebecca Stevens, 2034 Ashby Avenue
Ben Faryna, 2992 Newbury Street
Sara Kaplan, 2992 Newbury Street
Hannah Nilsson, 2920 Newbury Street
Judith Shaw, 3018 Shattuck Avenue
Trisha Mathews, 3018 Shattuck Avenue
Alexa Maturana-Lowe, 2048 Emerson Street
Will Cardia, 2048 Emerson Street
Grace Reinhalter, 2068 Emerson Street
Hergis Nkote, 2070 Emerson Street
Raphael Leonard, 2070 Emerson Street
Daryl Hall, 3011 Shattuck Avenue
Allison Maldonado, 3011 Shattuck Avenue
Rob Seares, 3007 Shattuck Avenue
Chivi Marincola, 3009 Shattuck Avenue
Toby Stewart, 3012 Shattuck Avenue
Thelma Wong, 2109 Emerson Street
Kathy Glaser, 2129 Emerson Street
E. Hope Goodale, 2119 Emerson Street
Jacques Rivers, 2119 Emerson Street
Julie Chan, 3012 Shattuck Avenue
Keith Casilles, 2119 Emerson Street

3000 Shattuck
ZAB Decision 5-11-23

I wish to sign to appeal the ZAB decision as a neighbor living within 300 feet of the proposed project.

Print Name	Print Address	Signature
Janet Wood	2071 Emerson St., Berkeley	
Les Shipnuck	2071 Emerson St, 94703	Les Shipnuck
Tsering Dhundup	2057 Emerson st Berkeley CA	
Marisa Weinstock	2045 Emerson St; BK CA 94703 marisaweinstock9@gmail.com	
Katherine Adames	2070 Emerson St Apt A Berkeley, CA 94703 nietsnie1879@gmail.com	Katherine Adames
Tony Drummond	2075 Emerson St Berkeley, CA 94703 Laxsmio1@gmail.com	
Rebecca Stevens	2034 Ashby Avenue, apartment 2 Berkeley, CA 94703	
Ben Faryna & Sara Kaplan	2992 Newbury St Berkeley, CA 94703	
Hannah Nilsson	2920 Newbury St Berkeley, CA 94703	

3000 Shattuck
ZAB Decision 5-11-23

I wish to sign to appeal the ZAB decision as a neighbor living or working within 300 feet of the proposed project.

Print Name	Print Address	Signature
Dikki Dorkar	2057 Emerson St Berkeley	
ALEXIA MATVKANA-LOWE	2048 EMERSON ST BERKELEY	
Will Cacdia	2048 Emerson St Berkeley	
Grace Rembatter	2068 Emerson St Berkeley	
HERGIS NKOTE	2070 Emerson St Berkeley	
Raphael Conard	2071 Emerson St Berkeley	

I wish to sign in support of the appeal of the Zoning Adjustments Board decision on 3000 Shattuck Ave

Name	Address	Signature
Daryl Hall	3011 Shattuck Ave Berkley, CA	
Allison Maldonado	3011 Shattuck ave ca	
Rob Seares	3007 Shattuck	Robert Seares
Chivi Marincola	3009 Shattuck	
Daly Stewart	3012 Shattuck	Daly Stewart
Thelma Wong	2109 Emerson St	Thelma Wong
KATHY GLASER	2129 EMERSON Berkeley	
E Hope Goodale	2119 Emerson Berkeley	Ehopegoodale
Jacques Rivers	2119 Emerson Berkeley	Jacques Rivers
KEITH CARTER	2119 EMERSON Berkeley	
Julie Chan	3012 Shattuck Ave	
Print Name	Address	Signature

I wish to sign in support of the appeal of the Zoning Adjustments Board decision on 3000 Shattuck Ave

Name	Address	Signature
Judith Shaw	3018 Shattuck Ave	
Trisha Mathews	3018 Shattuck Ave	
Print Name	Address	Signature

Letter 2

COMMENTER: Larisa Cummings et al

DATE: May 31, 2023

Response 2.1

The commenter states her intent to appeal the May 11, 2023 decision of the ZAB.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 2.2

The commenter states that the City has failed to perform a cumulative impact analysis and urges the City Council to deny the Use Permit.

In response to this comment, Section 4.15, *Changes in the Environmental Setting and Cumulative Impacts* has been added to the 2025 revised Addendum, which includes an analysis of cumulative impacts. The revisions are shown in Chapter 3 of this document. Section 4.15, *Changes in the Environmental Setting and Cumulative Impacts*, analyzes eight cumulative development projects within 2 miles of the modified project. As discussed in Section 4.15, the modified project would not contribute to cumulatively considerable impacts in any environmental issue area and impacts would be less than significant.

Response 2.3

The commenter states that CEQA requires an Initial Study and provides a summary of the purpose of the Initial Study.

An Initial Study was prepared for the original project in 2018. As discussed in Section 3, *Decision Not to Prepare Subsequent Negative Declaration or EIR*, of the Addendum, pursuant to Section 15164 of the *CEQA Guidelines*, a lead agency shall prepare an addendum to a previously certified negative declaration if some changes or additions are necessary, but none of the conditions described in *CEQA Guidelines* Section 15162 calling for preparation of a subsequent EIR or negative declaration have occurred.

Response 2.4

The commenter states that the City is required to discuss cumulative impacts of the modified project which includes planned and approved projects, mentioning Ashby BART as an example.

Please refer to Response 2.2. 4.15, *Changes in the Environmental Setting and Cumulative Impacts*, added to the Addendum, analyzes eight cumulative development projects within 2 miles of the modified project, including the Ashby BART project. As discussed therein, the modified project would not result in considerable contributions to significant cumulative impacts and impacts would be less than significant.

Response 2.5

The commenter quotes CEQA Guidelines 15064(c) and states that the City must consider input from the public as part of its determination of whether to conduct an EIR.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum. An Initial Study was prepared for the original project in 2018. The 2018 Final IS-ND was circulated for public review from June 12, 2017 to July 13, 2017. The original project was reviewed by the Zoning Adjustments Board (ZAB) in July 2017, May 2018, and June 2018, where the ZAB rejected the application for the original project. The modified project was submitted on December 14, 2021 and a revised Addendum was published on January 27, 2023. Public hearing notices were mailed and posted on April 27, 2023, and the ZAB hearing was on May 11, 2023. As discussed in Section 3, *Decision Not to Prepare Subsequent Negative Declaration or EIR*, of the Addendum, pursuant to Section 15164 of the *CEQA Guidelines*, a lead agency shall prepare an addendum to a previously certified negative declaration if some changes or additions are necessary, but none of the conditions described in *CEQA Guidelines* Section 15162 calling for preparation of a subsequent EIR or negative declaration have occurred.

Response 2.6

The commenter quotes CEQA Guidelines Section 15162(b) and states that if changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR. Otherwise, the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.

Please refer to Response 1.2.

Response 2.7

The commenter states that the 2018 IS-ND, Addendum, and May 5, 2023 Supplemental Analysis do not analyze cumulative impacts, and show no evidence of consideration of public input.

Please refer to Response 2.2 and Response 2.5. The 2018 Final IS-ND was circulated for public review from June 12, 2017 to July 13, 2017 and was adopted in November 2018. The 2023 Addendum was available for public review beginning in January 2023, and was attached to the ZAB staff report.

Response 2.8

The commenter states that 15 new projects were identified for cumulative analysis whereas the Addendum only analyzed four. In addition, the modified project proposes an increase in residential square footage and units, and a decrease in parking spaces. The commenter states that these conditions serve as new information.

Please refer to Response 2.2. Section 4.15, *Changes in the Environmental Setting and Cumulative Impacts*, added to the Addendum, analyzes eight cumulative development projects within 2 miles of the modified project, including the Ashby BART project. As discussed therein, the modified project would not result in considerable contributions to significant cumulative impacts and impacts would be less than significant.

The Addendum acknowledges and addresses whether the modified project would result in new or substantially more severe significant impacts due to proposed changes in density and intensity compared to the original project, and explains that the modified project would not introduce new, significant environmental impacts beyond those that have already been identified and characterized in the 2018 Final IS-ND and that there are no substantial changes in the project or circumstances or

substantially important new information that would cause the project to have significant new impacts or substantially increase the severity of previously identified significant impacts.

Response 2.9

The commenter states that the modified project would result in construction and traffic impacts in the Russel-Shattuck-Ashby corridors where there are currently five proposed projects and one under construction. The commenter also states that this area may also become home to the three tallest projects at 9 to 10 stories.

In response to this comment, Section 4.13, *Transportation*, of the Addendum has been revised to include a discussion of construction traffic impacts. The revisions are listed in Chapter 3 of this document. As discussed therein, the modified project would be required to comply with the City's Standard Condition of Approval, *Transportation Construction Plan*, which would require preparation of a Transportation Construction Plan for all phases of construction in order to minimize impacts related to construction traffic.

As outlined in Section 4.3, *Air Quality*, of the Addendum, the modified project would result in less than significant impacts related to construction criteria air pollutants and TACs with compliance with the City's standard condition of approval, *Air Quality – Diesel Particulate Matter Controls During Construction.* As discussed in Section 4.9, *Noise*, of the Addendum, the modified project would result in less than significant impacts related to construction noise and vibration with compliance with the City's standard conditions of approval, *Damage Due to Construction Vibration,* and *Construction Noise Management – Public Notice Required*. Therefore, impacts related to construction would be less than significant.

As outlined in Section 4.2, *Aesthetics*, of the Addendum, the modified project would result in less than significant impacts related to aesthetics since it would be located within 0.5 miles of a major transit stop (Ashby BART station). Because the modified project consists of residential development on an infill site within a transit priority area, aesthetics impacts may not be considered significant impacts on the environment. In addition, as discussed in Section 4.8, *Land Use and Planning*, of the Addendum, although the modified project would include 10 stories, the modified project would qualify for height waivers pursuant to State Density Bonus requirements. The project would comply with all other development standards as well as the City's Inclusionary Housing Ordinance.

Response 2.10

The commenter states that the City's project planner, consultant, and ZAB members incorrectly stated that it was the appellant's responsibility to identify cumulative impacts regarding the project; the appellants asserted that an automatic finding of significant impact must be made; and no further action is needed to meet the requirements of CEQA.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum. Please refer to Response 2.2 and Section 4.15 of the Revised Addendum.

Response 2.11

The commenter provides excerpts s of the May 11, 2023 ZAB hearing transcript.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 2.12

The commenter states that the ZAB was misguided in its deliberations and discussion during the May 11, 2023 meeting and has overlooked several relevant laws, and urges for the decision to be reversed.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 2.13

The commenter requests the City Council to deny the Use Permit and for the City to further review and analyze the modified project under CEQA and demonstrate its consideration of public input.

The modified project is analyzed in the 2018 IS-ND and the 2023 Addendum, as revised. This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Appeal Letter 3

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CITY OF BERKELEY - CITY CLERK
2023 JUN 1pm4:24

June 1, 2023

Via Email and Hand Delivery

Mark Numainville
City Clerk
City of Berkeley
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Via Email Only

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2180 Milvia Street,
Berkeley, CA 94704
Jesse Arreguin, Mayor
Councilmembers: Rashi Kesarwani
Terry Taplin; Ben Bartlett
Kate Harrison; Sophie Hahn
Susan Wengraf; Rigel Robinson
Mark Humbert
Email: council@berkeleyca.gov

Re: Appeal of Zoning Adjustments Board's Approval of 3000 Shattuck Avenue Project Use Permit #ZP2022-0046 and Addendum to the 3000 Shattuck IS/ND (SCH# 2017062025)

Dear Mr. Numainville, Mayor Arreguin, Honorable Councilmembers: Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, and Humbert:

1 We are writing on behalf of East Bay Residents for Responsible Development ("East Bay Residents" or "Residents") to appeal the Zoning Adjustment Board's ("ZAB") May 11, 2023 approval1 of the 3000 Shattuck Project ("Project")2 Use Permit #ZP2022-0046 and approval of the Addendum to the 3000 Shattuck Avenue Project Initial Study Negative Declaration (SCH #2017062025)3 prepared by the City of Berkeley (the "City") for the Project. The Project is proposed by Mark

[1] City of Berkeley, Zoning Adjustment Board, Notice of Decision (May 11, 2023), https.;//w.ww,d.rQpbQx.c.om/s/860yr^^^ya9zcd3a/2023-05-18_ZAB...N.QD._300.Q%20Shat.tucX.pdW=0.
[2] City of Berkeley, Zoning Adjustment Board, Staff Report for Board Action May 11, 2023, https://berkeleyca.gov/sites/default/files/documents/2023-05-11_ZAB_Item%205_3000%20Shattuck_Combined%20Staff%20Report%20and%20Att.achments.pdf (hereinafter "Staff Report").
[3] City of Berkeley, Addendum to the 3000 Shattuck Avenue Project Initial Study – Negative Declaration (Permit No. ZP2015-0229, SCH# 2017062025) (January 2023), https://www.dropbox.eom/s/kr0fme3neozjqyf/2023-01-27_CEQA_Addendum%20to%20IS-ND_3000%20Shattuck.Ddf?dl=0 (hereinafter "Addendum").

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1, con't | Rhoades of the Rhoades Planning Group and Khan Shazada & Farhat (collectively, "Applicant").

The Project proposes to demolish the existing 1,163-square-foot ("SF") gas station and construct 80,235 sf of residential space including 166 residential units, 1,095 SF of retail space, and zero parking spaces on the 0.31-acre site. Construction of the Project is anticipated to last eighteen to twenty-one months. The Project site
2 is located at 3000 Shattuck Avenue, Berkeley, CA 94705 (APNs 53-1592-1 & 53-1592-2). The Project site is designated as Avenue Commercial in the City's General Plan and is located in the South Area Commercial (C-SA) zoning district. The original project proposed 32,603 SF of residential uses, with 44 units including 4 affordable units. The current Project proposes 80,235 SF of residential uses, with 166 units including 17 affordable units.[4]

This appeal is filed pursuant to Berkeley Municipal Code Section 23.410.020, which provides that decisions by the Zoning Adjustment Board regarding Use Permits may be appealed by "any person" to the City Council within 14 days of the City's mailing the Notice of Decision.[5] The appeal is taken from the following actions, and is accompanied by payment of the required appeal fee of $1500 pursuant to the City's fee schedule:

3
1. ZAB's May 11, 2023 adoption of the Addendum to the Initial Study/Negative Declaration and
2. ZAB's May 11, 2023 approval of Use Permit #ZP2022-0046 including the following:
    a. Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.326.070(A) to demolish a non-residential main building;
    b. Use Permit pursuant to BMC Section 23.204.100(B)(4)(b) to construct a mixed use development of more than 5,000 square-feet;
    c. Use Permit pursuant to BMC Section 23.204.020 to add multi-family dwellings;
    d. Use Permit pursuant to BMC Section 23.204.100(D)(2) to modify the height and stories, setbacks, and lot coverage;
    e. Administrative Use Permit pursuant to BMC Section 23.304.050(A) to allow architectural features over the maximum height limit.[6]

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[4] Addendum p. 3.
[5] Berkeley Municipal Code ("BMC") § 23.410.020.
[6] Staff Report, p. 1.

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I. SUMMARY OF REASONS FOR APPEAL

4 This Appeal letter, and Residents' attached March 9, 2023 comments to the ZAB[7], demonstrate that the ZAB's decision to approve the Project violated CEQA, land use laws, and the City's municipal codes, and was not supported by substantial evidence in the record.

First, the CEQA Addendum prepared for the Project fails to accurately disclose the extent of the Project's potentially significant air quality, public health, hazardous contamination, land use, and cumulative impacts, which are new or more
5 severe than the impacts analyzed in the original project's 2018 Initial Study/Negative Declaration ("IS/ND") and will not be substantially or fully mitigated by the City's standard conditions of approval. There is substantial evidence to support a fair argument that the Project will result in significant, unmitigated impacts in each of these areas. With respect to hazardous contamination, substantial evidence shows that the site is contaminated with
6 benzene which exceed the 2019 San Francisco Bay Regional Water Quality Control Board's (SFBRWQCB) groundwater vapor intrusion residential environmental screening level.[8] But, the Addendum does not include a new analysis of existing contamination levels and does not include mitigation requiring the site to be cleaned to residential ESLs. Second, the air quality and health risk impacts associated with the larger project size result in Reactive Organic Gas ("ROG") emissions which exceed the Bay Area Air Quality Management District ("BAAQMD") threshold of 54 pounds per day ("lbs/day"), because the Project would
7 result in ROG emissions of 71.55 lbs/day.[9] The changes to the Project result in a 2,285% increase in ROG emissions, far and away exceeding the BAAQMD significance threshold. ROG air pollution and health risk impacts remain significant but neither the Addendum nor the 2018 IS/ND adequately mitigate such impacts. Third, Cumulative impacts associated with construction and operation of the Project constitute new impacts pursuant to Section 15355 because recent
8 development in the Project area was not previously analyzed in the 2018 IS/ND and was not contemplated at the time the 2018 IS/ND was released. The Addendum fails to analyze these new cumulative impacts associated with the Project.

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[7] **Attachment A,** Adams Broadwell Joseph & Cardozo, Comments on Agenda Item 5: 3000 Shattuck Avenue Project Addendum to the Initial Study Negative Declaration (SCH #2017062025), (May 9, 2023).
[8] Addendum, p. ES-2.
[9] SWAPE Comments, p. 5.

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CEQA requires that a subsequent or supplemental environmental impact report ("EIR") be prepared if there are substantial changes in a project which increase the project's impacts; if there are substantial changes in circumstances surrounding the project; or if new information demonstrates that the project will have new or more severe effects than previously analyzed or are subject to new or different mitigation or alternatives.[10] In this case, the Project has been substantially changed from the original 2018 project by more than tripling the number of residential units on site and almost tripling the Project's square footage, resulting in substantially more severe construction and operational impacts than previously analyzed. There is also new information demonstrating that the Project will have potentially significant impacts which require mitigation beyond that previously considered for the original project. The City failed to proceed in the manner required by law by relying on a CEQA addendum and failing to prepare a subsequent or supplemental EIR in those circumstances. These issues were not resolved by the ZAB prior to its approval of the Project.

9

The City prepared the Addendum in violation of CEQA and the court's holding in *Friends of College of San Mateo Gardens v. San Mateo County Community College District*. There, the court held that the Community College District improperly prepared an addendum to an MND, because there was substantial evidence to support a fair argument that the project changes may result in a significant effect on the environment.[11] Agencies are permitted to prepare an addendum to an adopted MND, rather than a subsequent EIR or negative declaration, if only "minor technical changes or additions are necessary or none of the conditions described in [CEQA Guidelines] Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred."[12] Here, the changes proposed in the Addendum were not "minor technical changes or additions" but constituted major revisions to the MND based on changes in the Project and new significant environmental effects, thus requiring preparation of an EIR. Substantial evidence supports a fair argument that the Project's potentially significant impacts cannot be adequately mitigated by the measures proposed in the Addendum and 2018 IS/ND. Therefore, a subsequent EIR should have been prepared. The ZAB's decision to approve the Project without preparing a subsequent or supplemental EIR was a violation of CEQA.

10

The Project may be detrimental to the general welfare of the city, residents, and workers. The significant, unmitigated environmental and public health

11

[10] Pub. Res. Code § 21166; 14 Cal. Code Regs. § 15162.
[11] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2022) 11 Cal.App.5th 596, 600.
[12] CEQA Guidelines, § 15164, subd. (b).

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impacts resulting from the City's failure to prepare a subsequent or supplemental are detrimental to the general welfare of the City, its residents, and its workers, in violation of the City's zoning code.[13] The Project Applicant has not made a commitment to ensure the Project is built with local skilled and trained workforce. The Project is therefore likely to be detrimental to City goals and the Berkeley community, particularly to its highly qualified construction workforce, who may not have the opportunity to build much-needed housing in their own community.

The Project is inconsistent with the General Plan because the General Plan provides that the City intends to "[w]ork with job training programs and encourage training for life skills, job readiness, and specific target industries."[14] The Project does not include any commitment to provide construction jobs to Berkeley or East Bay residents, and does not contribute to any apprenticeship or other construction job training programs.

12

The Project is inconsistent with the General Plan Housing Element because the Project fails to provide the City's required 20% affordable units on-site, contributing to the City's current shortage of affordable units, while at the same time taking a viable project site out of production for those additional affordable units. Although the Project will pay an in-lieu fee, the Project would not be consistent with the Housing Element because it places the burden on the City to identify alternate sites to construct affordable housing units in time to meet its RHNA requirements.[15]

13

Finally, the ZAB rushed the Project's approval process before complying with CEQA by erroneously concluding that the Project was required to be approved on May 11, 2023 pursuant to the Housing Accountability Act ("HAA").[16] The ZAB incorrectly reasoned that the hearing on May 11, 2023 was the final hearing allowed under the HAA under the Act's five-hearing limit.[17] This was incorrect. The May 11, 2023 hearing was the ***second hearing*** for the Project following the Design Review Committee hearing on January 19, 2023.[18]

14

East Bay Residents urges the City Council to grant this Appeal and remand the Project to City Staff to prepare a subsequent EIR for the Project. The Project

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[13] Berkeley Municipal Code ("BMC") Sections 23.410.030 and 23.406.040(E).
[14] *Id.*
[15] City of Berkeley, Adopted 2023-2031 Housing Element, p. 107.
[16] Gov. Code. §§ 65589.5, 65589.5(h)(2).
[17] Gov. Code. § 65905.5(a). The HAA limits agencies to five public hearings to consider project approval, including appeals, but excluding hearings related to legislative action and not restricting CEQA compliance.
[18] See the figure below on page 11 from the May 11, 2023 ZAB hearing Staff Report.

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14, con't should not be rescheduled for a further public hearing until these issues have been addressed. East Bay Residents reserves the right to submit supplemental comments and evidence at any later hearings and proceedings related to the Project, in accordance with State law.[19]

I. STATEMENT OF INTEREST

East Bay Residents for Responsible Development is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential impacts associated with Project development. The association includes the UA Plumbers and Pipefitters Local 342, International Brotherhood of Electrical Workers Local 595, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, and their members and their families who live and/or work in the City of Berkeley and Alameda County.

The individual members of East Bay Residents and its affiliated labor organizations live, work, and raise their families in Alameda County, including in the City of Berkeley. They would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project
15 itself. They will therefore be first in line to be exposed to any health and safety hazards that may exist on the Project site.

The organizational members of East Bay Residents also have an interest in enforcing the City's planning and zoning laws and the State's environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making it less desirable for businesses to locate and people to live there. Indeed, continued degradation can, and has, caused restrictions on growth that reduce future employment opportunities. Finally, Residents' members are concerned about projects that are built without providing opportunities to improve local recruitment, apprenticeship training, and retention of skilled workforces, and without providing lifesaving healthcare expenditures for the construction workforce.

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[19] Gov. Code § 65009(b); Pub. Resources Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* ("*Bakersfield*") (2004) 124 Cal. App. 4th 1184, 1199-1203; *see Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

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II. THE ZAB'S ACTIONS VIOLATED CEQA

CEQA is designed to inform decision makers and the public about the potential, significant environmental impacts of a project before harm is done to the environment.[20] The EIR is the "heart" of this requirement.[21] The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return."[22]

When a previously approved project for which an EIR or an ND/MND has been prepared is modified, CEQA requires the lead agency to conduct subsequent or supplemental environmental review when one or more of the following events occur:

(a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report;
(b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report; or
(c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.[23]

16

In assessing the need for subsequent or supplemental environmental review, the lead agency must determine, on the basis of substantial evidence in light of the whole record, if one or more of the following events have occurred:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant effects or a substantial increase in the severity of previously identified effects;
(2) <u>Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental</u>

[20] 14 Cal. Code Regs. § 15002(a)(1) ("CEQA Guidelines"); *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal.App.4th 1344, 1354 ("*Berkeley Jets*"); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.
[21] *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 84.
[22] *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.
[23] Pub. Resources Code § 21166; CEQA Guidelines § 15162.

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effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.[24]

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Only where ***none*** of the conditions described above calling for preparation of a subsequent or supplemental EIR have occurred may the lead agency consider preparing a subsequent negative declaration, an addendum or no further documentation.[25] In any case, the decision must be supported by substantial evidence.[26] Here, the City's decision not to prepare a subsequent CEQA document for the Project is not supported by substantial evidence.

The City Improperly Prepared an Addendum Instead of a Subsequent EIR

Agencies may prepare an addendum to an adopted MND, rather than a subsequent EIR or negative declaration, if only "minor technical changes or additions are necessary or none of the conditions described in [CEQA Guidelines] Section 15162 calling for the preparation of a subsequent EIR or negative declaration have

[24] CEQA Guidelines §§ 15162(a)(1)-(3).
[25] CEQA Guidelines § 15162(b).
[26] *Id.* §§ 15162 (a), 15164(e), and 15168(c)(4).

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occurred."[27] "If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration," and if no subsequent EIR is required, the agency "shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation."[28] Additionally, CEQA requires preparation of an EIR where "[s]ubstantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects."[29]

16, con't

Here, the Project changes proposed in the Addendum are not "minor technical changes or additions" but constitute major revisions to the 2018 IS/ND based on new significant environmental effects thus requiring the preparation of a negative declaration at a minimum, and a subsequent EIR if the impacts cannot be mitigated. The original project proposed 32,603 SF of residential uses, with 44 units including 4 affordable units. This Project proposes 80,235 SF of residential uses, with 166 units including 17 affordable units. The original project proposed the inclusion of 17 parking spaces for automobiles, this Project proposes zero parking spaces. The Project has been substantially changed from the original 2018 project by more than tripling the number of residential units on site and almost tripling the Project's square footage, resulting in substantially more severe construction and operational impacts than previously analyzed. Also, due to substantial changes in circumstances with respect to hazardous contamination from the 2018 IS/ND, the Project will result in new significant environmental effects from hazards, air quality, and cumulative impacts.

17

As shown below, and detailed in Residents' prior comments, air quality and hazards expert Matt Hagemann and Paul Rosenfeld of Soil Water Air Protection Enterprise (SWAPE) provided substantial evidence that ROG emissions, and construction and demolition emissions may be significant and were not analyzed or mitigated in the 2018 IS/ND. Moreover, hazards impacts from the Project are more severe than analyzed in the 2018 IS/ND. The cumulative impacts associated with concurrent development in the neighborhood did not exist and were not analyzed at the time the 2018 IS/ND was prepared. These impacts constitute new significant environmental effects requiring preparation of a subsequent EIR.

18

The California Supreme Court held in *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.*, that if "the project

[27] CEQA Guidelines, § 15164, subd. (b).
[28] CEQA Guidelines, § 15162, subd. (b).
[29] *Id.* at § 15162, subd. (a)(2).

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modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR."[30] Thus, "an agency [must] prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved, and courts must enforce that standard."[31] The court held that the Community College District improperly prepared an addendum to an MND, because there was substantial evidence to support a fair argument that the project changes may result in a significant effect on the environment.[32] The court found that substantial evidence supported a fair argument that the aesthetic impacts of replacing the garden with a parking lot were significant, and the college's choice to rely on an addendum violated CEQA. The court found that the change in the Project as detailed in the Addendum was significant enough to require additional environmental review, and that an Addendum was not the appropriate CEQA document.

18, con't

Similarly, here, the Project's changes, including tripling the number of housing units, almost tripling the square footage, and doubling of the building height will result insubstantially increased air quality, public health, hazards impacts, and cumulative impacts that are new and more severe than previously analyzed such that an Addendum is inappropriate and a subsequent EIR must be prepared. The City Council must remand the Project to Staff to prepare a legally adequate subsequent EIR for the Project, because substantial evidence supports a fair argument that the changes in the Project require major revisions to the 2018 IS/ND due to new significant environmental effects from hazards, air quality, and cumulative impacts.

Finally, the ZAB rushed approval of this Project out of a false belief that failing to approve it would violate the HAA. The City Council is within the bounds of the HAA to conduct a public hearing on Appeal and remand the Project to Staff to conduct additional CEQA review prior to a final hearing on the Project. The HAA expressly requires lead agencies to comply with CEQA and complete environmental review of a development project before any HAA claims can be made. The HAA states that **nothing "in this section be construed to relieve the local agency**

19

[30] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.
[31] *Id.* at p. 959.
[32] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2022) 11 Cal.App.5th 596.

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from making one or more of the findings required pursuant to [CEQA]."[33] The Appeal asks only that the City comply with CEQA before approving the Project. Upholding the Appeal would result in compliance with CEQA, and would not expose the City to liability under the HAA.

19, con't

ZONING ADJUSTMENTS BOARD
May 11, 2023

3000 SHATTUCK AVENUE
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Table 3: Project Chronology

Date	Action
December 14, 2021	SB 330 complete preliminary housing development project application submitted
March 29, 2022	Application submitted
May 11, 2022	Application deemed incomplete
July 8, 2022	Revised application materials submitted
August 3, 2022	Application deemed complete
January 19, 2023	Design Review Committee Preliminary Design Review
January 27, 2023	*Addendum to previous Initial Study published*
April 27, 2023	Public hearing notices mailed/posted
May 11, 2023	ZAB hearing

[34]

III. THE PROJECT MAY RESULT IN NEW AND MORE SEVERE HAZARDS IMPACTS REQUIRING PREPARATION OF AN EIR

20

The Project site is contaminated with hazardous contaminants from its historical use as a service station operated by Atlantic Richfield Company ("ARCO").[35] ARCO later became an affiliate of BP and the site was operated as BP Station No. 00414 until it was sold to Mr. Shahzada Khan on February 25, 2004.[36] The Project site is listed on the State Water Resources Control Board's Geotracker database as Site T0600100094. The site is therefore on a Cortese List per Section 65962.5 of the Government Code. The Project site is currently an operational gas station and smog check location operated by Berkeley Gas & Smog, which contains

[33] Gov. Code, § 65589.5, subd. (e).
[34] Staff Report, p. 9.
[35] Atlantic Richfield Company, Case Closure Summary Report Former British Petroleum Station #00414 City of Berkeley case #27540. 3000 Shattuck Avenue Berkeley, California (June 9, 2010), https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/8836282312/T0600100094.PDF p. 2/16 (hereinafter "Case Closure Summary Report").
[36] *Id.*

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three underground storage tanks ("USTs") that contain gasoline, and one waste oil UST.[37]

Impacts from Project construction and operation may be more severe than previously analyzed in the 2018 IS/ND and construction of the Project will require mitigation measures which are considerably different from those analyzed in the 2018 IS/ND (which included no mitigation measures) to substantially residual contamination levels to acceptable residential screening levels.[38] The 2018 IS/ND relied on the site's previous closure to commercial/industrial screening levels, not residential screening levels, and did not include any mitigation measures requiring contamination levels to be cleaned to meet the more health-protective residential environmental screening levels ("ESLs") necessary to ensure that health impacts on construction workers and future residents of the Project are less than significant.

20, con't

At the time of the site's closure in 2010, "[a] station building [was] present at the site and the entire site [was] paved, with no exposed soil present at the ground surface."[39] At the time of the closure, the "potential for soil vapor intrusion was evaluated by comparing current groundwater concentrations to groundwater ESLs...for the protection of the vapor intrusion pathway in a ***commercial setting***."[40] Following the Project site's closure in 2010, an additional investigation was opened at the Site in December 2012 to address a new release associated with the hydraulic lifts present at the Site.[41] The new release was discovered during groundwater monitoring activities in October 2007, a sample from the impacted well was not collected until first quarter 2008.[42] The release notification, dated December 12, 2012, lists both BP and the current property owner (Shazada Khan) as potential responsible parties ("PRP").[43]

In June 2013, the case involving the potential release associated with the hydraulic lifts was referred to the San Francisco Bay Regional Water Board (Case # 01S0746, RWQCB).[44] Based on results of characterization activities, ARCADIS

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[37] *Id.*
[38] CEQA Guidelines § 15162(a)(3)(D).
[39] Case Closure Summary Report, p. 10/16.
[40] *Id.*
[41] Letter from San Francisco Bay Regional Water Quality Control Board to BP West Coast Products, LLC c/o Ms. Janet Wager, No Further Action, U.S. Smog and Gas, 3000 Shattuck Avenue, Berkeley, Alameda County, (September 3, 2014), https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/2104876458/01S0746%20(US%20Smog)%20-%20NFA%20package%209-3-14.pdf.
[42] *Id.*
[43] *Id.*
[44] *Id.*

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requested case closure on behalf of BP on July 9, 2014.[45] The Water Board concluded that "[b]ased upon the available information, ***including the current land use***, and with the provision that the information provided to this agency was accurate and representative of site conditions, no further action related to the pollutant releases at the subject site is required."[46] This conclusion was based on the Water Board's conclusion that the "Most Sensitive Potential Use and Probability of Use" include "municipal, industrial process, industrial service and agricultural are identified in the Basin Plan."[47]

The soil vapor levels and other residual contamination associated with releases of contaminants at the Project site have not been fully analyzed or mitigated for a residential setting and may therefore pose a significant risk to residents and workers of the Project site. The current Project does not include the uses identified under the 2010 or 2014 land use designations, and instead will be converted to residential uses. The 2010 closure summary report identified benzene levels which exceed the 2019 San Francisco Bay Regional Water Quality Control Board's (SFBRWQCB) groundwater vapor intrusion residential environmental screening level.[48] But, the Addendum does not include a new analysis of existing contamination levels and does not include mitigation requiring the site to be cleaned to residential ESLs. The City therefore lacks substantial evidence to conclude that the Project's hazardous materials and health risk impacts are less than significant. Rather, the presence of soil contamination at levels that exceed residential ESLs is substantial evidence demonstrating that these impacts may be significant and will require substantial revisions to the 2018 IS/ND in order to accurately analyze and incorporate mitigation for these impacts.

20, con't

The 2018 IS/ND relied on the misleading statement that the cleanup case was "closed"[49] to commercial industrial screening levels to conclude that no mitigation was required for the original project. The Addendum similarly fails to address the fact that the residual contamination remaining after the Water Board case closure may exceed residential screening levels, and may therefore result in a potentially significant hazardous materials and health impact to future Project residents unless mitigation us required to remediate existing contamination to residential ESLs. The Addendum relies on the statement that "[t]here are two closed State Water Quality Control Board GeoTracker investigations on the project

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[45] *Id.*
[46] *Id.*
[47] *Id.* at 2.
[48] *Id.* at ES-2.
[49] 2018 IS/ND, https://www.dropbox.com/s/19ieh5spqqet2qb/IS-ND%20with%20appendices_3000%20Shattuck.pdf?dl=0, p. 23.

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site (T0600100094 [closed 2013] and T10000004483 [closed 2014])"[50] to conclude that impacts are less than significant and that no subsequent EIR is required for the Project. However, both of these GeoTracker sites at 3000 Shattuck were closed to commercial industrial standards, and do not provide support for a conclusion that impacts to a residential project would be less than significant.

The City's failure to investigate contamination levels in relation to this Project is apparent in the document. The Addendum includes the Case Closure Summary Report which clearly states that ***"[s]oil vapor samples have not been collected at the site."***[51] The Case Closure Summary was required to include "Cumulative data tables for all soil, groundwater samples, including grab samples, and soil vapor ***must*** be included."[52] Data on soil vapor samples and cumulative data on the potential for soil vapor intrusion was not included in the Case Closure Summary, the Initial Study, or the Addendum, and was not provided in response to Residents' Public Records Act request. Thus, there is no evidence in the City's record to support the ZAB's conclusion that the Project's hazardous materials and health risk impacts from soil contamination were adequately addressed in the Addendum. The ZAB's approval of the Project therefore violated CEQA.

20, con't

The Project would result in the conversion of the contaminated industrial site to residential use, and may result in significant hazards and health impacts from soil contamination and vapor intrusion. A subsequent EIR is required pursuant to CEQA Guidelines Section 15162.

IV. THE PROJECT MAY RESULT IN NEW AND MORE SEVERE CUMULATIVE IMPACTS REQUIRING PREPARATION OF A SUBSEQUENT OR SUPPLEMENTAL EIR

CEQA requires agencies to analyze whether a project has impacts that are individually limited, but cumulatively considerable.[53] Cumulatively considerable means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects). Cumulative impacts are defined as "two or more individual effects, which, when considered together, are considerable or which compound or increase other environmental impacts."[54] Cumulative impacts

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[50] Addendum p. 22.
[51] Case Closure Summary Report, p. 10/16 (emphasis added).
[52] *Id.* at pdf 83 of 86.
[53] CEQA Guidelines § 15355(b); *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 905.
[54] CEQA Guidelines § 15355.

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associated with construction and operation of the Project constitute new impacts pursuant to Section 15355 because recent development in the Project area was not previously analyzed in the 2018 IS/ND and was not contemplated at the time the 2018 IS/ND was released. The Addendum fails to analyze these new cumulative impacts associated with the Project.

The ZAB approved the Project in violation of CEQA because the Addendum failed to address these new projects and failed to include any analysis supported by substantial evidence to conclude that the Project does not result in new or more severe cumulatively considerable impacts than the 2018 project. In fact, the Addendum only mentioned cumulative impacts for transportation and air quality impacts, but dismissed all other potentially new and significant cumulative impacts outright, without providing substantial evidence to support its conclusions.[55]

21, con't

The 2018 IS/ND concluded that, because the Project is "an infill location," cumulative impacts are less than significant for all resource areas.[56] The opposite is true. It is precisely because this Project is an infill project located in an area of the City that is currently undergoing rigorous development, that a cumulative analysis of concurrent construction impacts is so critical.

Here, the Project is surrounded by existing sources of pollution and is proposed to be constructed concurrently with numerous other new Berkeley high rise developments in the direct vicinity of the Project site. Both this Project and the concurrent development projects will result in potentially cumulatively significant air quality, hazards, and land use impacts that were not analyzed in the Addendum.

A. The Project May Result in New and More Severe Cumulative Hazards and Construction Impacts

22

As detailed above and in Resident's prior comments to the ZAB, the Project site is contaminated due to the historical presence of three underground storage tanks ("USTs") that contained gasoline, and one waste oil UST.[57] The Project site is listed on the State Water Resources Control Board's Geotracker database as Site T0600100094.[58] The site is therefore on a Cortese List per Section 65962.5 of the Government Code.

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[55] Addendum p. 13; 28.
[56] 2018 IS/ND, p. 38.
[57] 2018 IS/ND, p. 38.
[58] California State Water Resources Control Board Geotracker, ARCO # 00414 (T0600100094), https://geotracker.waterboards.ca.gov/profile_report?global_id=T0600100094.

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The Project site may be constructed concurrently with numerous developments in the Project vicinity which are also on the Cortese List per Section 65962.5 of the Government Code and require remediation prior to construction. Within 1000 feet of the Project site, there are three Cortese listed sites, including: 1) 2001 Ashby Redevelopment;[59] 2) 2920 Shattuck Avenue;[60] and 3) 2701 Shattuck Avenue, all of which are likely to require removal and remediation of contaminated soil as part of project construction, which would result in extended cumulative construction impacts.[61] All three of these projects were proposed after the 2018 IS/ND was drafted. The concurrent construction of three large Cortese listed projects within 1000 feet may result in potentially significant cumulative hazards and construction impacts that the 2018 IS/ND and the Addendum failed to analyze.

22, con't

The 2001 Ashby Redevelopment, located within 600 feet of the Project site, will require "remediation and/or off-Site disposal of impacted soil at a permitted disposal facility; extraction, treatment, and discharge of groundwater to the sanitary sewer; and installation of vapor mitigation engineering controls to control potential vapor intrusion to indoor air of the proposed development and migration along new utility corridors."[62] The remediation associated with construction of the 2920 Shattuck Project may include removal of on site hazardous materials which may exceed 55 gallons of liquids, 500 pounds of solids, or 200 cubic feet of compressed gases.[63] Based on evidence in the record demonstrating that contamination levels at the 3000 Shattuck site exceed residential standards, it is likely that that the Project will also require remediation and/or off-site disposal of contaminated soil and installation of vapor mitigation engineering controls to control potential vapor intrusion to indoor air of the proposed development and migration along new utility corridors.

The concurrent remediation and removal of contaminated soil on both project sites within such close proximity may result in potentially significant cumulative hazards, air quality, and traffic impacts which were not analyzed or mitigated in

[59] California State Water Resources Control Board Geotracker, 2001 Ashby Redevelopment (T10000014891), https://geotracker.waterboards.ca.gov/case_summary?global_id=T10000014891.
[60] California State Water Resources Control Board Geotracker, Southwick Chrysler Plymouth (T0600101310), https://geotracker.waterboards.ca.gov/case_summary?global_id=T0600101310.
[61] California State Water Resources Control Board Geotracker, 2721 Shattuck Ave, Bekins Van Storage (T0600100167), https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0600100167.
[62] California State Water Resources Control Board Geotracker, 2001 Ashby Redevelopment (T10000014891), https://geotracker.waterboards.ca.gov/case_summary?global_id=T10000014891.
[63] State Water Resources Control Board, Unified Program Consolidated Form Facility Information, FA0000211, The Model Garage Inc, 2920 Shattuck Ave Berkeley, CA 94705, https://www.dropbox.com/s/s484da7bkuism3i/Shattuck%20Avenue%202920_Model_2013%2004%2030_RPT_HMBP_Redacted.pdf?dl=0.

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22, con't

the 2018 IS/ND nor the Addendum. These cumulative impacts are new information about new significant environmental effects which were not known at the time the 2018 IS/ND was prepared. These impacts require substantial revisions to the IS/ND and therefore must be analyzed and mitigated in a subsequent EIR pursuant to CEQA Guidelines Section 15162 subdivision (a)(3).[64]

B. The Project May Result in New and More Severe Cumulative Air Quality Impacts Than Previously Analyzed

Project construction, over 18 to 21 months, may occur concurrently with numerous developments within 1000 feet including: 2001 Ashby (within 600 feet), 2701 Shattuck (within 1000 feet), and 2920 Shattuck (within 500 feet).[65] Given that these projects were proposed after the 2018 IS/ND was released, and before the Addendum was finalized, the Addendum was required to analyze the potentially significant cumulative air quality and health risk impacts associated with concurrent construction of these new projects. The City failed to do so, and must remedy this deficiency in a subsequent EIR.

23

The substantial change in the size of this Project will result in an increase in Reactive Organic Gases emissions of 2,285%, according to Residents' air quality expert consultants at SWAPE.[66] The increased size of the Project constitutes a "[s]ubstantial change[] proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects."[67] The air quality and health risk impacts resultant from the increase in size of this Project is also cumulatively considerable in connection with the numerous high-rise developments being built concurrently in the Project vicinity.

As detailed in East Bay Residents' prior comments and those of our air quality expert consultants at SWAPE, the Project would result in significant emissions from Reactive Organic Gas ("ROG") which exceed the Bay Area Air Quality Management District ("BAAQMD") threshold. BAAQMD requires that ROG emissions shall not exceed 54 pounds per day ("lbs/day"), but the Project would result in ROG emissions of 71.55 lbs/day.[68] The 2018 IS/ND made no mention of ROG emissions, but the Addendum states that the ROG emissions would be 3

[64] CEQA Guidelines § 15162(a)(2).
[65] Google Maps, 2023.
[66] SWAPE Comments, p. 5.
[67] CEQA Guidelines Section 15162(a)(2).
[68] SWAPE Comments, p. 5.

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lbs/day.[69] This conclusion is not supported by substantial evidence. SWAPE found that the changes to the Project result in a 2,285% increase in ROG emissions, far exceeding the BAAQMD significance threshold. Therefore, ROG emissions remain significant but neither the Addendum nor the 2018 IS/ND adequately mitigate such impacts. These emissions also contribute to cumulatively significant air quality impacts in connection with concurrent development within 1000 feet of the Project. The Project's individual and cumulatively significant air quality impacts are the result of substantial changes in the Project design and new project proposals that did not exist at the time the 2018 IS/ND was prepared. The City must therefore analyze these new potentially significant environmental impacts in a subsequent EIR to satisfy CEQA.

23, con't

V. THE PROJECT RESULTS IN NEW AND MORE SEVERE AIR QUALITY IMPACTS REQUIRING PREPARATION OF A SUBSEQUENT OR SUPPLEMENTAL EIR

The Addendum states that Project construction will last 18 months,[70] and that the original project also included a construction period of 18 months.[71] This is incorrect, as the 2018 IS/ND provided that the construction period will last 20 months.[72] Nevertheless, the Addendum's attempt to compare similarities between the construction timeline for the original and current project does not support a conclusion that the Project's construction emissions are comparable to the original Project because the new Project is twice the size. Construction emissions generated over the same period of time are therefore likely to be substantially higher for the current Project than the original project.

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The information in the Addendum is also internally inconsistent, because the Addendum's air quality emissions modeling relies on a 21-month construction period, whereas the text of the Addendum says construction will last 18 months, potentially resulting in an underestimation of the Project's construction emissions. SWAPE concluded that the elongated construction duration results in an underestimation of the daily emissions resulting from construction equipment onsite. SWAPE concluded that the Addendum's analysis improperly relies on the assumption that "there will be less construction activities required per day and, consequently, less pollutants emitted per day."[73] The Addendum's air quality construction emissions calculations underestimate the Project's daily emissions and

[69] Addendum, p. 14.
[70] Addendum, p. 3.
[71] *Id.*
[72] 2018 IS/ND.
[73] SWAPE Comments, p. 4.

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are therefore not supported by substantial evidence. The City must prepare a legally adequate subsequent EIR which accurately analyzes the Project's daily construction emissions with an accurate construction schedule guiding the analysis.

Further, the Addendum fails as an informational document under CEQA for failing to model the emissions associated with demolition of the existing building on the Project site. SWAPE concluded that the Addendum failed altogether to analyze the demolition phase of construction and inputted zeros into the calculations for square feet being demolished.[74] This is not an accurate assessment of the required demolition of the existing gas station, two gas pump islands, and related infrastructure.[75] Demolition of existing infrastructure will obviously exceed zero square feet of demolition activity, counter to the Addendum's unsupported calculations. SWAPE concluded that the failure to include the demolition emissions presents a significant issue, because by failing to include any amount of required demolition, the model underestimates the emissions associated with fugitive dust, debris removal, as well as exhaust from hauling trucks traveling to and from the site, which may be significant and remain unmitigated.[76] These impacts are unique to the Project and were not considered in the prior 2018 IS/ND. They must be analyzed in a subsequent EIR.

24, con't

Moreover, the Addendum fails as an informational document under CEQA for failing to quantify and analyze the Project's potentially significant air pollution impacts from trucking the modular units potentially hundreds of miles to the Project site. The Addendum fails to quantify the potentially significant air quality, health risk, and cumulative impact associated with trucking the modular units. These modular units may be transported from out of state or hundreds of miles from the Project site. Absent an analysis of the emissions associated with trucking these modular units, the Addendum fails as an informational document under CEQA, and the conclusion that air impacts from Project construction are less than significant was not supported by substantial evidence.

The City Council must remand the Project to Staff to prepare a legally adequate EIR which analyzes and mitigates the Project's potentially significant air quality impacts before the Project can be approved.

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[74] *Id.*
[75] 2018 IS/ND, p. 6.
[76] SWAPE Comments, p. 5. s

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IV. THE PROJECT MAY BE DETRIMENTAL TO THE GENERAL WELFARE OF THE CITY, RESIDENTS, AND WORKERS

The ZAB may not approve a Use Permit under Berkeley Municipal Code Section 23.406.040 unless it finds that the proposed project:

1. Will not be detrimental to the health, safety, peace, morals, comfort, or **general welfare** of persons residing or visiting in the area or neighborhood of the proposed use; and
2. Will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.[77]

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Municipal Code Section 22.20.020 defines detrimental impacts to include, *inter alia*, increased demand for workforce housing, training, and benefits: "The increased demand for affordable housing, child care and public services, ***adequate employment training and placement facilities and amenities***, and the other impacts generated by development projects, unless mitigated, are detrimental to the City's public health, safety and general welfare."[78] Under Section 22.20.020, a detriment to the general welfare occurs when the City fails to mitigate the impacts of a development project, including the increased demand for housing, workforce training, and public services that may result from the Project.[79] The ZAB lacked the evidence necessary to approve the requested Use Permit for the Project because substantial evidence demonstrates that the Project will be detrimental to the general welfare due to both the unmitigated environmental and public health impacts discussed herein, and the Project's failure to comply with the General Plan's workforce requirements.

The Project's changes, including the tripling the number of housing units, almost tripling the square footage, and doubling of the building height will result insubstantially increased air quality, public health, hazards impacts, and cumulative impacts that are new and more severe than previously analyzed such that an Addendum is inappropriate and a subsequent EIR must be prepared. The public health and safety impacts that result from the increased size and scope of the Project result in more severe hazardous contamination impacts, air quality, traffic, and noise and may be "detrimental or injurious to property and improvements of

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[77] BMC § 23.406.040.
[78] BMC § 22.20.020(G) (emphasis added).
[79] *Id.*

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25, con't

the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City" in violation of the Municipal Code.[80]

26

With regard to workforce, pursuant to Municipal Code Section 22.20.020, the Project may result in detrimental impacts to the general welfare for failure to provide employment training, placement facilities, and amenities.[81] The Project Applicant has not made a commitment to ensure the Project is built with a local skilled and trained workforce, or that the Project will provide apprenticeship training opportunities or healthcare benefits or other workforce benefits or amenities for City of Berkeley or East Bay residents. Without committing to these actions, the Project may be built with low-wage, out-of-area workers who lack the livable wages, health benefits, stability, and basic standard of living that Berkeley has committed to ensuring for all of its workers on all housing developments constructed in the City. If so, the Project would be detrimental to the health, safety, peace, morals, comfort, and general welfare of the City and its residents, especially its local construction workforce who may not have the opportunity to build much-needed housing in their own community.

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On May 2, 2023, the City adopted a new ordinance titled Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS) Ordinance.[82] The Ordinance was enacted to improve the recruitment, training, and retention of skilled construction workers, ensuring larger projects within the City are awarded to contractors that participate in high quality, industry proven apprenticeship programs, and that apprentices working under such contracts are competently trained.[83] The HARD HATS ordinance does not apply to the Project because the Project application was filed before the Ordinance went into effect. However, the evidence and findings which supported the City's adoption of the Ordinance demonstrate that projects which do not provide workforce benefits may be detrimental to the general welfare of the City and its residents.[84] Accordingly, the ZAB recommended (but did not require) that the Applicant comply

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[80] BMC § 23.406.040
[81] BMC § 22.20.020(G).
[82] City of Berkeley, Revised Agenda Material May 2, 2023, Item #1, Adding BMC Chapter 13.107, Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS) Ordinance, https://berkeleyca.gov/sites/default/files/documents/Supp%203%20Item%201%20HARD%20HATS%20Ordinance.pdf.
[83] *Id.*
[84] City of Berkeley, Agenda, Berkeley City Council, Tuesday September 20, 2022 6:00 PM, Council Consent Item 14 Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS) Referral, p. 77. Available at: https://berkeleyca.gov/sites/default/files/city-council-meetings/2022-09-20%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf ("HARD HATS Staff Report").

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with the Ordinance. Though the ZAB recommended the Applicant conform with the HARDHATS Ordinance, this does not sufficiently mitigate the risk of detriment to the general welfare, as shown below, because the ZAB condition is a recommendation only, and the Applicant did not commit to providing workforce benefits prior to the ZAB approval.[85] If the Project is constructed without workforce benefits, it would be detrimental to the general welfare of the City and its residents for the reasons described in the findings for the HARD HATS Ordinance.

27, con't

Municipal Code Section 22.20.020 defines detrimental impacts to include, *inter alia*, increased demand for workforce housing, training, and benefits: "The increased demand for affordable housing, child care and public services, ***adequate employment training and placement facilities and amenities***, and the other impacts generated by development projects, unless mitigated, are detrimental to the City's public health, safety and general welfare."[86] Under Section 22.20.020, a detriment to the general welfare occurs when the City fails to mitigate the impacts of a development project, including the increased demand for housing, workforce training, and public services that may result from the Project.[87] Pursuant to Municipal Code Section 22.20.020, the Project's adverse impacts to the general welfare include failure to provide employment training, placement facilities, and amenities.[88]

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The ZAB may approve a Use Permit for demolition of a non-residential building or structure only if the ZAB finds that "demolition will not be materially detrimental to the commercial needs and public interest of any affected Hi neighborhood or the City of Berkeley"[89] Here, the ZAB lacked substantial evidence to make the necessary findings that demolition of the existing structure and construction of the Project is in the public interest, absent community and workforce benefits to promote the general welfare. The City has found that housing projects, like this one, that are constructed with low-wage or uninsured construction workers are detrimental to the health, safety, peace, morals, comfort, and general

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[85] City of Berkeley, Agenda and Staff Report, Berkeley City Council, Council Consent Item 14 Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS), https://berkeleyca.gov/sites/default/files/city-council-meetings/2022-09-20%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf ("HARD HATS Staff Report") (Sept. 20, 2022) p. 7.
[86] BMC § 22.20.020(G) (emphasis added).
[87] *Id.*
[88] BMC § 22.20.020(G).
[89] *Id.* at § 23.326.070(D)(1).

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welfare of persons residing or visiting the City and the Project's Downtown neighborhood, as well as to the general welfare of the City.[90]

Finally, the Municipal Code provides that the "Zoning Ordinance establishes *minimum* requirements to promote the public health, safety, and general welfare."[91] The Municipal Code also provides that, "[t]o the extent possible, it is the government's responsibility to balance the responsibility to ensure the health, safety, and general welfare of the public at large in a fiscally and environmentally sustainable manner."[92] It is therefore the responsibility of the City Council to promote the general welfare beyond the minimum required by law.

29, con't

The City Council should ask the Applicant to voluntarily agree to include community benefits in the Project including local hire provisions and healthcare standards and benefits in order to promote the general welfare.

A. The Project May Be Detrimental to the General Welfare for Failing to Hire Locally

Absent a commitment from the Applicant to hire locally, the Project may be detrimental to the general welfare of Berkeley residents. The ZAB recommended that the Applicant hire locally in accordance with the HARDHATS Ordinance, but this is not binding.

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Local hire commitments are a critical way not only to hire local residents, but to use project hiring needs to target opportunities to low-income residents and people of color who might otherwise not benefit from new development.[93] Local hire programs help address the fragmentation inherent in the development process, establishing better communication among developers, employers, community organizations, local job training resources, and the workforce development system that can provide job readiness and job retention support services.[94]

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[90] City of Berkeley, Agenda, Berkeley City Council, Tuesday September 20, 2022 6:00 PM, Council Consent Item 14 Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS) Referral, p. 77. Available at: https://berkeleyca.gov/sites/default/files/city-council-meetings/2022-09-20%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf ("HARD HATS Staff Report").

[91] BMC § 22.104.030.

[92] *Id.* at § 2.09.020.

[93] Kathleen Mulligan-Hansel, *Making Development Work for Local Residents: Local Hire Programs and Implementation Strategies that Serve Low-Income Communities,* (July 2008). Available at: https://s3.amazonaws.com/proggov21-uploads/uploads/asset/asset_file/Making_Development_Work_Local_Residents_Mulligan-HanselPWF2008.pdf.

[94] *Id.*

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At the September 20, 2022 HARD HATS hearing, City Councilmembers explained that there is a "shortage of qualified local construction workers" and that is one reason why it is hard to get housing built.[95] Councilmember Hahn explained that Berkeley should "develop more labor, have working conditions, and pay, and benefits that you need to live in the Bay Area."[96] Further Councilmember Hahn asserted that Berkeley needs to expand the available workforce of people who are able to build housing and other projects, and "to ensure they have protections."[97] Mayor Arreguin noted that the "key to addressing the significant shortage of housing is addressing the shortage of a skilled and trained workforce."[98] The Project does not meet this goal of addressing the housing shortage by utilizing local skilled and trained workers and may result in a detriment to the general welfare.

30, con't

Here, the Project Applicant has not made a commitment to ensure the Project is built with local skilled and trained workforce. The Project is therefore likely to be detrimental to City goals and the Berkeley community, particularly to its highly qualified construction workforce, who may not have the opportunity to build much-needed housing in their own community. The City should request the Applicant commit to providing a local hire percentage of 30 percent as a community benefit for the Project.

B. The Project May Be Detrimental to the General Welfare for Failing to Provide Healthcare Expenditures to Its Construction Workforce

The Applicant has not committed to providing healthcare expenditures for the construction workers building the Project. This may result in a detriment to the general welfare of the City and its residents, including in particular, to its construction worker residents. In adopting the HARD HATS Ordinance, the Council found that health care security is vital for construction workers. If the Project does not provide, or have a prequalified contractor provide, healthcare expenditures for its construction workforces, it would leave the responsibility of providing for the health, safety, and welfare of the Project's construction workforce on the workers themselves, or potentially on taxpayer-funded public assistance, thus externalizing the cost of construction. This would result in a detriment to the general welfare.

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[95] Statement by Councilmember Hahn, Oakland City Council Hearing (September 20, 2022 6 PM).
[96] *Id.*
[97] *Id.*
[98] Statement by Mayor Arreguin, Oakland City Council Hearing (September 20, 2022 6 PM).

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The City's HARD HATS Ordinance Staff Report explained that construction trade workers experience exceptionally high rates of serious injury on the job, especially on sites with inadequately trained workers.[99] For example, one of every five serious workers' compensation insurance claims which involve death, permanent total disability or major permanent partial disability - is related to a construction employee, despite the fact that construction jobs account for less than one out of every 25 California jobs.[100] In authorizing drafting of the HARD HATS Ordinance, the Council reiterated the importance of providing healthcare expenditures for construction workers to support a sustainable construction workforce: "The creation and utilization of apprenticeship along with the commitments to paid healthcare act to both recruit and retain an adequate base of construction workers and to be a pipeline for future supervisors and licensed independent contractors."[101]

31, con't

The City Council should request the Applicant commit to complying with the provisions of the HARD HATS Ordinance which address healthcare expenditures for the construction workforce.[102]

V. THE PROJECT IS INCONSISTENT WITH THE GENERAL PLAN

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CEQA requires an agency to analyze whether a project conforms with the applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.[103] The Project fails to demonstrate consistency with General Plan economic and employment policies.[104]

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[99] HARD HATS Staff Report at 81.
[100] *Id.*
[101] *Id.* at 77.
[102] HARD HATS Ordinance Section 13.107.050 (Health Care Expenditures).
[103] CEQA Guidelines Appendix G, XI Land Use and Planning.
[104] The Addendum also fails as an informational document under CEQA for failing to analyze the Project's consistency with the General Plan; such inconsistencies constitute significant impacts under CEQA. *Pocket Protectors v. Sacramento* (2005) 124 Cal.App.4th 903 (where a local or regional policy of general applicability, such as an ordinance, is adopted in order to avoid or mitigate environmental effects, a conflict with that policy in itself indicates a potentially significant impact on the environment).

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A. The Project May Be Inconsistent with the General Plan Economic Development & Employment Element

The record lacks substantial evidence demonstrating that the Project would be consistent with the General Plan Economic Development & Employment Element. Thus, the Project should not have been approved until consistency was demonstrated.[105]

The General Plan Economic Development and Employment Element Policy (ED-1) provides that the City must "[i]ncrease the number of jobs that go to Berkeley citizens by coordinating economic development efforts with employment placement."[106] Further, the General Plan provides that the City intends to "[w]ork with job training programs and encourage training for life skills, job readiness, and specific target industries."[107] The Project does not include any commitment to provide construction jobs to Berkeley or East Bay residents, and the Applicant has not committed to contribute to any apprenticeship or other construction job training programs. Housing development projects in the City must also implement the goals and policies of the General Plan, including the following: 33

1) Ensure that Berkeley has an adequate supply of decent housing, living wage jobs, and businesses providing basic goods and services.
2) New housing will be developed to expand housing opportunities in Berkeley to meet the needs of all income groups.[108]

The City has determined that "it is in the City of Berkeley's economic interest to support a pipeline of skilled workers to accomplish the construction objectives and policies of the Berkeley General Plan."[109] The Project could support this goal by including community benefits such as local hire and healthcare and workforce

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[105] SB 330 requires conformance with applicable, objective general plan and zoning standards. Gov. Code § 65905.5. (a).
[106] Berkeley General Plan Economic Development and Employment Element, p. ED-5. Available at: https://berkeleyca.gov/sites/default/files/documents/12_Economic%20Development%20and%20Employment%20Element-FINAL.pdf.
[107] *Id.*
[108] Berkeley General Plan Economic Development and Employment Element, p. ED-5.
[109] City of Berkeley, Agenda and Staff Report, Berkeley City Council, Council Consent Item 14 Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS), https://berkeleyca.gov/sites/default/files/city-council-meetings/2022-09-20%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf ("HARD HATS Staff Report") (Sept. 20, 2022) p. 7.

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benefits. Absent such benefits, the City lacks substantial evidence demonstrating compliance with Policy ED-1.

Moreover, the Applicant's decision to pay an in lieu fee to the City in place of meeting the City's on-site affordable unit recommendations fails to demonstrate consistency with the General Plan's objective that development in the City should ensure an "adequate supply of decent housing" and may contribute to inconsistencies with the General Plan Housing Element (discussed below).[110] The City may allow the Applicant to pay a fee, in lieu of providing an adequate supply of affordable housing on the Project site.[111] However, the payment of in lieu fees defers the production of affordable housing to an indefinite future time. As discussed below, delaying construction of additional affordable units to the future may result in the City being unable to timely meet its Regional Housing Needs Allocation ("RHNA"). The City Council should ask the Applicant to consider adding additional on-site affordable units as a means of increasing compliance with the General Plan.

33, con't

VI. THE PROJECT IS INCONSISTENT WITH THE CITY'S HOUSING ELEMENT

CEQA requires an agency to analyze whether a project conforms with the applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.[112] The Project fails to demonstrate consistency with General Plan Housing Element.[113]

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The Project proposes to construct a ten-story residential building containing 166 dwelling units (17 Very Low-Income unit).[114] The project is seeking a 50% Density Bonus by providing 15% of the base project units as affordable to very low-income households. The Developer stated in their application for the Project that, in order to "comply with City of Berkeley Affordable Housing rental requirements, the project will also be providing additional Affordable Units and/or/or-in-

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[110] Berkeley General Plan Economic Development and Employment Element, p. ED-5.
[111] City of Berkeley Planning and Development, Zoning Project Application, 3000 Shattuck Ave. Berkeley CA 94705 (March 14, 2022), https://www.dropbox.com/s/n987ldxqb6pesmp/2022-03-29_APP_PCKT_3000%20Shattuck%20%281%29.pdf?dl=0.
[112] CEQA Guidelines Appendix G, XI Land Use and Planning.
[113] The Addendum also fails as an informational document under CEQA for failing to analyze the Project's consistency with the General Plan; such inconsistencies constitute significant impacts under CEQA. *Pocket Protectors,* 124 Cal.App.4th 903.
[114] Addendum p. 2.

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combination-with providing an in-lieu Mitigation Fee per the City of Berkeley requirements."[115] More affordable units must be provided for the Project to be consistent with the City's Housing Element and state law.

The RHNA is the State-required process that seeks to ensure cities and counties plan for enough housing in their Housing Element cycle to accommodate all economic segments of the community.[116] Accordingly, the Housing Element of the City's General Plan identifies the City's housing conditions and needs, evaluates the City's ability to meet its RHNA, establishes the goals, objectives, and policies of the City's housing strategy, and provides an array of programs to create mixed-income neighborhoods across the City.[117] The Housing Element, which was amended on February 17, 2023, states that "the City has a remaining RHNA of 5,033 units (1,923 very low income; 852 low income; 1,227 moderate income; and 1,031 above moderate income units)... The City must identify adequate sites capacity for this remaining RHNA."[118] Accordingly, Policy H-1 – Extremely Low, Very Low, Low and Moderate-Income Housing – provides: "Increase the number of housing units affordable to Berkeley residents with lower income levels."[119] Because the City has not produced and is not expected to produce enough affordable housing to meet its RHNA, projects that do not contribute to the City's RHNA are inconsistent with the City's Housing Element, a primary goal of which is to meet the RHNA.

34, con't

Berkeley Municipal Code Section 23.328.010 provides that residential housing projects constructing five or more dwelling units must include at least 20 percent of the total number of dwelling units within the project as inclusionary units. As an alternative to providing inclusionary units required in an ownership project, the applicant may elect to enter in an agreement with the City to pay fees in-lieu of providing below-market rate units.[120]

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[115] City of Berkeley Planning and Development, Zoning Project Application, 3000 Shattuck Ave. Berkeley CA 94705 (March 14, 2022), https://www.dropbox.com/s/n987ldxqb6pesmp/2022-03-29_APP_PCKT_3000%20Shattuck%20%281%29.pdf?dl=0.

[116] Cal. Gov. Code Section 65580 – 65589.9; *see* City of Berkeley, Adopted 2023-2031 Housing Element, available at https://berkeleyca.gov/sites/default/files/documents/Berkeley_2023-2031%20Housing%20Element_02-17-2023v2_0.pdf.

[117] *Id.*

[118] City of Berkeley, Adopted 2023-2031 Housing Element, p 107.

[119] *Id.* at 15.

[120] Effective July 1, 2022, the fee is set at follows: Paid at Certificate of Occupancy: $46,185 per rental unit; or Paid at building permit: $43,185 per rental unit.

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However, the City has failed to meet its RHNA in previous cycles. Under the 5th RHNA Cycle from 2015-2023, Berkeley was required to plan for 2,959 units.[121] This includes 532 at very low income, 442 at low income, 584 at moderate income, and 1,401 at above moderate income. The Housing Element states that 3,742 units have been built, or 126% of the target. However, the targets for affordable housing were missed, with 309 very low income (58%), 130 low income (29%), and 106 moderate income (18%) units completed. 3,197 units of above moderate, or market rate housing was built, which was 228% of the goal. Thus, the City already has adequate above moderate and market rate housing units to meet its RHNA requirements, but is short on production of affordable units.

34, con't

Here, the Project fails to provide the City's required 20% affordable units on-site, contributing to the City's current shortage of affordable units, while at the same time taking a viable project site out of production for those additional affordable units. Although the Project will pay an in-lieu fee, the Project would not be consistent with the Housing Element because it places the burden on the City to identify alternate sites to construct affordable housing units in time to meet its RHNA requirements.[122]

The Applicant's proposal to pay in lieu fees instead of providing 20% on-site affordable units for the 3000 Shattuck Project is not unique. The Project is one of at least three concurrent projects proposed by the Applicant, which similarly fail to contribute an adequate percentage of affordable units. The Applicant also proposes to construct the 2900-2920 Shattuck Avenue Project,[123] a ten-story residential building containing 221 dwelling units (22 Very Low-Income unit).[124] The 2920 Shattuck Avenue project is seeking a 46.25% Density Bonus by providing only 14% of the base project units as affordable to very low-income households.[125] The Applicant's 1598 University Project similarly proposes to pay an in lieu fee for the affordable units required by the City in excess of the on-site affordable necessary to qualify for a density bonus. The Applicant's decision not to provide the recommended 20% of on-site affordable units for its pending projects contributes to a cumulative shortage of affordable units that the City Council should address in its consideration of this Appeal.

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[121] City of Berkeley, Adopted 2023-2031 Housing Element, pg. D-8.
[122] City of Berkeley, Adopted 2023-2031 Housing Element, p. 107.
[123] Use Permit #ZP2022-0116 (APN: 053 159000501).
[124] City of Berkeley, Zoning Project Application, 2920 Shattuck Ave. Berkeley CA 94705, APN 053 159000501, (Sept. 4, 2022), https://www.dropbox.com/s/528twax3fw4fw9p/2022-09-04_APP_PCKT_2920%20Shattuck.pdf?dl=0 ("Application Packet"), pdf pg. 2108 of 2143.
[125] City of Berkeley, Zoning Project Application, 2920 Shattuck Ave.

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VII. CONCLUSION

For the reasons stated herein, we urge the City Council to uphold this appeal, vacate the ZAB's approval of the Project, and remand the Project to Staff to prepare a revised environmental analysis in a subsequent EIR, as required by CEQA. The new analysis must identify and implement all feasible mitigation measures available to reduce the Project's potentially significant site-specific impacts to less than significant levels before the City reconsiders approving the Project. 35

Thank you for your attention to these comments. Please include them in the City's record of proceedings for the Project.

Sincerely,

Kelilah Federman

Kelilah D. Federman

Attachment
KDF:acp

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ATTACHMENT A

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May 9, 2023

Via Email and US Mail
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Kimberly Gaffney, Vice Chairperson
Igor Tregub, Member
Michael Thompson, Member
Holly Scheider, Member
Shoshana O'Keefe, Member
Charles Kahn, Member
Brandon Yung, Member
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Re: Comments on Agenda Item 5: 3000 Shattuck Avenue Project Addendum to the Initial Study Negative Declaration (SCH #2017062025)

Dear Chairperson Duffy, Vice Chairperson Gaffney, Members: Tregub, Thompson, Schneider, O'Keefe, Kahn, Yung, Sanderson, and Ms. Riemer:

On behalf of East Bay Residents for Responsible Development ("East Bay Residents"), we submit these comments on the Addendum to the 3000 Shattuck Avenue Project Initial Study Negative Declaration (SCH #2017062025) prepared by the City of Berkeley (the "City") for the 3000 Shattuck Avenue Project ("Project") proposed by Mark Rhoades of the Rhoades Planning Group and Khan Shazada & Farhat (collectively, "Applicant").[1] The City adopted the IS/ND ("2018 IS/ND") for the original 3000 Shattuck Avenue Project ("original project") and approved the

[1] City of Berkeley, Addendum to the 3000 Shattuck Avenue Project Initial Study – Negative Declaration (Permit No. ZP2015-0229, SCH # 2017062025) (January 2023), https://www.dropbox.com/s/kr0fme3neozjqyf/2023-01-27_CEQA_Addendum%20to%20IS-ND_3000%20Shattuck.pdf?dl=0 (hereinafter "Addendum").

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original project on November 27, 2018.[2] These comments precede the hearing of the City of Berkeley Zoning Adjustment Board ("ZAB") on May 11, 2023 at 7:00 pm.[3]

The Project consists of changes to the original project considered in the 2018 IS/ND. The Project proposes to demolish the existing 1,163-square-foot ("SF") gas station and construct 80,235 sf of residential space including 166 residential units, 1,095 SF of retail space, and zero parking spaces on the 0.31-acre site. Construction of the Project is anticipated to last eighteen (18) months. The Project site is located at 3000 Shattuck Avenue, Berkeley, CA 94705 (APNs 53-1592-1 & 53-1592-2). The Project site is designated as Avenue Commercial in the City's General Plan and is located in the South Area Commercial (C-SA) zoning district. The original project proposed 32,603 SF of residential uses, with 44 units including 4 affordable units. This Project proposes 80,235 SF of residential uses, with 166 units including 17 affordable units. The original project proposed the inclusion of 17 parking spaces for automobiles, this Project proposes zero parking spaces.[4]

We prepared these comments with the assistance of air quality and hazards expert Matt Hagemann and Paul Rosenfeld of Soil Water Air Protection Enterprise (SWAPE), whose technical comments and curriculum vitae are attached hereto as Exhibit A.[5] Our review of the Addendum and 2018 IS/ND demonstrates that the Project fails to comply with CEQA. As explained more fully below, the Addendum fails to accurately disclose the extent of the Project's potentially significant air quality, public health, hazardous contamination, land use, and cumulative impacts which are new or more severe than the impacts analyzed in the 2018 IS/ND. There is substantial evidence to support a fair argument that the Project will result in significant, unmitigated impacts in each of these areas. Further, the Project fails to comply with the City's General Plan and Housing Element. The City may not approve the Project until the City prepares an EIR that adequately analyzes the Project's potentially significant impacts and incorporates all feasible mitigation measures to avoid or minimize these impacts.

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[2] City of Berkeley, 3000 Shattuck Avenue Mixed Use Project Initial Study–Negative Declaration, https://www.dropbox.com/s/ui1snla3csdgpik/IS-ND%20with%20appendices_3000%20Shattuck.pdf?dl=0 (hereinafter "2018 IS/ND").
[3] City of Berkeley Zoning Adjustments Meeting Agenda, May 11, 2023, https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-05-11_ZAB_Agenda_Linked.pdf.
[4] Addendum p. 3.
[5] See **Exhibit A,** Matt Hagemann, P.G., C.Hg., Paul E. Rosenfeld, Ph.D., Comments on the 3000 Shattuck Mixed-Use Project (SCH No. 2017062025) (April 10, 2023) ("SWAPE Comments").
6154-007j

Moreover, the City prepared the Addendum in violation of CEQA and the court's holding in *Friends of College of San Mateo Gardens v. San Mateo County Community College District*. There, the court held that the Community College District improperly prepared an addendum to an MND, because there was substantial evidence to support a fair argument that the project changes may result in a significant effect on the environment.[6] Agencies are permitted to prepare an addendum to an adopted MND, rather than a subsequent EIR or negative declaration, if only "minor technical changes or additions are necessary or none of the conditions described in [CEQA Guidelines] Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred."[7] Here, the changes proposed in the Addendum are not "minor technical changes or additions" but constitute major revisions to the MND based on new significant environmental effects thus requiring preparation of an Environmental Impact Report ("EIR") if the impacts cannot be mitigated. Substantial evidence supports a fair argument that the Project's potentially significant impacts cannot be adequately mitigated by the measures proposed in the Addendum and 2018 IS/ND.

For the reasons discussed herein, and in the attached expert comments, East Bay Residents urges the City to remedy the deficiencies in the Addendum by preparing a legally adequate EIR and circulating it for public review and comment.[8] East Bay Residents and their expert consultants have identified numerous potentially significant impacts that the Addendum either mischaracterizes, underestimates, or fails to identify.

I. STATEMENT OF INTEREST

East Bay Residents for Responsible Development ("ERRBD" or "Residents") is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential impacts associated with Project development. The association includes the UA Plumbers and Pipefitters Local 342, International Brotherhood of Electrical Workers Local 595, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, and their members and their families who live and/or work in the City of Berkeley and Alameda County.

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[6] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2022) 11 Cal.App.5th 596, 600.
[7] CEQA Guidelines, § 15164, subd. (b).
[8] We reserve the right to supplement these comments at later hearings on this Project. Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199–1203; *see Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.
6154-007j

The individual members of EBRRD live, work, and raise their families in the City and in Alameda County. They would be directly affected by the Project's impacts. Individual members may also work on the Project itself. They will therefore be first in line to be exposed to any health and safety hazards that may exist on the Project site.

The organizational members of EBRRD also have an interest in enforcing the City's planning and zoning laws and the State's environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making it less desirable for businesses to locate and people to live there. Indeed, continued degradation can, and has, caused restrictions on growth that reduce future employment opportunities. Finally, Residents' members are concerned about projects that are built without providing opportunities to improve local recruitment, apprenticeship training, and retention of skilled workforces, and without providing lifesaving healthcare expenditures for the construction workforce.

II. LEGAL BACKGROUND

CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project.[9] "CEQA's fundamental goal [is] fostering informed decision-making."[10] "The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind."[11]

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an EIR, except in certain limited circumstances.[12] The EIR is the very heart of CEQA.[13] The EIR acts like an "environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return."[14] The EIR aids an agency in identifying, analyzing, disclosing, and, to the extent possible, avoiding a project's significant environmental effects through implementing feasible

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[9] 14 Cal. Code Regs. ("CEQA Guidelines") § 15002, subd. (a)(1).
[10] *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 402.
[11] *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283.
[12] See, e.g., Pub. Resources Code, § 21100.
[13] *Dunn-Edwards v. Bay Area Air Quality Management Dist.* (1992) 9 Cal.App.4th 644, 652.
[14] *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1220.
6154-007j

mitigation measures.[15] The EIR also serves "to demonstrate to an apprehensive citizenry that the [agency] has analyzed and considered the ecological implications of its action."[16] Thus, an EIR "protects not only the environment but also informed self-government."[17]

An EIR is required if "there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment."[18] The EIR aids an agency in identifying, analyzing, disclosing, and, to the extent possible, avoiding a project's significant environmental effects through implementing feasible mitigation measures.[19] In very limited circumstances, an agency may avoid preparing an EIR by issuing a negative declaration, a written statement briefly indicating that a project will have no significant impact. Because "[t]he adoption of a negative declaration . . . has a terminal effect on the environmental review process" by allowing the agency to dispense with the duty to prepare an EIR, negative declarations are allowed only in cases where there is not even a "fair argument" that the project will have a significant environmental effect.[20]

Under the fair argument standard, a lead agency "shall" prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.[21] The phrase "significant effect on the environment" is defined as "a substantial, or potentially substantial, adverse change in the environment."[22] In certain circumstances, a project with potentially significant impacts can be modified by the adoption of mitigation measures to reduce the impacts to a level of insignificance. In such cases, an agency may satisfy its CEQA obligation by preparing a mitigated

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[15] Pub. Resources Code § 21002.1(a); CEQA Guidelines § 15002(a), (f).
[16] *No Oil, Inc. v. City of Richmond* (1974) 13 Cal.3d 68, 86.
[17] *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.
[18] Pub. Resources Code, § 21080, subd. (d) (emphasis added); CEQA Guidelines, § 15064; see also *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927; *Mejia v. City of Richmond* (2005) 13 Cal.App.4th 322.
[19] Pub. Resources Code, § 21002.1, subd. (a); CEQA Guidelines, § 15002, subd. (a) & (f).
[20] *Citizens of Lake Murray v. San Diego* (1989) 129 Cal.App.3d 436, 440; Pub. Resources Code, §§ 21100, 21064.
[21] Pub. Res. Code §§21080(d), 21082.2(d); 14 Cal. Code Reg. §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Richmond* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.
[22] Pub. Resources Code, § 21068.
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negative declaration.[23] A mitigated negative declaration, however, is also subject to the fair argument standard. Thus, an MND is also inadequate, and an EIR is required, whenever substantial evidence in the record supports a "fair argument" that significant impacts may occur, even with the imposition of mitigation measures.

The "fair argument" standard is an exceptionally "low threshold" favoring environmental review in an EIR rather than a negative declaration.[24] The "fair argument" standard requires the preparation of an EIR if any substantial evidence in the record indicates that a project may have an adverse environmental effect.[25] As a matter of law, substantial evidence includes both expert and lay opinion.[26] Even if other substantial evidence supports the opposite conclusion, the agency nevertheless must prepare an EIR.[27] Under the "fair argument" test, CEQA always resolves the benefit of the doubt in favor of the public and the environment.

Agencies are permitted to prepare an addendum to an adopted MND, rather than a subsequent EIR or negative declaration, if only "minor technical changes or additions are necessary or none of the conditions described in [CEQA Guidelines] Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred."[28] "If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration," and if no subsequent EIR is required, the agency "shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation." (CEQA Guidelines, § 15162, subd. (b).) Additionally, CEQA requires preparation of an EIR where "[s]ubstantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects."

Here, the changes proposed in the Addendum are not "minor technical changes or additions" but constitute major revisions to the 2018 IS/ND based on new significant environmental effects thus requiring the preparation of a negative

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[23] Pub. Resources Code, § 21064.5; CEQA Guidelines, § 15064, subd. (f)(2).
[24] *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.
[25] CEQA Guidelines, § 15064, subd. (f)(1); *Pocket Protectors v. City of Sacramento, supra,* 124 Cal.App.4th at 931.
[26] Pub. Resources Code, § 21080, subd. (e)(1); CEQA Guidelines, § 15064, subd. (f)(5).
[27] *Arviv Enterprises v. South Valley Area Planning Comm.* (2002) 101 Cal.App.4th 1333, 1346; *Stanislaus Audubon v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597.
[28] CEQA Guidelines, § 15164, subd. (b).
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declaration at a minimum, and an EIR if the impacts cannot be mitigated. As shown below, SWAPE provided substantial evidence that ROG emissions, and construction and demolition emissions may be significant and were not analyzed or mitigated in the 2018 IS/ND.

The California Supreme Court held that if "the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR."[29] Thus, "an agency [must] prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved, and courts must enforce that standard."[30]

In *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.*, the court held that the Community College District improperly prepared an addendum to an MND, because there was substantial evidence to support a fair argument that the project changes may result in a significant effect on the environment.[31] In that case, the court found that the change in the Project as detailed in the Addendum was significant enough to require additional environmental review, and that an Addendum was not the appropriate CEQA document. Similarly, here, the Project's changes, including the doubling of its height, increased air quality, public health, and hazards impacts results in new significant impact such that an Addendum is inappropriate and an EIR must be prepared. The ZAB must remand the Project to Staff to prepare a legally adequate EIR for the Project, because substantial evidence supports a fair argument that the Project's changes may result in significant impacts, which have not been avoided through the revisions in the Addendum. Project impacts remain significant and unmitigated, as detailed herein.

Moreover, the ZAB lacks the evidence necessary to approve the requested Use Permit for the Project because substantial evidence demonstrates that the Project will be detrimental to the general welfare. The Project Applicant has not made a commitment to ensure the Project is built with local skilled and trained workforce, or that the Project will provide apprenticeship training opportunities or

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[29] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.
[30] *Id.* at p. 959.
[31] (2022) 11 Cal.App.5th 596.
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healthcare benefits or other workforce benefits for City of Berkeley or East Bay residents. The Project may be built with low-wage, out-of-area workers who lack the livable wages, health benefits, stability, and basic standard of living that Berkeley has committed to ensuring for all of its workers on all housing developments constructed in the City. The Project would therefore be detrimental to the health, safety, peace, morals, comfort, and general welfare of the City and its residents, especially its local construction workforce who may not have the opportunity to build much-needed housing in their own community. The Project is also inconsistent with the workforce and economic requirements of the City of Berkeley General Plan ("General Plan").

The ZAB should remand the Project to Staff to prepare a legally adequate EIR and include conditions of approval requesting community benefits, including local hire provisions, workforce standards, and healthcare benefits for workers, to ensure the Project does not cause a detriment to the general welfare of the City.

III. THE PROJECT'S POTENTIALLY SIGNIFICANT HAZARDS IMPACTS REQUIRE PREPARATION OF AN EIR

The Project site is contaminated with hazardous contaminants from its historical use as a service station operated by Atlantic Richfield Company (ARCO).[32] ARCO later became an affiliate of BP and the site was operated as BP Station No. 00414 until it was sold to Mr. Shahzada Khan on February 25, 2004.[33] The Project site is listed on the State Water Resources Control Board's Geotracker database as Site T0600100094. The site is therefore on a Cortese List per Section 65962.5 of the Government Code. The Project site is currently an operational gas station and smog check location operated by Berkeley Gas & Smog. The Project site contained three underground storage tanks (USTs) that contained gasoline, and one waste oil UST.[34]

The Addendum tiers from the IS which states:

> The site is included on the list of hazardous materials sites compiled pursuant to Government Code 65962.5 (Cortese List) as "closed" cases. As

[32] Atlantic Richfield Company, Case Closure Summary Report Former British Petroleum Station #00414 City of Berkeley case #27540. 3000 Shattuck Avenue Berkeley, California (June 9, 2010), https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/8836282312/T0600100094.PDF p. 2/16 (hereinafter "Case Closure Summary Report").
[33] *Id.*
[34] *Id.*
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> described in the Environmental Setting, the RWQCB issued a case closure letter for the clean-up case in September 2014, concluding that the current plume is restricted to the site and does not present a current or potential risk to human health or the environment. Therefore, the project would not create a significant hazard to the public or the environment and the impact would be less than significant.[35]

The IS relies on the misleading statement that the cleanup case is "closed."[36] The Addendum then relies on the same misleading proposition. The Addendum states that "[t]here are two closed State Water Quality Control Board GeoTracker investigations on the project site (T0600100094 [closed 2013] and T10000004483 [closed 2014])."[37]

These statements are misleading because the site was closed to commercial/industrial screening levels, "based on the assumption that land use at the site will remain unchanged."[38] The Project site fails to meet the residential ESL levels necessary to place housing on the site. The site must undergo additional soil remediation to remove excess contaminants and reach acceptable residential ESLs because the site is being converted from commercial/industrial to residential use. People will live on the site, their children may play on the grounds, but the site was cleaned only to commercial/industrial screening levels. The contamination that currently remains onsite may result in health risk impacts to the residents and the community.

Moreover, the Addendum includes the Case Closure Summary Report that states that "[s]oil vapor samples have not been collected at the site."[39] The Case Closure Summary was required to include "Cumulative data tables for all soil, groundwater samples, including grab samples, and soil vapor ***must*** be included."[40] Data on soil vapor samples and cumulative data on the potential for soil vapor intrusion was not included in the Case Closure Summary, the Initial Study, or the Addendum and is not available for public review and scrutiny.

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[35] IS, https://www.dropbox.com/s/19ieh5spqqet2qb/IS-ND%20with%20appendices_3000%20Shattuck.pdf?dl=0, p. 23.
[36] *Id.*
[37] Addendum p. 22.
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[39] Case Closure Summary Report, p. 10/16.
[40] *Id.* at pdf 83 of 86.
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At the time of the site's closure in 2010, "[a] station building [was] present at the site and the entire site [was] paved, with no exposed soil present at the ground surface."[41] Project construction here, will disrupt and expose soil, potentially exposing dangerous and previously untested levels of soil vapor. At the time of the closure, the "potential for soil vapor intrusion was evaluated by comparing current groundwater concentrations to groundwater ESLs...for the protection of the vapor intrusion pathway in a ***commercial setting***."[42] The soil vapor and potential health risk impacts have not been analyzed for a residential setting and may pose a significant risk to residents of the Project site.

The City must draft an EIR because substantial evidence supports a fair argument that hazardous contamination and soil vapor may result in a significant environmental impact. The courts have repeatedly held that an EIR must be prepared, whenever it can be fairly argued on the basis of substantial evidence that a project may have a significant environmental impact.[43] Here, the City cannot approve the Project based on an Addendum to the Initial Study because project modification results in potentially significant impacts from hazardous contamination and soil vapor which were unstudied at the time of preparation of the 2018 IS/ND.

The California Supreme Court held that if "the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR."[44] Thus, "an agency [must] prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved, and courts must enforce that standard."[45] The City must prepare an EIR to adequately analyze and mitigate the Project's potentially significant and as yet unstudied impacts from soil vapor and hazardous contamination, before the Project can lawfully be approved.

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[41] Case Closure Summary Report, p. 10/16.
[42] *Id.*
[43] Pub. Resources Code § 21151; CEQA Guidelines § 15064(f); *Citizens for Responsible Equitable Envt'l Dev. v. City of Chula Vista* ("*CREED*") (2011) 197 Cal.App.4th 327, 330-31; *Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319 ("*CBE v. SCAQMD*").
[44] Friends of College of San Mateo Gardens v. San Mateo County Community College Dist. (2016) 1 Cal.5th 937, 958.
[45] Id. at p. 959.
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IV. THE PROJECT RESULTS IN SIGNIFICANT AIR QUALITY IMPACTS REQUIRING PREPARATION OF AN EIR

An EIR must be prepared, whenever it can be fairly argued on the basis of substantial evidence that a project may have a significant environmental impact.[46] "[S]ignificant effect on the environment" is defined as "a substantial, or potentially substantial, adverse change in the environment."[47] An effect on the environment need not be "momentous" to meet the CEQA test for significance; it is enough that the impacts are "not trivial."[48] Substantial evidence, for purposes of the fair argument standard, includes "fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact."[49] The Project may result in potentially significant impacts to air quality. Air quality impacts constitute new or increased significant environmental effects "not previously considered in connection with the project as originally approved."[50]

A. The Project Results in Significant ROG Emissions

East Bay Resident's air quality expert consultants at SWAPE found that the Project results in significant emissions from Reactive Organic Gas ("ROG") which exceed the Bay Area Air Quality Management District ("BAAQMD") threshold. BAAQMD provides that ROG emissions shall not exceed 54 pounds per day ("lbs/day"), but the Project would result in ROG emissions of 71.55 lbs/day.[51] The 2018 IS/ND makes no mention of ROG emissions, but the Addendum states that the ROG emissions would be 3 lbs/day.[52] This conclusion is not supported by substantial evidence. SWAPE found that the changes to the Project result in a 2,285% increase in ROG emissions, far and away exceeding the BAAQMD significance threshold. Therefore, ROG emissions remain significant and the Addendum nor the 2018 IS/ND adequately mitigate such impacts. The City must prepare an EIR to satisfy CEQA.

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[46] Pub. Resources Code § 21151; CEQA Guidelines § 15064(f); *Citizens for Responsible Equitable Envt'l Dev. v. City of Chula Vista* ("*CREED*") (2011) 197 Cal.App.4th 327, 330-31; *Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319 ("*CBE v. SCAQMD*").
[47] Pub. Resources Code § 21068; CEQA Guidelines § 15382; *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1581.
[48] *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83.
[49] Pub. Resources Code § 21080(e)(1) (emphasis added); *CREED*, 197 Cal.App.4th at 331.
[50] *Friends of College of San Mateo Gardens v. San Mateo Community College District*, *supra*, 1 Cal.5th at 959.
[51] SWAPE Comments, p. 5.
[52] Addendum, p. 14.
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The California Supreme Court held that if "the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR."[53] Further, "an agency [must] prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved, and courts must enforce that standard."[54]

East Bay Residents present substantial evidence, in these comments and in our expert comments attached, showing that the Project may result in potentially significant ROG emissions, which must be mitigated before the Project can be approved. These impacts were not considered in the prior 2018 IS/ND, and must be analyzed in an EIR. SWAPE's comments present dozens of effective mitigation measures to help reduce Project ROG, construction, and operational air emissions. Such measures should be implemented in an EIR's Mitigation Monitoring and Reporting Program. The City must prepare an EIR to study the previously unstudied and potentially significant air quality impacts from the Project, particularly with respect to ROG emissions, to satisfy CEQA.

B. The Addendum Underestimates the Project's Construction and Demolition Emissions

The Addendum states that Project construction will last 18 months.[55] The Addendum states that the original project included a construction period of 18 months as well.[56] But, the 2018 IS/ND provided that the construction period will last 20 months.[57] Thus, it is particularly troubling, that the Addendum's air quality analysis relies on a 21-month construction period, resulting in an underestimation of the Project's construction emissions. SWAPE concludes that the elongated construction duration results in an underestimation of the daily emissions resultant from construction equipment onsite. SWAPE concludes that the analysis improperly relies on the assumption that "there will be less construction activities

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[53] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.
[54] Id. at p. 959.
[55] Addendum, p. 3.
[56] *Id.*
[57] 2018 IS/ND.
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required per day and, consequently, less pollutants emitted per day."[58] The Addendum's air quality construction emissions calculations underestimate the Project's daily emissions and are therefore not supported by substantial evidence. The City must prepare a legally adequate EIR which accurately analyzes the Project's daily construction emissions with an accurate construction schedule guiding the analysis.

Further, the Addendum fails as an informational document under CEQA for failing to model the emissions associated with demolition of the existing building on the Project site. SWAPE concludes that the Addendum fails altogether to analyze the demolition phase of construction and inputted zeros into the calculations for square feet being demolished.[59] This is not an accurate assessment of the required demolition of the existing gas station, two gas pump islands, and related infrastructure.[60] Demolition of existing infrastructure will obviously exceed zero square feet of demolition activity, counter to the Addendum's unsupported calculations. SWAPE concludes that the failure to include the demolition emissions presents a significant issue, because by failing to include any amount of required demolition, the model underestimates the emissions associated with fugitive dust, debris removal, as well as exhaust from hauling trucks traveling to and from the site, which may be significant and remain unmitigated.[61] These impacts were not considered in the prior 2018 IS/ND, and must be analyzed in an EIR.

C. The Addendum Underestimates the Project's Construction Emissions from Trucking the Modular Units

The Addendum fails as an informational document under CEQA for failing to quantify and analyze the Project's potentially significant air pollution impacts from trucking the modular units potentially hundreds of miles to the Project site. The Addendum and 2018 IS/ND failed to quantify the potentially significant air quality, health risk, and cumulative impact associated with trucking the modular units. These modular units may be transported from out of state or hundreds of miles from the Project site. Absent an analysis of the emissions associated with trucking these modular units, the Addendum fails as an informational document under CEQA, and the conclusion that air impacts from Project construction are less than significant is not supported by substantial evidence.

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[58] SWAPE Comments, p. 4.
[59] *Id.*
[60] 2018 IS/ND, p. 6.
[61] SWAPE Comments, p. 5. s
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V. THE PROJECT RESULTS IN SIGNIFICANT CUMULATIVE IMPACTS REQUIRING PREPARATION OF AN EIR

CEQA requires agencies to analyze whether a project has impacts that are individually limited, but cumulatively considerable.[62] Cumulatively considerable means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects). Cumulative impacts are defined as "two or more individual effects, which, when considered together, are considerable or which compound or increase other environmental impacts."[63]

The Addendum fails to include any analysis supported by substantial evidence to conclude that the Project does not result in cumulatively considerable impacts. In fact, the Addendum only mentions cumulative impacts for traffic and air quality impacts, but dismisses all other potentially significant cumulative impacts out of hand, without providing substantial evidence to support the conclusions. The 2018 IS/ND concluded that because the Project is "an infill location" cumulative impacts are less than significant for all resource areas.[64] But, it is particularly because this Project is an infill project, that a cumulative analysis of concurrent construction impacts is so critical. Here, the Project is proposed to be constructed concurrently with the 2920 Shattuck Project, just down the street, among other new Berkeley high rise developments. Both this Project and the 2920 Shattuck project will result in potentially cumulatively significant air quality, hazards, and land use impacts that were not analyzed in conjunction with either Project's analysis.

The City must prepare an EIR which accurately analyzes the Project's potentially significant cumulative impacts before the Project can lawfully be approved.

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[62] 14 CCR § 15355(b); *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 905.
[63] 14 CCR § 15355.
[64] 2018 IS/ND, p. 38.
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VI. THE PROJECT MAY BE DETRIMENTAL TO THE GENERAL WELFARE OF THE CITY, RESIDENTS, AND WORKERS

In order to approve a Use Permit, under Berkeley Municipal Code Section 23.406.040, the Zoning Adjustments Board must find that the proposed project:

1) Will not be detrimental to the health, safety, peace, morals, comfort, or **general welfare** of persons residing or visiting in the area or neighborhood of the proposed use; and
2) Will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

Municipal Code Section 22.20.020 defines detrimental impacts to include, *inter alia*, increased demand for workforce housing, training, and benefits: "The increased demand for affordable housing, child care and public services, ***adequate employment training and placement facilities and amenities***, and the other impacts generated by development projects, unless mitigated, are detrimental to the City's public health, safety and general welfare."[65] Under Section 22.20.020, a detriment to the general welfare occurs when the City fails to mitigate the impacts of a development project, including the increased demand for housing, workforce training, and public services that may result from the Project.[66] Pursuant to Municipal Code Section 22.20.020, the Project's impacts to the general welfare for failure to provide employment training, placement facilities, and amenities, require mitigation.[67]

Further, the ZAB may approve a Use Permit for demolition of a non-residential building or structure only if the ZAB finds that "demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City of Berkeley"[68] Here, the ZAB cannot make the necessary findings that demolition of the existing structure and construction of the Project is in the public interest, absent community and workforce benefits to promote the general welfare.

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[65] BMC § 22.20.020(G) (emphasis added).
[66] *Id.*
[67] BMC § 22.20.020(G).
[68] *Id.* at § 23.326.070(D)(1).
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Housing projects, like this one, that are constructed with low-wage or uninsured construction workers are detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or visiting the City and the Project's Downtown neighborhood, as well as to the general welfare of the City. The City should request the Applicant include community benefits in the Project conditions of approval, including local hire provisions and healthcare standards and benefits in order to promote the general welfare.

A. The Project is Detrimental to the General Welfare for Failing to Hire Locally

Absent a provision requiring the Applicant to hire locally, the Project may be detrimental to the general welfare of Berkeley residents. Local hire commitments are a critical way not only to hire local residents, but to use project hiring needs to target opportunities to low-income residents and people of color who might otherwise not benefit from new development.[69] Local hire programs help address the fragmentation inherent in the development process, establishing better communication among developers, employers, community organizations, local job training resources, and the workforce development system that can provide job readiness and job retention support services.[70] Here, the Project Applicant has not made a commitment to ensure the Project is built with local skilled and trained workforce. The Project is therefore likely to be detrimental to City goals and the Berkeley community – particularly to its highly qualified construction workforce, who may not have the opportunity to build much-needed housing in their own community. The City should request the Applicant provide a local hire percentage of 30 percent as a community benefit for the Project.

B. The Project is Detrimental to the General Welfare for Failing to Provide Healthcare to Construction Workers

Further, the Project has not committed to healthcare standards or benefits for the construction workers building the Project. This results in a detriment to the general welfare of the City and its residents, including in particular, to its construction worker residents. By failing to provide healthcare for its construction

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[69] Kathleen Mulligan-Hansel, *Making Development Work for Local Residents: Local Hire Programs and Implementation Strategies that Serve Low-Income Communities,* (July 2008). Available at: https://s3.amazonaws.com/proggov21-uploads/uploads/asset/asset_file/Making_Development_Work_Local_Residents_Mulligan-HanselPWF2008.pdf.

[70] *Id.*

workers, the Project leaves the responsibility of providing for the health, safety, and welfare of the workers and the community on the workers themselves, or on taxpayer-funded public assistance, thus externalizing the cost of construction. By failing to provide healthcare standards, the Project would perpetuate existing income and healthcare inequities for construction workers, causing a detriment to the general welfare by failing to provide for the health and safety of its workers. The City should request the Applicant provide healthcare benefits as a community benefit of the Project.

Project construction will increase the local demand for a construction workforce. The Project's lack of workforce standards and worker healthcare may exacerbate the existing demand for local affordable housing and public services by construction workers that currently receive low pay without benefits. Without mitigation, these impacts remain significant, and the ZAB cannot make the necessary findings that the Project complies with the General Plan and zoning code. To comply with the General Plan Economic Development and Employment Element, the City must ensure that new housing developments provide jobs that go to Berkeley residents and provide job training programs and job readiness.

Moreover, the Municipal Code provides that the "Zoning Ordinance establishes *minimum* requirements to promote the public health, safety, and general welfare."[71] The Municipal Code also provides that, "[t]o the extent possible, it is the government's responsibility to balance the responsibility to ensure the health, safety, and general welfare of the public at large in a fiscally and environmentally sustainable manner."[72] It is therefore the responsibility of the Zoning Adjustment Board to promote the general welfare beyond the minimum required by law. Here, the ZAB must require the Project to include community benefits like those detailed herein, otherwise, the Project contravenes the Municipal Code and General Plan.

VII. THE PROJECT IS INCONSISTENT WITH THE GENERAL PLAN

CEQA requires an agency to analyze whether a project conforms with the applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an

[71] BMC § 22.104.030.
[72] *Id.* at § 2.09.020.
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environmental effect.[73] The Addendum fails as an informational document under CEQA for failing to analyze the Project's inconsistency with the General Plan.

A. The Project is Inconsistent with the General Plan Economic Development & Employment Element

The Project is inconsistent with the General Plan Economic Development & Employment Element, and thus cannot be approved until consistency is demonstrated.[74] The General Plan Economic Development and Employment Element Policy (ED-1) provides that the City must "[i]ncrease the number of jobs that go to Berkeley citizens by coordinating economic development efforts with employment placement."[75] Further, the General Plan provides that the City intends to "[w]ork with job training programs and encourage training for life skills, job readiness, and specific target industries."[76] The Project does not include any commitment to provide construction jobs to Berkeley or East Bay residents, and does not contribute to any apprenticeship or other construction job training programs. Housing development projects in the City must also implement the goals and policies of the General Plan, including the following:

1) Ensure that Berkeley has an adequate supply of decent housing, living wage jobs, and businesses providing basic goods and services.
2) New housing will be developed to expand housing opportunities in Berkeley to meet the needs of all income groups.[77]

The City has determined that "it is in the City of Berkeley's economic interest to support a pipeline of skilled workers to accomplish the construction objectives and policies of the Berkeley General Plan."[78] The Project must support this goal by

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[73] CEQA Guidelines Appendix G, XI Land Use and Planning.
[74] SB 330 requires conformance with applicable, objective general plan and zoning standards. Gov. Code § 65905.5. (a).
[75] Berkeley General Plan Economic Development and Employment Element, p. ED-5. Available at: https://berkeleyca.gov/sites/default/files/documents/12_Economic%20Development%20and%20Employment%20Element-FINAL.pdf.
[76] *Id.*
[77] Berkeley General Plan Economic Development and Employment Element, p. ED-5.
[78] City of Berkeley, Agenda and Staff Report, Berkeley City Council, Council Consent Item 14 Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS), https://berkeleyca.gov/sites/default/files/city-council-meetings/2022-09-20%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf ("HARD HATS Staff Report") (Sept. 20, 2022) p. 7.

including community benefits such as local hire and healthcare and workforce benefits, otherwise the Project is detrimental to the general welfare, violates the General Plan, and may not be approved.

Moreover, the Project's failure to provide sufficient affordable housing onsite contravenes the General Plan's objective that development in the City should ensure an "adequate supply of decent housing."[79] The City may allow the Applicant to pay a fee, in-lieu of providing an adequate supply of affordable housing on the Project site.[80] If the City continues this practice of allowing developers to get away with paying in lieu fees, instead of providing onsite affordable housing, the City will have an insufficient supply of decent affordable housing as required by the General Plan. The Project's failure to provide *onsite* affordable housing for local residents therefore contravenes the General Plan's Economic Development and Employment Element and cannot be approved by ZAB.

VIII. THE PROJECT IS INCONSISTENT WITH THE CITY'S HOUSING ELEMENT

CEQA requires an agency to analyze whether a project conforms with the applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.[81] The Addendum fails as an informational document under CEQA for failing to analyze the Project's inconsistency with the Housing Element.

The Project proposes to construct a ten-story residential building containing 166 dwelling units (17 Very Low-Income unit).[82] The project is seeking a 50% Density Bonus by providing 15% of the base project units as affordable to very low-income households. The Developer stated in their application for the Project that in order to "comply with City of Berkeley Affordable Housing rental requirements, the project will also be providing additional Affordable Units and/or/or-in-combination-

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[79] Berkeley General Plan Economic Development and Employment Element, p. ED-5.
[80] City of Berkeley Planning and Development, Zoning Project Application, 3000 Shattuck Ave. Berkeley CA 94705 (March 14, 2022), https://www.dropbox.com/s/n987ldxqb6pesmp/2022-03-29_APP_PCKT_3000%20Shattuck%20%281%29.pdf?dl=0.
[81] CEQA Guidelines Appendix G, XI Land Use and Planning.
[82] Addendum p. 2.
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with providing an in-lieu Mitigation Fee per the City of Berkeley requirements."[83] More affordable units must be provided for the Project to be consistent with the City's Housing Element and state law.

The Regional Housing Needs Assessment is the California State-required process that seeks to ensure cities and counties plan for enough housing in their Housing Element cycle to accommodate all economic segments of the community.[84] Accordingly, the Housing Element of the City's General Plan identifies the City's housing conditions and needs, evaluates the City's ability to meet its Regional Housing Needs Allocation ("RHNA"), establishes the goals, objectives, and policies of the City's housing strategy, and provides an array of programs to create mixed-income neighborhoods across the City.[85] The Housing Element, which was amended on February 17, 2023, states that "the City has a remaining RHNA of 5,033 units (1,923 very low income; 852 low income; 1,227 moderate income; and 1,031 above moderate income units)... The City must identify adequate sites capacity for this remaining RHNA."[86] Accordingly, Policy H-1 – Extremely Low, Very Low, Low and Moderate-Income Housing – provides: "Increase the number of housing units affordable to Berkeley residents with lower income levels."[87] Because the City has not produced and is not expected to produce enough affordable housing to meet its RHNA, projects that do not contribute to the City's RHNA are inconsistent with the City's Housing Element, a primary goal of which is to meet the RHNA.

Berkeley Municipal Code Section 23.328.010 provides that residential housing projects constructing five or more dwelling units must include at least 20 percent of the total number of dwelling units within the project as inclusionary units. As an alternative to providing inclusionary units required in an ownership project, the applicant may elect to enter in an agreement with the City to pay fees in-lieu of providing below-market rate units.[88]

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[83] City of Berkeley Planning and Development, Zoning Project Application, 3000 Shattuck Ave. Berkeley CA 94705 (March 14, 2022), https://www.dropbox.com/s/n987ldxqb6pesmp/2022-03-29_APP_PCKT_3000%20Shattuck%20%281%29.pdf?dl=0.

[84] Cal. Gov. Code Section 65580 – 65589.9; *see* City of Berkeley, Adopted 2023-2031 Housing Element, available at https://berkeleyca.gov/sites/default/files/documents/Berkeley_2023-2031%20Housing%20Element_02-17-2023v2_0.pdf.

[85] *Id.*

[86] City of Berkeley, Adopted 2023-2031 Housing Element, p 107.

[87] *Id.* at 15.

[88] Effective July 1, 2022, the fee is set at follows: Paid at Certificate of Occupancy: $46,185 per rental unit; or Paid at building permit: $43,185 per rental unit.

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However, the City has failed to meet its RHNA in previous cycles. Under the 5th RHNA Cycle from 2015-2023, Berkeley was required to plan for 2,959 units.[89] This includes 532 at very low income, 442 at low income, 584 at moderate income, and 1,401 at above moderate income. The Housing Element states that 3,742 units have been built, or 126% of the target. However, the targets for affordable housing were missed, with 309 very low income (58%), 130 low income (29%), and 106 moderate income (18%) units completed. 3,197 units of above moderate, or market rate housing was built, which was 228% of the goal. Thus, the City already has adequate above moderate and market rate housing units to meet its RHNA requirements, but is short on production of affordable units.

Here, the Project fails to provide the City's required 20% affordable units on-site, contributing to the City's current shortage of affordable units, while at the same time taking a viable project site out of production for those additional affordable units. Although the Project will pay an in-lieu fee, the Project would not be consistent with the Housing Element because it places the burden on the City to identify alternate sites to construct affordable housing units in time to meet its RHNA requirements.[90]

The Applicant's proposal to pay in lieu fees instead of providing 20% on-site affordable units for the 3000 Shattuck Project is not unique. The Project is one of at least three concurrent projects proposed by the Applicant, which similarly fail to contribute an adequate percentage of affordable units. The Applicant also proposes to construct the 2900-2920 Shattuck Avenue Project,[91] a ten-story residential building containing 221 dwelling units (22 Very Low-Income unit).[92] The 2920 Shattuck Avenue project is seeking a 46.25% Density Bonus by providing only 14% of the base project units as affordable to very low-income households.[93] The Applicant's 1598 University Project similarly proposes to pay an in lieu fee for the affordable units required by the City in excess of the on-site affordable necessary to qualify for a density bonus. The Applicant's decision not to provide the recommended 20% of on-site affordable units for its pending projects contributes to a cumulative shortage of affordable units that the City should address before considering approval of this Project.

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[89] City of Berkeley, Adopted 2023-2031 Housing Element, pg. D-8.
[90] City of Berkeley, Adopted 2023-2031 Housing Element, p. 107.
[91] Use Permit #ZP2022-0116 (APN: 053 159000501).
[92] City of Berkeley, Zoning Project Application, 2920 Shattuck Ave. Berkeley CA 94705, APN 053 159000501, (Sept. 4, 2022), https://www.dropbox.com/s/528twax3fw4fw9p/2022-09-04_APP_PCKT_2920%20Shattuck.pdf?dl=0 ("Application Packet"), pdf pg. 2108 of 2143.
[93] City of Berkeley, Zoning Project Application, 2920 Shattuck Ave.
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IX. CONCLUSION

CEQA requires that an agency prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved may have a significant environmental impact not previously considered in connection with the project as originally approved.[94] As discussed herein, there is substantial evidence supporting a fair argument that the Project would result in significant adverse impacts that were not considered in the prior 2018 IS/ND, and that are not adequately analyzed or mitigated. The Project is detrimental to the general welfare for failing to provide workforce and community benefits.

The Addendum also fails to contain the basic information and analysis required by CEQA, deficiencies which "cannot be dismissed as harmless or insignificant defects."[95] The City's findings regarding Project impacts do not comply with the law and are not supported by substantial evidence. The City cannot approve the Project until it prepares an EIR that resolves these issues and complies with CEQA's requirements.

Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Sincerely,

Kelilah Federman

Kelilah D. Federman

KDF:ljl

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[94] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 958.
[95] *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1220.
6154-007j

EXHIBIT A

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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April 10, 2023

Kelilah Federman
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd #1000
South San Francisco, CA 94080

Subject: Comments on the 3000 Shattuck Mixed-Use Project (SCH No. 2017062025)

Dear Ms. Federman,

We have reviewed the January 2023 Addendum ("Addendum") and the 2018 Final Initial Study and Negative Declaration ("FIS/ND") for the 3000 Shattuck Mixed-Use ("Project") located in the City of Berkeley ("City"). The Project proposes to demolish the existing 1,163-square-foot ("SF") gas station and construct 80,235-SF of residential space, as well as 1,095-SF of retail space on the 0.31-acre site.

Our review concludes that the Addendum fails to adequately evaluate the Project's air quality impacts. As a result, emissions associated with construction of the proposed Project are underestimated and inadequately addressed. An Environmental Impact Report ("EIR") should be prepared to adequately assess and mitigate the potential air quality impacts that the project may have on the environment.

Air Quality

Failure to Provide Complete CalEEMod Output Files

Land use development projects under the California Environmental Quality Act ("CEQA") typically evaluate air quality impacts and calculate potential criteria air pollutant emissions using the California Emissions Estimator Model ("CalEEMod").[1] CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but CEQA requires that such changes be justified by substantial evidence. Once all of the values are inputted into the model, the Project's

[1] "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide.

construction and operational emissions are calculated, and "output files" are generated. These output files disclose to the reader what parameters are utilized in calculating the Project's air pollutant emissions and make known which default values are changed as well as provide justification for the values selected. Regarding the evaluation of the criteria air pollutant emissions associated with Project construction and operation, the Addendum states:

> "Additionally, since the adoption of the 2018 Final IS-ND, a new version (2022.1) of California Emissions Estimator Model (CalEEMod) has been published. Based on these updates, updated emissions estimates for the modified project were calculated for this analysis" (p. 14).

As stated above, the Addendum relies on CalEEMod Version 2022.1 to estimate the Project's emissions. However, this poses a problem as the currently available version of CalEEMod 2022.1 is described as a "soft release" which fails to provide complete output files.[2] Specifically, the "User Changes to Default Data" table no longer provides the quantitative counterparts to the changes to the default values (see excerpt below) (Appendix A, pp. 83):

8. User Changes to Default Data

Screen	Justification
Land Use	Project site plans
Construction: Construction Phases	Applicant provided
Operations: Hearths	no fireplaces or woodstoves

However, previous CalEEMod Versions, such as 2020.4.0, include the specific numeric changes to the model's default values (see example excerpt below):

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	230.00	167.00
tblConstructionPhase	PhaseEndDate	11/22/2023	8/25/2023
tblConstructionPhase	PhaseEndDate	9/27/2023	6/30/2023
tblConstructionPhase	PhaseEndDate	10/25/2023	7/28/2023
tblConstructionPhase	PhaseStartDate	10/26/2023	7/29/2023
tblConstructionPhase	PhaseStartDate	9/28/2023	7/1/2023
tblLandUse	LandUseSquareFeet	160,000.00	160,371.00
tblLandUse	LandUseSquareFeet	119,000.00	41,155.00
tblLandUse	LotAcreage	3.67	3.68
tblLandUse	LotAcreage	2.73	2.74

Thus, the output files associated with CalEEMod Version 2022.1 fail to disclose the exact parameters utilized to calculate Project emissions. To remedy this issue, the Addendum should have provided access to the model's ".JSON" output files, which allow third parties to review the model's revised input parameters.[3] Without access to the complete output files, including the specific numeric changes to the

[2] "CalEEMod California Emissions Estimator Model Soft Release." California Air Pollution Control Officers Association (CAPCOA), 2022, *available at:* https://caleemod.com/.

[3] "Video Tutorials for CalEEMod Version 2022.1." California Air Pollution Control Officers Association (CAPCOA), May 2022, *available at:* https://www.caleemod.com/tutorials.

default values, we cannot verify that the Addendum's air modeling and subsequent analysis is an accurate reflection of the proposed Project. As a result, an EIR should be prepared to include an updated air quality analysis that correctly provides the complete output files for CalEEMod Version 2022.1, or includes an updated air model using an older release of CalEEMod.[4]

Unsubstantiated Input Parameters Used to Estimate Project Emissions

As previously discussed, the Addendum relies on CalEEMod Version 2022.1 to estimate the Project's air quality emissions and fails to provide the complete output files required to adequately evaluate model's analysis (p. 14).[5] Regardless, when reviewing the Project's CalEEMod output files, provided as Appendix A to the Addendum, we were able to identify several model inputs that are inconsistent with information disclosed in the Addendum. As such, the Project's construction emissions are underestimated. An EIR should be prepared to include an updated air quality analysis that adequately evaluates the impacts that construction of the Project will have on local and regional air quality.

Incorrect and Unsubstantiated Construction Schedule

Review of the CalEEMod output files demonstrates that the "3000 Shattuck Detailed Report" model includes the following construction schedule (see excerpt below) (Appendix A, pp. 70):

Phase Name	Phase Type	Start Date	End Date	Days Per Week	Work Days per Phase
Site Preparation	Site Preparation	7/3/2023	11/15/2023	5.00	98.0
Grading	Grading	11/16/2023	1/1/2024	5.00	33.0
Building Construction	Building Construction	1/2/2024	2/10/2025	5.00	290
Paving	Paving	1/2/2024	7/31/2024	5.00	152
Architectural Coating	Architectural Coating	2/11/2025	3/30/2025	5.00	34.0

According to the "User Changes to Default Data" table, the justification provided for this schedule is:

> "Applicant provided" (Appendix A, pp. 83).

Additionally, regarding Project construction, the Addendum states:

> "Site preparation, construction procedures, and proposed utility connections would remain like the original project. Please refer to the 2018 Final IS-ND for details regarding these project components. Overall construction of the modified project would occur over a similar time span as was anticipated for the original project but would be more intensive due to the height increase" (p. 2).

Furthermore, regarding the Project's anticipated construction duration, the FIS/ND states:

> "The project would include demolition of the existing building and surface parking lot on the site. [...] Construction would take place over an 18-month period" (p. 7).

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[4] "CalEEMod Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* http://www.aqmd.gov/caleemod/download-model.

[5] "CalEEMod Version 2022.1.0." California Air Pollution Control Officers Association (CAPCOA), May 2022, *available at:* https://www.caleemod.com/.

However, the model's construction schedule is incorrect and unsubstantiated for three reasons.

First, as discussed by the FIS/ND, the construction of the Project is anticipated to occur over 18 months. However, the model includes a 21-month total construction length, and is therefore overestimated by 3 months. By including an overestimated construction schedule, the model is incorrect and inconsistent with information provided by the Addendum and associated documents.

Second, the model does not include a demolition phase of construction. This is incorrect, as the Addendum clearly states that demolition would be required prior to Project construction:

> "Like the original project, the modified project would involve demolition of the existing structures on the site, as detailed in the 2018 Final IS-ND for the original project" (p. 6)

As such, the model's construction schedule is incorrect and inconsistent with information provided by the Addendum and associated documents.

Third, the model's revised construction schedule remains unsubstantiated as the Addendum and associated documents fail to mention the Project's proposed *individual* construction phases whatsoever. This is inconsistent with guidance provided by the CalEEMod User's Guide:

> "CalEEMod was also designed to allow the user to change the defaults to reflect site-or project-specific information, when available, provided that the information is supported by substantial evidence as required by CEQA."[6]

As the Addendum and associated documents only mention the Project's total construction duration of 18 months, the Addendum fails to provide substantial evidence to support the revised individual construction phase lengths. As such, we cannot verify the changes. Instead, the model should have proportionately altered all phase lengths to match the proposed construction duration of 18 months.[7]

By including an incorrect and overestimated construction schedule, the model assumes there are a greater number of days to complete the construction activities required by the prolonged phases. As a result, there will be less construction activities required per day and, consequently, less pollutants emitted per day. As such, the model underestimates the peak daily emissions associated with Project construction and should not be relied upon to determine Project significance.

Failure to Model Demolition

Regarding demolition of the existing building, the Addendum states:

> "Like the original project, the modified project would involve demolition of the existing structures on the site, as detailed in the 2018 Final IS-ND for the original project" (p. 6)

[6] "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: https://www.aqmd.gov/caleemod/user's-guide,p. 13,14.

[7] See Attachment A for proportionately altered construction schedule.

However, as previously mentioned, review of the CalEEMod output files demonstrates that the "3000 Shattuck Detailed Report" model fails to include a demolition phase of construction. Furthermore, the model fails to include any amount of demolition debris (see excerpt below) (Appendix A, pp. 72).

Phase Name	Material Imported (Ton of Debris)	Material Exported (Ton of Debris)	Acres Graded (acres)	Material Demolished (sq. ft.)
Site Preparation	0.00	0.00	20.5	0.00
Grading	0.00	0.00	15.8	0.00
Paving	0.00	0.00	0.00	0.00

By failing to include any amount of demolition material, the model is inconsistent with the information provided in the Addendum.

This inconsistency presents an issue, as demolition material is used by CalEEMod to determine emissions associated with the demolition phase of construction. The three primary operations that generate dust emission during the demolition phase are mechanical or explosive dismemberment, site removal of debris, and on-site truck traffic on paved and unpaved road.[8] By failing to include any amount of required demolition, the model underestimates the emissions associated with fugitive dust, debris removal, as well as exhaust from hauling trucks traveling to and from the site, and should not be relied upon to determine the significance of the Project's air quality impacts.

Updated Analysis Indicates a Potentially Significant Air Quality Impact

In an effort to more accurately estimate the Project's construction-related emissions we prepared an updated CalEEMod model, using the Project-specific information provided by the Addendum. In our updated model, we included the required amount of demolition and proportionately altered the individual construction phase lengths to match the proposed construction duration of 18 months.[9]

Our updated analysis estimates that the Reactive Organic Gas ("ROG") emissions associated with Project construction exceed the applicable BAAQMD threshold of 54 pounds per day ("lbs/day"), as referenced by the Addendum (p. 14) (see table below).[10]

[8] "CalEEMod User's Guide Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide, p. 11.
[9] See Attachment B for updated CalEEMod model.
[10] "California Environmental Quality Act Air Quality Guidelines." BAAQMD, May 2017, *available at:* https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en&rev=0d2d971e661d41f28a56953f1776bdde, p. 2-2.

SWAPE Criteria Air Pollutant Emissions	
Construction	**ROG** (lbs/day)
Addendum	3.0
SWAPE	71.55
% Increase	2,285%
BAAQMD Threshold	**54**
Exceeds?	*Yes*

As demonstrated above, construction-related ROG emissions, as estimated by SWAPE, increase by approximately 2,285% and exceed the applicable BAAQMD significance threshold. Our updated modeling demonstrates that the Project would result in a potentially significant air quality impact that was not previously identified or addressed by the Addendum. As a result, an EIR should be prepared to adequately assess and mitigate the potential air quality impacts that the Project may have on the environment.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

Our analysis demonstrates that the Project would result in potentially significant air quality impacts that should be mitigated further. As such, in an effort to reduce the Project's emissions, we identified several mitigation measures that are applicable to the proposed Project. Therefore, to reduce the Project's emissions, we recommend consideration of SCAG's 2020 *RTP/SCS* PEIR's Air Quality Project Level Mitigation Measures ("PMM-AQ-1"):[11]

SCAG RTP/SCS 2020-2045
Air Quality Project Level Mitigation Measures – PMM-AQ-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency:
a) Minimize land disturbance.
b) Suspend grading and earth moving when wind gusts exceed 25 miles per hour unless the soil is wet enough to prevent dust plumes.
c) Cover trucks when hauling dirt.
d) Stabilize the surface of dirt piles if not removed immediately.

[11] "4.0 Mitigation Measures." Connect SoCal Program Environmental Impact Report Addendum #1, September 2020, available at: https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocal_addendum_4_mitigationmeasures.pdf?1606004420, p. 4.0-2 – 4.0-10; 4.0-19 – 4.0-23; See also: "Certified Final Connect SoCal Program Environmental Impact Report." Southern California Association of Governments (SCAG), May 2020, *available at:* https://scag.ca.gov/peir.

e) Limit vehicular paths on unpaved surfaces and stabilize any temporary roads.
f) Minimize unnecessary vehicular and machinery activities.
g) Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
h) Revegetate disturbed land, including vehicular paths created during construction to avoid future off-road vehicular activities.
j) Require contractors to assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that could be used an aggregate of 40 or more hours for the construction project. Prepare a plan for approval by the applicable air district demonstrating achievement of the applicable percent reduction for a CARB-approved fleet.
k) Ensure that all construction equipment is properly tuned and maintained.
l) Minimize idling time to 5 minutes—saves fuel and reduces emissions.
m) Provide an operational water truck on-site at all times. Use watering trucks to minimize dust; watering should be sufficient to confine dust plumes to the project work areas. Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
n) Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators.
o) Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.
p) As appropriate require that portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, obtain CARB Portable Equipment Registration with the state or a local district permit. Arrange appropriate consultations with the CARB or the District to determine registration and permitting requirements prior to equipment operation at the site.
q) Require projects within 500 feet of residences, hospitals, or schools to use Tier 4 equipment for all engines above 50 horsepower (hp) unless the individual project can demonstrate that Tier 4 engines would not be required to mitigate emissions below significance thresholds.
s) Projects located within AB 617 communities should review the applicable Community Emissions Reduction Plan (CERP) for additional mitigation that can be applied to individual projects.
t) Where applicable, projects should provide information about air quality related programs to schools, including the Environmental Justice Community Partnerships (EJCP), Clean Air Ranger Education (CARE), and Why Air Quality Matters programs.
u) Projects should work with local cities and counties to install adequate signage that prohibits truck idling in certain locations (e.g., near schools and sensitive receptors).
x) As applicable for rail projects, the following measures should be considered...
z) Develop an ongoing monitoring, inspection, and maintenance program for the MERV filters.
bb) The following criteria related to diesel emissions shall be implemented on by individual project sponsors as appropriate and feasible: - Diesel nonroad vehicles on site for more than 10 total days shall have either (1) engines that meet EPA on road emissions standards or (2) emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85% - Diesel generators on site for more than 10 total days shall be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%. - Nonroad diesel engines on site shall be Tier 2 or higher. - Diesel nonroad construction equipment on site for more than 10 total days shall have either (1) engines meeting EPA Tier 4 nonroad emissions standards or (2) emission control technology verified by EPA or

CARB for use with nonroad engines to reduce PM emissions by a minimum of 85% for engines for 50 hp and greater and by a minimum of 20% for engines less than 50 hp.

- Emission control technology shall be operated, maintained, and serviced as recommended by the emission control technology manufacturer.
- Diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend approved by the original engine manufacturer with sulfur content of 15 ppm or less.
- The construction contractor shall maintain a list of all diesel vehicles, construction equipment, and generators to be used on site. The list shall include the following:
    i. Contractor and subcontractor name and address, plus contact person responsible for the vehicles or equipment.
    ii. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation.
    iii. For the emission control technology installed: technology type, serial number, make, model, manufacturer, EPA/CARB verification number/level, and installation date and hour-meter reading on installation date.
- The contractor shall establish generator sites and truck-staging zones for vehicles waiting to load or unload material on site. Such zones shall be located where diesel emissions have the least impact on abutters, the general public, and especially sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.
- The contractor shall maintain a monthly report that, for each on road diesel vehicle, nonroad construction equipment, or generator onsite, includes:
    i. Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
    ii. Any problems with the equipment or emission controls.
    iii. Certified copies of fuel deliveries for the time period that identify:
        1. Source of supply
        2. Quantity of fuel
        3. Quantity of fuel, including sulfur content (percent by weight)

These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduce emissions released during Project construction and operation.

Furthermore, as it is policy of the State that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045, we emphasize the applicability of incorporating solar power system into the Project design. Until the feasibility of incorporating on-site renewable energy production is considered, the Project should not be approved.

An EIR should be prepared to include all feasible mitigation measures, as well as include an updated air quality analysis to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds. The EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

Disclaimer

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,

Matt Hagemann, P.G., C.Hg.

Paul E. Rosenfeld, Ph.D.

Attachment A: Proportionately Altered Construction Schedule
Attachment B: Updated CalEEMod Output Files
Attachment C: Matt Hagemann CV
Attachment D: Paul Rosenfeld CV

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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Investigation and Remediation Strategies
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Industrial Stormwater Compliance
CEQA Review

Education:

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.
B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

Professional Certifications:

California Professional Geologist
California Certified Hydrogeologist
Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2104, 2017;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt's responsibilities have included:

- Lead analyst and testifying expert in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.

With Komex H2O Science Inc., Matt's duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.
- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted

public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation-wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

<u>Policy:</u>

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9.

Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, Oxygenates in Water: Critical Information and Research Needs.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific

principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

Geology:

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt is currently a part time geology instructor at Golden West College in Huntington Beach, California where he taught from 2010 to 2014 and in 2017.

Invited Testimony, Reports, Papers and Presentations:

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Coloradao.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal repesentatives, Parker, AZ.

Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

Hagemann, M.F., 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

Hagemann, M.F., 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

Hagemann, M.F., 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

Hagemann, M.F., 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

Hagemann, M.F., 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and **Hagemann, M.F.** 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukanaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

Other Experience:

Selected as subject matter expert for the California Professional Geologist licensing examinations, 2009-2011.

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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Paul Rosenfeld, Ph.D.

Chemical Fate and Transport & Air Dispersion Modeling

Principal Environmental Chemist

Risk Assessment & Remediation Specialist

Education

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Thesis on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years' experience conducting environmental investigations and risk assessments for evaluating impacts to human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risk, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, industrial, military and agricultural sources, unconventional oil drilling operations, and locomotive and construction engines. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities. Dr. Rosenfeld has also successfully modeled exposure to contaminants distributed by water systems and via vapor intrusion.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particulate matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, creosote, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants. Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at sites and has testified as an expert witness on numerous cases involving exposure to soil, water and air contaminants from industrial, railroad, agricultural, and military sources.

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
UCLA School of Public Health; 2003 to 2006; Adjunct Professor
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
UCLA Institute of the Environment, 2001-2002; Research Associate
Komex H_2O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health.* 18:48

Simons, R.A., Seo, Y. **Rosenfeld, P.**, (2015) Modeling the Effect of Refinery Emission On Residential Property Value. Journal of Real Estate Research. 27(3):321-342

Chen, J. A, Zapata A. R., Sutherland A. J., Molmen, D.R., Chow, B. S., Wu, L. E., **Rosenfeld, P. E.,** Hesse, R. C., (2012) Sulfur Dioxide and Volatile Organic Compound Exposure To A Community In Texas City Texas Evaluated Using Aermod and Empirical Data. *American Journal of Environmental Science*, 8(6), 622-632.

Rosenfeld, P.E. & Feng, L. (2011). *The Risks of Hazardous Waste.* Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2011). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Agrochemical Industry,* Amsterdam: Elsevier Publishing.

Gonzalez, J., Feng, L., Sutherland, A., Waller, C., Sok, H., Hesse, R., **Rosenfeld, P.** (2010). PCBs and Dioxins/Furans in Attic Dust Collected Near Former PCB Production and Secondary Copper Facilities in Sauget, IL. *Procedia Environmental Sciences.* 113–125.

Feng, L., Wu, C., Tam, L., Sutherland, A.J., Clark, J.J., **Rosenfeld, P.E.** (2010). Dioxin and Furan Blood Lipid and Attic Dust Concentrations in Populations Living Near Four Wood Treatment Facilities in the United States. *Journal of Environmental Health.* 73(6), 34-46.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2010). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Wood and Paper Industries.* Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2009). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Petroleum Industry.* Amsterdam: Elsevier Publishing.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P**. (2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. *WIT Transactions on Ecology and the Environment, Air Pollution,* 123 (17), 319-327.

Tam L. K.., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, 70, 002252-002255.

Tam L. K.., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, 70, 000527-000530.

Hensley, A.R. A. Scott, J. J. J. Clark, **Rosenfeld, P.E.** (2007). Attic Dust and Human Blood Samples Collected near a Former Wood Treatment Facility. *Environmental Research.* 105, 194-197.

Rosenfeld, P.E., J. J. J. Clark, A. R. Hensley, M. Suffet. (2007). The Use of an Odor Wheel Classification for Evaluation of Human Health Risk Criteria for Compost Facilities. *Water Science & Technology* 55(5), 345-357.

Rosenfeld, P. E., M. Suffet. (2007). The Anatomy Of Odour Wheels For Odours Of Drinking Water, Wastewater, Compost And The Urban Environment. *Water Science & Technology* 55(5), 335-344.

Sullivan, P. J. Clark, J.J.J., Agardy, F. J., **Rosenfeld, P.E.** (2007). *Toxic Legacy, Synthetic Toxins in the Food, Water, and Air in American Cities.* Boston Massachusetts: Elsevier Publishing

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash. *Water Science and Technology*. 49(9),171-178.

Rosenfeld P. E., J.J. Clark, I.H. (Mel) Suffet (2004). The Value of An Odor-Quality-Wheel Classification Scheme For The Urban Environment. *Water Environment Federation's Technical Exhibition and Conference (WEFTEC) 2004.* New Orleans, October 2-6, 2004.

Rosenfeld, P.E., and Suffet, I.H. (2004). Understanding Odorants Associated With Compost, Biomass Facilities, and the Land Application of Biosolids. *Water Science and Technology*. 49(9), 193-199.

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash, *Water Science and Technology*, 49(9), 171-178.

Rosenfeld, P. E., Grey, M. A., Sellew, P. (2004). Measurement of Biosolids Odor and Odorant Emissions from Windrows, Static Pile and Biofilter. *Water Environment Research*. 76(4), 310-315.

Rosenfeld, P.E., Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office*, Publications Clearinghouse (MS–6), Sacramento, CA Publication #442-02-008.

Rosenfeld, P.E., and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution*. 127(1-4), 173-191.

Rosenfeld, P.E., and Henry C. L., (2000). Wood ash control of odor emissions from biosolids application. *Journal of Environmental Quality.* 29, 1662-1668.

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affect on biosolids odor emissions and microbial activity. *Water Environment Research*. 73(4), 363-367.

Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research*. 131(1-4), 247-262.

Chollack, T. and **P. Rosenfeld.** (1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

Rosenfeld, P. E. (1994). Potential Utilization of Small Diameter Trees on Sierra County Public Land. Masters thesis reprinted by the Sierra County Economic Council. Sierra County, California.

Rosenfeld, P. E. (1991). How to Build a Small Rural Anaerobic Digester & Uses Of Biogas In The First And Third World. Bachelors Thesis. University of California.

Presentations:

Rosenfeld, P.E., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

Rosenfeld, P.E., Sutherland, A; Hesse, R.; Zapata, A. (October 3-6, 2013). Air dispersion modeling of volatile organic emissions from multiple natural gas wells in Decatur, TX. *44th Western Regional Meeting, American Chemical Society.* Lecture conducted from Santa Clara, CA.

Sok, H.L.; Waller, C.C.; Feng, L.; Gonzalez, J.; Sutherland, A.J.; Wisdom-Stack, T.; Sahai, R.K.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Atrazine: A Persistent Pesticide in Urban Drinking Water. *Urban Environmental Pollution.* Lecture conducted from Boston, MA.

Feng, L.; Gonzalez, J.; Sok, H.L.; Sutherland, A.J.; Waller, C.C.; Wisdom-Stack, T.; Sahai, R.K.; La, M.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Bringing Environmental Justice to East St. Louis, Illinois. *Urban Environmental Pollution.* Lecture conducted from Boston, MA.

Rosenfeld, P.E. (April 19-23, 2009). Perfluoroctanoic Acid (PFOA) and Perfluoroactane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

Rosenfeld, P.E. (April 19-23, 2009). Cost to Filter Atrazine Contamination from Drinking Water in the United States" Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*. Lecture conducted from Tuscon, AZ.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P**. (20-22 July, 2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. Brebbia, C.A. and Popov, V., eds., *Air Pollution XVII: Proceedings of the Seventeenth International Conference on Modeling, Monitoring and Management of Air Pollution.* Lecture conducted from Tallinn, Estonia.

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water.* Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23rd Annual International*

Conferences on Soils Sediment and Water. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). Somerville Community Exposure To Contaminants From Wood Treatment Facility Emissions. The *23rd Annual International Conferences on Soils Sediment and Water*. Lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld P. E. (March 2007). Production, Chemical Properties, Toxicology, & Treatment Case Studies of 1,2,3-Trichloropropane (TCP). *The Association for Environmental Health and Sciences (AEHS) Annual Meeting*. Lecture conducted from San Diego, CA.

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Florala, Alabama. *The AEHS Annual Meeting*. Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.,** Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.,** Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition*. Lecture conducted from Boston Massachusetts.

Paul Rosenfeld Ph.D. (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey's C8/PFOA. *Science, Risk & Litigation Conference*. Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

Paul Rosenfeld Ph.D. (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

Paul Rosenfeld Ph.D. (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel in Irvine, California.

Paul Rosenfeld Ph.D. (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey's Groundwater Conference*. Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

Paul Rosenfeld Ph.D. (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus On Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water And Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, Toxicology and Remediation. *2005 National Groundwater Association Ground Water and Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference*. Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

Paul Rosenfeld, Ph.D. (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust*. Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives*. Lecture conducted from Parker, AZ.

Paul Rosenfeld, Ph.D. (April 7, 2004). A National Damage Assessment Model For PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association*. Lecture conducted from Radison Hotel, Sacramento, California.

Rosenfeld, P. E., Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference* Orlando, FL.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants*.. Lecture conducted from Hyatt Regency Phoenix Arizona.

Paul Rosenfeld, Ph.D. (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum*. Lecture conducted from Marriott Hotel, Anaheim California.

Paul Rosenfeld, Ph.D. (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable*. Lecture conducted from Sacramento California.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, *Wastewater and Industrial Processes. Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Grey, M. A. (September 22-24, 2002). Biocycle Composting For Coastal Sage Restoration. *Northwest Biosolids Management Association*. Lecture conducted from Vancouver Washington..

Rosenfeld, P.E. and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conferenc*e. Lecture conducted from Indianapolis, Maryland.

Rosenfeld. P.E. (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation.* Lecture conducted from Anaheim California.

Rosenfeld. P.E. (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest.* Lecture conducted from Ocean Shores, California.

Rosenfeld, P.E. (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association*. Lecture conducted from Sacramento California.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America*. Lecture conducted from Salt Lake City Utah.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell*. Lecture conducted from Seattle Washington.

Rosenfeld, P.E., C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest.* Lecture conducted from Lake Chelan, Washington.

Rosenfeld, P.E, C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions From Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America.* Lecture conducted from Anaheim California.

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

National Ground Water Association, Successful Remediation Technologies. Custom Course in Sante Fe, New Mexico. May 21, 2002. Focused on fate and transport of fuel contaminants associated with underground storage tanks.

National Ground Water Association; Successful Remediation Technologies Course in Chicago Illinois. April 1, 2002. Focused on fate and transport of contaminants associated with Superfund and RCRA sites.

California Integrated Waste Management Board, April and May, 2001. Alternative Landfill Caps Seminar in San Diego, Ventura, and San Francisco. Focused on both prescriptive and innovative landfill cover design.

UCLA Department of Environmental Engineering, February 5, 2002. Seminar on Successful Remediation Technologies focusing on Groundwater Remediation.

University Of Washington, Soil Science Program, Teaching Assistant for several courses including: Soil Chemistry, Organic Soil Amendments, and Soil Stability.

U.C. Berkeley, Environmental Science Program Teaching Assistant for Environmental Science 10.

Academic Grants Awarded:

California Integrated Waste Management Board. $41,000 grant awarded to UCLA Institute of the Environment. Goal: To investigate effect of high carbon wood ash on volatile organic emissions from compost. 2001.

Synagro Technologies, Corona California: $10,000 grant awarded to San Diego State University.
Goal: investigate effect of biosolids for restoration and remediation of degraded coastal sage soils. 2000.

King County, Department of Research and Technology, Washington State. $100,000 grant awarded to University of Washington: Goal: To investigate odor emissions from biosolids application and the effect of polymers and ash on VOC emissions. 1998.

Northwest Biosolids Management Association, Washington State. $20,000 grant awarded to investigate effect of polymers and ash on VOC emissions from biosolids. 1997.

James River Corporation, Oregon: $10,000 grant was awarded to investigate the success of genetically engineered Poplar trees with resistance to round-up. 1996.

United State Forest Service, Tahoe National Forest: $15,000 grant was awarded to investigating fire ecology of the Tahoe National Forest. 1995.

Kellogg Foundation, Washington D.C. $500 grant was awarded to construct a large anaerobic digester on St. Kitts in West Indies. 1993

Deposition and/or Trial Testimony:

In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition, 5-14-2021
Trial, October 8-4-2021

In the Circuit Court of Cook County Illinois
Joseph Rafferty, Plaintiff vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a AMTRAK,
Case No.: No. 18-L-6845
Rosenfeld Deposition, 6-28-2021

In the United States District Court For the Northern District of Illinois
Theresa Romcoe, Plaintiff vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail, Defendants
Case No.: No. 17-cv-8517
Rosenfeld Deposition, 5-25-2021

In the Superior Court of the State of Arizona In and For the Cunty of Maricopa
Mary Tryon et al., Plaintiff vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case Number CV20127-094749
Rosenfeld Deposition: 5-7-2021

In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al *Plaintiffs*, vs. CNA Insurance Company et al.
Case Number 1:17-cv-000508
Rosenfeld Deposition: 3-25-2021

In the Superior Court of the State of California, County of San Bernardino
Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021

In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse
Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020

In the Circuit Court of Jackson County, Missouri
Karen Cornwell, *Plaintiff,* vs. Marathon Petroleum, LP, *Defendant.*
Case No.: 1716-CV10006
Rosenfeld Deposition. 8-30-2019

In the United States District Court For The District of New Jersey
Duarte et al, *Plaintiffs,* vs. United States Metals Refining Company et. al. *Defendant.*
Case No.: 2:17-cv-01624-ES-SCM
Rosenfeld Deposition. 6-7-2019

In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk, *Plaintiffs,* vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS "Conti Perdido" *Defendant.*
Case No.: 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition. 5-9-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No.: No. BC615636
Rosenfeld Deposition, 1-26-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No.: No. BC646857
Rosenfeld Deposition, 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado
Bells et al. Plaintiff vs. The 3M Company et al., Defendants
Case No.: 1:16-cv-02531-RBJ
Rosenfeld Deposition, 3-15-2018 and 4-3-2018

In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosciences, LLC, et al., Defendants
Cause No.: 1923
Rosenfeld Deposition, 11-17-2017

In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No C12-01481
Rosenfeld Deposition, 11-20-2017

In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition, 8-23-2017

In United States District Court For The Southern District of Mississippi
Guy Manuel vs. The BP Exploration et al., Defendants
Case: No 1:19-cv-00315-RHW
Rosenfeld Deposition, 4-22-2020

In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC
Case No.: LC102019 (c/w BC582154)
Rosenfeld Deposition, 8-16-2017, Trail 8-28-2018

In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., *Plaintiffs,* vs. Meritor Inc., et al., *Defendants*
Case Number: 4:16-cv-52-DMB-JVM
Rosenfeld Deposition: July 2017

In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No.: No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial, March 2017

In The Superior Court of the State of California, County of Alameda
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No.: RG14711115
Rosenfeld Deposition, September 2015

In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No.: LALA002187
Rosenfeld Deposition, August 2015

In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action N0. 14-C-30000
Rosenfeld Deposition, June 2015

In The Iowa District Court For Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No 4980
Rosenfeld Deposition: May 2015

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case Number CACE07030358 (26)
Rosenfeld Deposition: December 2014

In the County Court of Dallas County Texas
Lisa Parr et al, *Plaintiff*, vs. Aruba et al, *Defendant.*
Case Number cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial: April 2014

In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., *Plaintiffs,* vs. Republic Services, Inc., et al., *Defendants*
Case Number: 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition: October 2012

In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., *Plaintiffs*, vs. International Paper Company, *Defendant.*
Civil Action Number 2:09-cv-232-WHA-TFM
Rosenfeld Deposition: July 2010, June 2011

In the Circuit Court of Jefferson County Alabama
Jaeanette Moss Anthony, et al., *Plaintiffs*, vs. Drummond Company Inc., et al., *Defendants*
Civil Action No. CV 2008-2076
Rosenfeld Deposition: September 2010

In the United States District Court, Western District Lafayette Division
Ackle et al., *Plaintiffs*, vs. Citgo Petroleum Corporation, et al., *Defendants*.
Case Number 2:07CV1052
Rosenfeld Deposition: July 2009

Letter 3

COMMENTER: Kelilah D. Federman

DATE: June 1, 2023

Response 3.1

The commenter states her intent to appeal the ZAB's May 11, 2023 approval of the 2000 Shattuck Project on behalf of East Bay Residents for Responsible Development (East Bay Residents).

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 3.2

The commenter summarizes the description of the project.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 3.3

The commenter states her intent to appeal ZAB's May 11, 2023 decision to adopt the Addendum to the 2018 IS-ND and approve the Use Permit.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 3.4

The commenter states that the ZAB's decision to approve the modified project violated CEQA, land use laws, and the City's municipal codes, and was not supported by substantial evidence in the record.

As discussed in Section 4.8, *Land Use and Planning*, of the Addendum, the modified project would not alter the land uses proposed in the original project and would be consistent with the Avenue Commercial designation, which is characterized by "pedestrian-oriented commercial development and multifamily residential structures" and General Plan policies. The modified project would comply with State Density Bonus requirements and therefore qualifies for waivers for height, setbacks, and FAR. It also complies with all other development standards, and would comply with the City's Inclusionary Housing Ordinance. Therefore, the modified project would be consistent with land use plans, policies, and regulations such as General Plan policies and the BMC.

Response 3.5

The commenter states that the Addendum does not accurately disclose the extent of the modified project's potentially significant air quality, public health, hazardous contamination, land use, and cumulative impacts, which are new or more severe than impacts analyzed in the 2018 IS-ND, and will not be substantially mitigated by the City's standard conditions of approval.

Please refer to Response 1.9 regarding air quality impacts; Response 2.2 regarding cumulative impacts; and Response 3.4 regarding land use impacts.

With regard to hazardous materials impact, as explained in Response 1.5 and in Section 4.7, *Hazards and Hazardous Materials*, of the Addendum, according to the Phase I and Phase II Environmental Site Assessment (ESA) Reports prepared by GEM Group, Inc on April 20, 2022 and October 10, 2022 (Appendix C), respectively, concentrations of compounds detected in soil samples were all below their respective residential and commercial/industrial San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) groundwater vapor intrusion environmental screening levels. In addition, the modified project would be required to comply with Berkeley's standard condition of approval for hazardous materials, *Toxics,* which requires preparation of a Soil and Groundwater Management Plan to address health and safety, proper handling, and disposal of USTs and/or contaminated soil if encountered during site redevelopment. Therefore, impacts related to hazardous materials would be less than significant.

Response 3.6

The commenter states that the site is contaminated with benzene which exceeds the 2019 San Francisco Bay Regional Water Quality Control Board's (SFBRWQCB) groundwater vapor intrusion residential environmental screening levels.

As discussed in the Phase II ESA Report prepared by GEM Group, Inc. on October 10, 2022 (Appendix C), a 2010 closure summary report for the project site identified benzene as the only constituent that slightly exceeded its ESL. The closure summary report indicated that the one groundwater sample in which benzene was detected at a concentration exceeding its ESL was collected from a groundwater monitoring well located offsite, approximately 150 feet west of the project site; the most recent groundwater samples collected from onsite groundwater wells did not contain benzene at concentrations above the laboratory reporting limit. According to the closure summary report, "remediation through site upgrades, equipment removal and associated over-excavations, and natural attenuation have proven to be effective for removing on-site contamination" (ARCADIS 2010). Soil samples were analyzed as part of the Phase II ESA Report, which found that concentrations of detected compounds in soil samples were all below their respective residential and commercial/industrial ESLs except for arsenic. However, the range of arsenic concentrations found were within regional background concentrations and therefore was determined to be naturally occurring. In addition, the modified project would be required to comply [1]with Berkeley's standard condition of approval for hazardous materials, *Toxics,* which requires preparation of a Soil and Groundwater Management Plan to address health and safety, proper handling, and disposal of USTs and/or contaminated soil if encountered during site redevelopment. The Soil and Groundwater Management Plan that is required with the building permit will address any issues relating to benzene in soil vapor if such issues are encountered during development. Therefore, impacts related to benzene would be less than significant.

Response 3.7

The commenter states that the project's ROG emissions (71.55 pounds per day) would exceed BAAQMD's threshold of 54 pounds per day.

As shown in Table 2 under Section 4.3, *Air Quality*, of the Addendum, the modified project would result in construction ROG emissions of 3.5 pounds per day, which would not exceed BAAQMD thresholds of 54 pounds per day.

[1] ARCADIS. 2010. Case Closure Summary Report. Former British Petroleum Station #00414. June 9, 2010 https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/8836282312/T0600100094.PDF

Response 3.8

The commenter states that cumulative impacts associated with construction and operation constitute new impacts because recent development were not previously analyzed in the 2018 IS-ND.

Please refer to Response 2.2 regarding cumulative impacts. In addition, as explained in Response 1.9, BAAQMD states in its CEQA Air Quality Guidelines that the project-level thresholds of significance for criteria air pollutants, "are the levels at which the Air District has determined that an individual project's contribution to the cumulative impact (non-attainment) is cumulatively considerable." Therefore, because the modified project's estimated air pollutant emissions are below BAAQMD's thresholds of significance, the modified project's contribution to a cumulative air quality impact would be less than significant.

Response 3.9

The commenter states that the modified project has been substantially changed from the original project by more than tripling the number of residential units and square footage, resulting in more severe construction and operational impacts.

The Addendum acknowledges that the modified project would result in changes in density and intensity compared to the original project, and explains that the modified project would not introduce new, significant environmental impacts beyond those that have already been identified and characterized in the 2018 Final IS-ND and that there are no substantial changes in the project or circumstances or new information of substantial importance that would require major revisions of the IS-ND due to significant new impacts or substantially more severe impacts than were previously identified.

Response 3.10

The commenter states that the Addendum was prepared in violation of CEQA and the court's holding in Friends of College of San Mateo Gardens v. San Mateo County Community College District, which the court held that an Addendum was improperly prepared due to substantial evidence to support a fair argument that the project changes may result in a significant effect on the environment, and that a subsequent EIR should have been prepared.

Please refer to Response 1.2 for an explanation of the City's decision not to prepare a subsequent EIR.

Response 3.11

The commenter states that the modified project may be detrimental to the general welfare of the city, residents, and workers, and has not made a commitment to ensure the modified project is built with local skilled and trained force.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 3.12

The commenter states that the modified project is inconsistent with the General Plan because it does not include a commitment to provide construction jobs to Berkeley or East Bay residents and does not contribute to any apprenticeship or other construction job training programs.

The commenter states that the project is inconsistent with the City's Housing Element because the modified project does not provide 20 percent affordable units on-site. The commenter acknowledges that the modified project will pay an in-lieu fee but states that this places a burden on the City to identify adequate sites to construct affordable housing.

The comment regarding apprenticeship or construction jobs does not pertain to adequacy of the information, analysis, or conclusions in the Addendum.

The modified project would be consistent with the City's Housing Element because although the modified project would not provide 20 percent affordable units on-site, pursuant to BMC Section 23.328.010(B)(1), in lieu of providing some or all of the affordable units required under Section 23.328.010 (including any fractional units), an applicant may elect to pay a fee, the amount of which the City Council may establish by resolution ("In-Lieu Fee"). The modified project would also add 166 units to the City's housing stock, which would help the city satisfy its 2023-2031 Housing Element Regional Housing Needs Assessment (RHNA).

Response 3.13

The commenter states that the ZAB incorrectly stated that the May 11, 2023 hearing was the final hearing allowed under the Housing Accountability Act's (HAA) five-hearing limit and states that it was the second hearing.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 3.14

The commenter requests for the City Council to grant the appeal and requests preparation of a subsequent EIR.

Please refer to Response 1.2 for an explanation behind the decision not to prepare a subsequent EIR.

Response 3.15

The commenter provides a statement of interest and states that the East Bay Residents will be directly affected by environmental and health and safety impacts.

As discussed throughout the Addendum, the modified project would result in less than significant impacts for all environmental issue areas, similar to the original project. There are no substantial changes in the project or circumstances or substantially important new information that would cause the project to have significant new impacts or substantially increase previously identified significant impacts. The modified project would be required to comply with the same City standards of conditions, General Plan policies, and BMC regulations as outlined in the 2018 IS-ND. Impacts to the environment and health and safety would be less than significant.

Response 3.16

The commenter cites the CEQA Guidelines and states that the City improperly prepared an Addendum instead of a subsequent EIR. The commenter states that the changes in the modified project constitute major revisions to the 2018 IS-ND since the number of residential units and square footage have been tripled. The commenter states that the modified project would result in

new significant environmental impacts related to hazardous materials, air quality, and cumulative impacts.

Please refer to Responses 1.9, 2.2, and 3.5.

Response 3.17

The commenter states that the Soil Water Air Protection Enterprise (SWAPE) provided substantial evidence that ROG emissions and construction and demolition may be significant and were not analyzed or mitigated in the 2018 IS-ND. In addition, the commenter states that hazards impacts from the modified project are more severe and cumulative impacts associated with development in the neighborhood that did not exist were not analyzed at the time the 2018 IS-ND was prepared.

Please refer to Response 1.6 regarding ROG emissions. SWAPE states that the modified project would result in a 2,285 percent increase in ROG emissions. However, they have not provided substantial evidence to support this number and did not include CalEEMod output files in the letter.

Please refer to Response 3.5 regarding hazardous materials. The modified project and future development in the project vicinity would be required to comply with the City's Standard Condition of Approval for hazardous materials, *Toxics*. This Standard Condition of Approval requires preparation of a Soil and Groundwater Management Plan to address health and safety, proper handling, and disposal of underground storage tanks (USTs) and/or contaminated soil if encountered during site redevelopment. Therefore, cumulative impacts related to hazardous materials contamination would be less than significant.

Response 3.18

The commenter states that tripling the number of housing units and square footage and doubling the building height would result in substantially increased air quality, public health, hazards, and cumulative impacts, and a subsequent EIR should be prepared.

Please refer to Responses 1.9, 2.2, and 3.5.

Response 3.19

The commenter states that the ZAB rushed approval of the modified project out of false belief that failing to approve it would violate the HAA.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 3.20

The commenter states that the project would result in substantially more severe impacts related to hazardous materials since the 2018 IS-ND, which relied on the site's previous closure to commercial or industrial screening levels and not residential screening levels, and did not include mitigation measures requiring contamination levels to be cleaned to meet the residential environmental screening levels (ESLs). The commenter states that soil vapor levels and other residual contamination associated with releases of contaminants at the project site have not been fully analyzed or mitigated for a residential setting and may pose a significant risk to residents and workers. The commenter states that a subsequent EIR should be required.

Please refer to Response 3.6. Soil vapor levels and other residual contamination associated with releases of contaminants at the project site were analyzed in the Phase I and Phase II ESA Reports

prepared for the project site by GEM Group, Inc on April 20, 2022 and October 10, 2022 (Appendix C), respectively. As explained in the Phase II ESA, according to the 2010 closure summary report, benzene was the only constituent that slightly exceeded its ESL. However, the closure summary report indicated that remediation through site upgrades, equipment removal and associated over-excavations, and natural attenuation have proven to be effective for removing on-site contamination. In addition, as explained in the Phase II ESA, concentrations of detected compounds in soil samples were all below their respective residential and commercial/industrial ESLs except for arsenic. However, because the range of arsenic concentrations found were within regional background concentrations, and the arsenic was determined to be naturally occurring. Therefore, impacts related to soil contaminants would be less than significant.

Response 3.21

The commenter states that the Addendum only analyzed cumulative impacts for transportation and air quality. The commenter states that cumulative impacts associated with construction and operation of the modified project constitute new impacts because recent development in the project area was not previously analyzed in the 2018 IS-ND, and states that the modified project and concurrent development projects would result in potentially cumulatively significant air quality, hazards, and land use impacts that were not analyzed in the Addendum.

Please refer to Response 2.2. A discussion of cumulative impacts has been included in Section 4.15, *Changes in the Environmental Setting and Cumulative Impacts*, of the Addendum. As discussed therein, the modified project would not result in cumulatively significant contributions to impacts related to air quality, hazards, or land use.

Response 3.23

The commenter states that the modified project may be constructed concurrently with numerous developments in the project vicinity that are also on the Cortese List and require remediation prior to construction. The commenter states that concurrent remediation and removal of contaminated soil on project sites may result in potentially significant cumulative hazards, air quality, and traffic impacts which were not analyzed or mitigated in the 2018 IS-ND or Addendum. The commenter states these potential cumulative impacts constitute new information and that a subsequent EIR should be prepared.

Please refer to Response 2.2, which includes an analysis of cumulative impacts. As discussed, the modified project would not result in cumulatively significant impacts related to air quality, hazards, or land use, and impacts would be less than significant. In addition, similar to the modified project, future development in the project vicinity would also be required to comply with the City's standard condition of approval for hazardous materials, *Toxics,* when warranted by site conditions or location that identifies handling and disposal of pollutants, which requires preparation of a Soil and Groundwater Management Plan to address health and safety, proper handling, and disposal of USTs and/or contaminated soil if encountered during site redevelopment. Cumulative development on hazardous materials sites would be subject to their own regulatory processes related to clean up of each individual site and would not impact the modified project since impacts related to hazards are generally site-specific and would include specific protective measures as determined by the relevant regulatory agency, such as a soil management plan. Therefore, the project's contribution to cumulative impacts related to hazardous contamination would not be cumulatively considerable.

Response 3.23

The commenter states that project construction may occur concurrently with numerous developments within 1,000 feet and that the Addendum fails to analyze potentially significant cumulative air quality and health risks impacts associated with the concurrent construction of new projects. The commenter states that the change in size of the modified project would result in an increase in ROG emissions of 2,285 percent, which would exceed BAAQMD thresholds. The commenter states that a subsequent EIR should be prepared.

Please refer to Response 2.2, which includes a discussion of cumulative impacts, as well as Response 3.8, which explains that the modified project's contribution to a cumulative air quality impact would be less than significant. The commenter states that the modified project would result in an increase in ROG emissions of 2,285 percent; this statement is incorrect. As discussed in Section 4.3, *Air Quality*, of the Addendum, construction and operational emissions were quantified using CalEEMod. Construction activities would result in maximum average daily ROG emissions of 3.5 pounds per day, which would not exceed the BAAQMD construction ROG threshold of 54 pounds per day; operation would result in maximum average daily ROG emissions of 4.8 pounds per day, which would not exceed the BAAQMD operational ROG threshold of 54 pounds per day.

Response 3.24

The commenter states that the duration of project construction in the Addendum's CalEEMod and Project Description are inconsistent, which potentially resulted in the underestimation of construction emissions. The commenter requests that the City prepare a subsequent EIR that accurately analyzes the modified project's daily construction emissions with an accurate construction schedule. The commenter also states that the CalEEMod fails to include demolition of the existing building on site, and therefore does not take into account emissions associated with fugitive dust, debris removal, and exhaust from hauling trucks travelling to and from the project site. The commenter states that the Addendum also fails to analyze potentially significant air pollution impacts from trucking the modular units potentially hundreds of miles to the project site. The commenter states that a subsequent EIR should be prepared.

Please refer to Response 1.6. Section 4.3, *Air Quality*, of the Addendum has been revised to include a discussion of CalEEMod methodology and revisions to the CalEEMod to include a demolition phase and an 18-month construction duration consistent with the Project Description. As discussed in Section 4.3, the modified project was modeled using conservative assumptions and both construction and operational air quality emissions were determined not to exceed BAAQMD thresholds. Therefore, impacts related to air quality would be less than significant.

Please refer to Response 1.8 regarding air quality impacts from trucking modular units to the project site.

Response 3.25

The commenter states that substantial evidence supports that the modified project would be detrimental to the general welfare due to unmitigated environmental and public health impacts

This is an issue related to compliance with findings for approval contained in the Berkeley Municipal Code, not with CEQA.

As discussed throughout the Addendum, the modified project would result in less than significant impacts for all issue areas, similar to the original project. There are no changes in the project or

circumstances or substantial new information that would cause the project to have new significant impacts or substantially increase previously identified significant impacts. The modified project would be required to comply with the same City Standard Conditions, General Plan policies, and Berkeley Municipal Code (BMC) regulations as outlined in the 2018 IS-ND. Impacts to the environmental and health and safety would be less than significant.

Please refer to Responses 1.9, 2.2, and 3.5 regarding general welfare as it relates to potential environmental impacts.

Response 3.26

The commenter states that the project applicant has not made a commitment to ensure the modified project is built with a local skilled and trained workforce, or that the modified project will provide apprenticeship training opportunities, or healthcare benefits, or other workforce benefits or amenities for the City or for East Bay residents.

CEQA does not require an analysis of workforce requirements. This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 3.27

The commenter cites the City's Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS) Ordinance, and acknowledges that it does not apply to the modified project since the application was filed before the Ordinance went into effect. The commenter states that evidence and findings show that projects that do not provide workforce benefits may be detrimental to the general welfare of the City and its residents.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 3.28

The commenter cites BMC Section 22.20.020 and states that the modified project's adverse impacts to the general welfare include failure to provide employment training, placement facilities, and amenities.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 3.29

The commenter states that the ZAB lacked substantial evidence to make the necessary findings that demolition of the existing structure and construction of the modified project is in the public interest, absent community and workforce benefits to promote the general welfare. The commenter states that the modified project is detrimental to general welfare, and requests City Council to ask the applicant to voluntarily agree to include community benefits including local hire provisions and healthcare standards and benefits.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 3.30

The commenter states that the modified project may be detrimental to the general welfare of residents absent a commitment from the applicant to hire locally. The commenter requests the applicant to commit to providing a local hire percentage of 30 percent as a community benefit.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 3.31

The commenter states that the modified project may be detrimental to the general welfare of residents since the applicant has not committed to providing healthcare expenditures for construction workers building the project. The commenter requests that the applicant commit to complying with provisions of HARD HATS Ordinance which address healthcare expenditures for the construction workforce.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 3.32

The commenter states that the modified project fails to demonstrate consistency with General Plan economic and employment policies.

CEQA does not require an analysis of impacts on the economy or employment. This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 3.33

The commenter states that the modified project fails to demonstrate consistency with General Plan economic and employment policies, and that the modified project should not be approved until consistency is demonstrated. The commenter also states that the applicant's decision to pay an in-lieu fee to the City in place of meeting the on-site affordable unit recommendations fails to demonstrate consistency with the Housing Element's goal to provide an adequate supply of affordable housing. The commenter requests that the applicant add additional on-site affordable units as a means of increasing compliance with the General Plan.

Please refer to Response 3.13 regarding in-lieu fees.

CEQA does not require an analysis of impacts on the economy or employment. This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

Response 3.34

The commenter states that more affordable units should be provided to be consistent with the City's Housing Element and State law. The commenter also cites BMC Section 23.328.010 which requires residential projects with five or more dwelling units to include at least 20 percent affordable units or pay in-lieu fees. The commenter states that the applicant's decision to pay in-lieu fees places a burden on the City to identify alternate sites to construct affordable housing units to meet RHNA requirements. This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum as it pertains to compliance with CEQA.

The commenter is correct in stating that BMC Section 23.328.010 requires residential projects with five or more dwelling units to include at least 20 percent affordable units or pay in-lieu fees. The applicant has elected to provide 17 very low-income units housing units in conjunction with payment of in-lieu fees.

Response 3.35

The commenter concludes by requesting for the City Council to uphold the appeal, vacate the ZAB's approval of the modified project, and prepare a subsequent EIR.

This comment does not pertain to the adequacy of the information, analysis, or conclusions in the Addendum.

3 Revisions to the Addendum

Chapter 3 presents specific revisions to the text of the Addendum that are being made in response to comments received or to make corrections. In no case do these revisions result in a new impact or impacts of a substantially greater severity than those identified in the Addendum. Where revisions to the main text are called for, the page and paragraph of the Addendum are shown, followed by the appropriate revision. Added text is indicated with underlining and deleted text is indicated with ~~strikeout~~. Page numbers correspond to the page numbers of the Addendum. The City has prepared a Revised Addendum that includes the following revisions to the text.

The following revision has been made to Pages 14 to 16 of Section 4.3, *Air Quality*, of the Addendum:

Methodology

The project's construction and operational emissions were estimated using the California Emissions Estimator Model (CalEEMod), version 2022.1, and attached to this report as Appendix A. CalEEMod uses project-specific information, including the project's land uses, square footages for different uses, and location, to estimate a project's construction and operational emissions.

Construction emissions modeled include emissions generated by construction equipment used on the site and emissions generated by vehicle trips associated with construction, such as worker and vendor trips. The construction schedule and hauling capacity of trucks (12 cubic yards) were based on applicant-provided data, and default CalEEMod construction equipment was used. It was assumed that project construction would comply with all applicable regulatory standards, including BAAQMD Regulation 8, Rule 3 requirements related to architectural coatings. Project construction is expected to last approximately 18 months.

Operational emissions modeled include mobile source emissions (i.e., vehicle emissions) and area source emissions. Mobile source emissions consist of emissions generated by vehicle trips to and from the project site. CalEEMod default trip generation rates were used. Default trip rates from CalEEMod are likely a conservative estimate for project trips, because the location of the project site allows for easy access to mass transit options such as the Ashby BART station and therefore the modified project would result in less vehicle trips compared to if the modified project were located far from transit. Area source emissions are generated by landscape maintenance equipment, consumer products, and architectural coatings. To be conservative, CalEEMod did not take into account a solar energy system, which is required pursuant to BMC Chapter 12.80.

Impacts of the Modified Project

The results of the modified project's CalEEMod modeling are provided in Table 1 and in Appendix A. ~~To be conservative, the air quality modeling did not include a solar energy system and building electrification, both of which are required pursuant to BMC Chapter 12.80 and would be included in the project.~~ As shown in the table and in Appendix A, the conservatively modeled modified project's air quality emissions would not exceed BAAQMD construction thresholds, like the original project. Therefore, impacts would remain less than significant.

In terms of cumulative air quality impacts, BAAQMD states in their CEQA Air Quality Guidelines that the project-level thresholds of significance for criteria air pollutants, "are the levels at which the Air District has determined that an individual project's contribution to the cumulative impact (non-attainment) is cumulatively considerable." Therefore, since the modified project's estimated air pollutant emissions are below BAAQMD's thresholds of significance, the modified project's contribution to a cumulative air quality impact would be less than significant. Impacts would remain less than significant. ~~Impacts would remain less than significant.~~

Table 1 Modified Project Air Quality Emissions

	ROG	NOx	PM_{10}	$PM_{2.5}$
Construction Emissions (maximum average daily lb/day)	3.5	4.4	0.2	0.2
BAAQMD Threshold (lb/day)	54	54	82	54
Exceed Threshold?	**No**	**No**	**No**	**No**
Project Operational Emissions (tpy)	1	0.5	<0.1	<0.1
Operational Emissions (maximum average daily lb/day)	4.8	2.5	0.1	0.1
BAAQMD Threshold (tpy)	10	10	15	10
BAAQMD Threshold (lb/day)	54	54	82	54
Exceed Threshold?	**No**	**No**	**No**	**No**

ROG = reactive organic gases; NOx = nitrous oxides; CO = carbon monoxide; PM_{10} = particulate matter less than 10 microns in diameter; $PM_{2.5}$ = particulate matter less than 2.5 microns in diameter; lb/day = pounds per day; tpy = tons per year

Source: Appendix A

From a construction standpoint, exhaust emissions from construction equipment would be similar to or reduced as compared to the original project due to the use of newer and more efficient equipment. Construction equipment would be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies available (likely Tier 4) pursuant to standard condition of approval, *Air Quality – Diesel Particulate Matter Controls During Construction*. The proposed building under the modified project would have ten floors, as compared to five floors under the original project. Despite the increased building height, the construction period for the modified project would be roughly the same as the original project (18 months). Although ~~M~~modular construction may be employed for the modified project, ~~but~~ site preparation and air quality would still be substantially the same as for traditional construction. Construction modeling for the building construction phase includes 17.9 one-way vendor trips per day, which over a 321-day phase length equates to 5,745 vendor trips and over 48,000 vendor trucking miles during this phase. Long-range trucking was not analyzed in this analysis, as it was assumed those emissions were considered out of the range of considerable direct or indirect effects. CEQA only requires analysis of impacts that are directly or indirectly attributable to the project under consideration. (State CEQA Guidelines, § 15064(d).) There is no indication that any long-range trucking beyond that analyzed here would be directly related to or caused by the project. The included emissions were those reasonably estimated to be related directly or indirectly to the project under consideration. Any potential long-range trucking may be necessary for numerous different projects as a result of general market demand, regardless of whether this project would proceed or not. Thus, such emissions may not be "caused by" the project under consideration. Similarly, a lead agency may not be able to require mitigation for emissions that result out of the scope of the project under consideration; mitigation can only be required for emissions that are actually caused by the project (State CEQA Guidelines, § 15126.4(a)(4).). This approach was discussed in detail in with the removal of the term "lifecycle"

from Appendix F of the CEQA Guidelines in the California Natural Resources Agency's December 2009 *Final Statement of Reasons for Regulatory Action: Amendments to the State CEQA Guidelines Addressing Analysis and Mitigation of Greenhouse Gas Emissions Pursuant to SB97.* It is similarly consistent with the "lifecycle" discussion in the California Department of Transportation's February 2019 *CEQA Guidelines Update*. Therefore, impacts related to trucking of modular units to the project site would be less than significant. In addition, fugitive dust generated during construction would be similar to the amount estimated under the original project, considering that the project site and area of grading would be the same size.

The following revision has been made to Pages 16 to 17 of Section 4.3, *Air Quality*, of the Addendum:

The California Air Resources Board (CARB) has authority over the issue of exposure to formaldehyde, and has stated that the approved control measures for reducing emissions, including formaldehyde, from composite wood products provide a level of control that protects health and safety. CARB states directly in its Frequently Asked Questions for Consumers on Reducing Emissions from Composite Wood Products (CWP) that, "from a public health standpoint, the CWP Regulation's emission standards are set at low levels intended to protect public health. The first emission standards (Phase 1) went into effect in 2009. The more stringent Phase 2 standards are now in effect for all composite wood panels and finished goods sold in California. Prior to the CWP Regulation, formaldehyde emissions were often ten to twenty-fold higher than the current allowable levels." (CARB 2024) The regulation also includes provisions to encourage the use of no-added formaldehyde and ultra-low emitting formaldehyde-based resins in composite wood products. In addition, BAAQMD Regulation 8 Rule 32 (Formaldehyde Emissions Estimates and Reporting Requirements for Wood Products Coatings) requires the manufacturing industry to implement necessary reductions in formaldehyde emissions from wood coatings to protect public health. The modified project would be required to comply with all applicable City, State, and federal requirements pertaining to the use of indoor building materials. As the modified project will be built to the 2022 version of the Title 24 standards, which requires the implementation of MERV 13 or higher HVAC systems, evidence demonstrates that compliance with applicable regulations will be effective in reducing indoor formaldehyde concentrations to levels that are acceptable to CARB for the protection of public health (CARB 2024). Therefore, the modified project would have less than significant impacts on formaldehyde.

The following revision has been made to Pages 23 to 24 of Section 4.7, *Hazards and Hazardous Materials*, of the Addendum:

As discussed in the Phase I ESA, there were no recognized environmental conditions (RECs)[2] or vapor encroachment condition (VEC)[3] at the project site. Like the original project, no hazardous materials were identified above environmental screening levels in the Phase II ESA. As shown in Table 1 of the Phase II ESA, concentrations of detected compounds in soil samples were all below their respective residential and commercial/industrial San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) groundwater vapor intrusion environmental screening levels

[2] According to the Phase I ESA, a REC refers to the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property due to any release to the environment; under conditions indicative of a release to the environment; or under conditions that pose as a material threat of future release to the environment.
[3] According to the Phase I ESA, VEC is the presence or likely presence of volatile and toxic vapors in the vadose zone of the project site caused by the release of vapors from contaminated soil and/or groundwater either on or near the project site.

(ESLs), except for arsenic. However, the range of arsenic concentrations found were within regional background concentrations and therefore was determined to be naturally occurring.

The following revision has been made to Page 26 of Section 4.9, *Noise*, of the Addendum:

On-site stationary noise sources would be similar as under the original project, such as rooftop mechanical equipment (shielded by a rooftop parapet wall) and landscaping activities. The taller height of the modified project would increase the distance between the operational equipment (i.e., roof-mounted HVAC) to the nearest sensitive receptors and would result in greater noise attenuation. Overall, the modified project would generate similar on- and off-site noise as the original project.

Construction techniques under the modified project would be similar to those under the original project. Modular construction may be employed for the modified project, but site preparation and noise would be substantially the same as for traditional construction. The increased height of the modified project would not result in use of larger equipment, as the fleet of construction equipment would be substantially similar to the original project, though the construction period may be slightly extended.

The following revision has been made to Page 31 of Section 4.13, *Transportation*, of the Addendum:

Like the original project, the modified project would not incorporate hazardous design features or modify emergency access routes. No significant new or substantially increased transportation impacts would occur compared to the original project. In addition, the modified project would be required to comply with the City's standard condition of approval, *Transportation Construction Plan*, which would require preparation of a Transportation Construction Plan for all phases of construction in order to minimize impacts related to construction traffic. No significant new or substantially increased transportation impacts would occur compared to the original project.

Section 4.15, *Changes in the Environmental Setting and Cumulative Impacts*, has been added to Pages 33 to 37 of the Addendum:

4.15 Changes in the Environmental Setting and Cumulative Impacts

Impacts of the Proposed Project

Cumulatively Considerable Impacts

Cumulative impacts could occur if the construction of other projects occurs at the same time as the modified project and in the same geographic area, such that the effects of similar impacts of multiple projects combine to create greater levels of impact than would occur at the project-level. For example, if the construction of other projects in the area occurs at the same time as project activities, combined air quality and noise impacts may be greater than at the project level. Since approval of the 2018 Final IS-ND, the cumulative setting has changed due to projects that have been completed as well as new projects that have been proposed. This analysis uses the list of projects approach authorized by CEQA Guidelines section 15130(b)(1)(A). Table 2 includes a list of nearby development projects within 2 miles producing related or cumulative effects.

Table 2 Cumulative Development Projects

No.	Project Location	Project Components	Status	Distance to Project Site
1	2001 Ashby Avenue	Affordable rental building with 87 apartments.	Under construction	0.1 miles
2	2920 Shattuck Avenue	10-story mixed-use project with 221 apartments.	Under Review	0.1 miles
3	3100 Adeline Street	Redeveloping the Ashby BART station to include housing, open space, and community amenities.	Planning	0.6 miles
4	2733 San Pablo Avenue	Demolition of existing non-landmarked structures. Construction of a new 8-story mixed-use residential development with 152 dwelling units, and commercial space.	Under Review	1.5 miles
5	2601 San Pablo Avenue	Eight-story mixed-use building with 223 dwelling units over a 1,940 square-foot commercial space.	Under Review	1.7 miles
6	1461 University Avenue	42-unit supportive housing project.	Design	2.0 miles
7	700/742 Grayson Street	2.5-acre industrial site with a research and development and manufacturing building.	Recently entitled	1.9 miles
8	2527 San Pablo Avenue	6-story, mixed use building with 63 dwelling units, commercial space, and ground level parking.	Under construction	1.7 miles

Source: City of Berkeley 2024

As determined in the analysis in Section 4.16, *Other Impacts*, the project would not result in significant impacts with regard to the following topics, and, do not need to be discussed in terms of cumulative impacts, because they cannot combine with other cumulative projects to result in cumulative impacts: agriculture/forestry resources, biological resources, geology and soils, hydrology and water quality, tribal cultural resources, and wildfire. Other issues (e.g., cultural resources, hazards and hazardous materials, and land use) are site-specific by nature, and impacts at one location do not contribute to impacts at other locations. Thus, the potential for the modified project to contribute to cumulative impacts would be limited to the following issue areas:

- **Aesthetics.** Cumulative projects could result in changes to scenic vistas, visual character, and light and glare. As described in Section 4.2, *Aesthetics*, Senate Bill 743 (California Public Resources Code Section 21099) passed in 2013, made changes to the CEQA for projects located in transit-oriented development areas. Among these changes are that a project's aesthetic impacts are no longer considered significant impacts on the environment if the project is a residential, mixed-use residential, or employment center project and if the project is located on an infill site within a TPA. Therefore, aesthetic impacts related to the modified project are not considered significant contributions to a cumulative impact because it is an infill project. Cumulative projects would also be subject to the City's design standards and BMC regulations regarding light and glare (e.g. BMC Section 23.304 which requires buildings in and adjacent to residential zones to shield and direct downward exterior lighting). Therefore, the modified project's contribution to cumulative aesthetic impacts would not be considerable.

- **Air Quality.** Because the BAAQMD is in non-attainment for the state and federal ozone standards, the state and federal $PM_{2.5}$ (particulate matter up to 2.5 microns in size) standards and the state PM_{10} (particulate matter up to 10 microns in size) standards, cumulative air quality impacts currently exist for these pollutants, and BAAQMD is required to prepare a plan for improvement. As discussed in Section 4.3, *Air Quality,* the modified project construction and operation would not generate emissions of these air pollutants in excess of BAAQMD regional or localized significance thresholds, which are intended to assess whether a project's contribution to existing cumulative air quality impacts is considerable. Therefore, the modified project's contribution to existing cumulative air quality impacts would not be considerable.
- **Biological Resources.** As discussed in Section 4.16, *Other Impacts*, of the Addendum, the project site does not contain riparian areas, wetlands, or other habitat suitable for special-status species. Most cumulative impacts related to biological resources occur when a disproportionate number of cumulative projects occur at once and regionally impact a local population of a special-status species, riparian habitat, sensitive natural communities, wetlands, or other locally protected biological resources. In this case, the cumulative projects would occur in previously developed areas. Several of the development projects near the project site would be required to undergo CEQA review, which would identify the extent of biological resource impacts and require appropriate mitigation of those impacts. Projects exempt from CEQA would be subject to existing BMC requirements and standard conditions of approval to reduce potential impacts to biological resources to a less-than-significant level such that project-level impacts would not result in a cumulatively considerable contribution to this cumulative impact.
- **Energy.** Cumulative projects would be required to comply with applicable state and local regulations and standards that require efficient energy use. Development projects in the City would also be reviewed for consistency with the General Plan and CAP. Cumulative development of projects listed in Table 2 would not exceed growth planned by the City. Therefore, cumulative energy impacts would be less than significant, and the modified project would not result in a considerable contribution to this impact.
- **Greenhouse Gas Emissions.** GHG impacts are assessed in a cumulative context since generally no single project can cause a discernible change to the climate. Therefore, cumulative significance is based on the same thresholds as the modified project. In the absence of an adopted numeric threshold by the BAAQMD or the City of Berkeley, the significance of the modified project's GHG emissions is evaluated based on consistency with applicable plans, policies, regulations, and requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions. As discussed in Section 4.6, *Greenhouse Gas Emissions*, the modified project would be consistent with Berkeley's CAP and other climate goals the city has in place and would therefore not result in a cumulatively considerable contribution to this cumulative impact.
- **Noise.** Overlapping construction activities associated with cumulative development projects in conjunction with modified project activities could result in cumulative noise impacts related to a temporary increase in ambient noise levels at the same noise-sensitive receivers located throughout the area, especially during construction activities. However, the modified project would be subject to the City's standard condition of approval for Use Permits in non-residential zones, and cumulative development projects would be subject to compliance with the noise level limits established in the BMC Section 13.40.070 or the City's standard conditions of approval. Given the discussion in Section 4.9 *Noise*, the modified

project would not result in a cumulatively considerable contribution to a significant cumulative impact..

- **Population and Housing.** As described in Section 4.10, *Population and Housing*, the modified project would result in 360 new residents. Although this is an additional 265 residents compared to the original project, the growth would not exceed growth anticipated by regional growth projections and the City's General Plan and Housing Element. Cumulative projects near the project site could result in up to approximately 788 new dwelling units, development from these cumulative projects would not exceed the 8,934 units planned by the City[4].
- **Public Services and Recreation.** As described in Section 4.11, *Public Services*, and Section 4.12, *Recreation*, the modified project would not require new public facilities or services because the project site is already served by existing services and would not exceed planned growth. Several of the cumulative development projects would be required to undergo their own CEQA review, which would identify the extent of police, fire, schools, and recreation impacts and provide suitable mitigation, if warranted. Projects exempt from CEQA would be subject to existing BMC requirements and standard conditions of approval to reduce potential impacts. Similar to the modified project, cumulative projects would be subject to applicable school fees.
- **Transportation.** Overlapping construction schedules associated with other cumulative projects in conjunction with project activities could result in cumulative transportation impacts, such as impacts related to VMT and emergency access during construction. Cumulative projects would be required to be evaluated with the City's VMT thresholds to be screened out from a VMT analysis or be required to complete a VMT analysis to determine the project's potential impacts. Projects would also be subject to State requirements to achieve a reduction in project-generated VMT. As discussed in Section 4.13, *Transportation*, the modified project would decrease net ADT by 75 ADT when compared to the existing use; would not incorporate hazardous design features; and would not modify emergency access routes. The modified project is located near public transportation, and based on its size, the modified project is not anticipated to generate a significant number of transit trips such that service or overall capacity of public transportation would be adversely affected. Impacts would be less than significant. Therefore, cumulative construction-related and operational transportation impacts would be less than significant, and the modified project would not result in a considerable contribution to this impact.
- **Utilities and Service Systems**. The analysis included in Section 4.14, *Utilities and Service Systems*, is cumulative in nature due to the fact that it analyzes the utility infrastructure available throughout the city and the remaining capacity of the utility systems accounting for all current development in the city and projected growth within the city. As discussed in Section 4.14, *Utilities and Service Systems*, the modified project would not result in demand for water, wastewater, electricity, or stormwater infrastructure that would exceed the remaining capacity of these systems in the City. The modified project also would not result in solid waste in excess of the remaining capacity of the Altamont Landfill or the Vasco Road Sanitary Landfill. Cumulative projects would also be required to comply with the City's standard condition of approval and prepare a Waste Diversion Report. The modified project would not exceed development planned by the City, which has already undergone

[4] The City of Berkeley was assigned a RHNA of 8,934 units for the 2023 to 2031 planning period.

environmental review for the City's General Plan and 2023-2031 Housing Element, and would not result in a considerable contribution to this impact.

Given the above discussion, the modified project would not result in a cumulatively considerable contribution to a significant cumulative impact with mitigation incorporated.

Effects and Mitigation Measures

No new or substantially more severe significant effects would occur to cumulatively considerable impacts, and no new mitigation measures are necessary.

Conclusion

Impacts would be less than significant, like the original project and no significant new or substantially increased cumulative impacts would occur compared to the original project.

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Attachment A

Updated California Emissions Estimator Model Results

3000 Shattuck Detailed Report

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1. Basic Project Information

1.1. Basic Project Information

Data Field	Value
Project Name	3000 Shattuck
Construction Start Date	7/3/2023
Operational Year	2025
Lead Agency	—
Land Use Scale	Project/site
Analysis Level for Defaults	County
Windspeed (m/s)	3.90
Precipitation (days)	17.0
Location	3000 Shattuck Ave., Berkeley, CA 94705, USA
County	Alameda
City	Berkeley
Air District	Bay Area AQMD
Air Basin	San Francisco Bay Area
TAZ	1522
EDFZ	1
Electric Utility	Pacific Gas & Electric Company
Gas Utility	Pacific Gas & Electric
App Version	2022.1.1.29

1.2. Land Use Types

Land Use Subtype	Size	Unit	Lot Acreage	Building Area (sq ft)	Landscape Area (sq ft)	Special Landscape Area (sq ft)	Population	Description
Apartments Mid Rise	166	Dwelling Unit	0.29	80,235	4,043	—	468	—

Strip Mall	1.09	1000sqft	0.03	1,095	0.00	—	—	—

1.3. User-Selected Emission Reduction Measures by Emissions Sector

No measures selected

2. Emissions Summary

2.1. Construction Emissions Compared Against Thresholds

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Un/Mit.	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Unmit.	1.31	12.6	12.6	0.60	0.55
Daily, Winter (Max)	—	—	—	—	—
Unmit.	71.6	7.04	12.0	0.29	0.27
Average Daily (Max)	—	—	—	—	—
Unmit.	3.45	4.42	7.62	0.18	0.16
Annual (Max)	—	—	—	—	—
Unmit.	0.63	0.81	1.39	0.03	0.03
Exceeds (Daily Max)	—	—	—	—	—
Threshold	54.0	54.0	0.00	82.0	54.0
Unmit.	Yes	No	Yes	No	No
Exceeds (Average Daily)	—	—	—	—	—
Threshold	54.0	54.0	0.00	82.0	54.0
Unmit.	No	No	Yes	No	No

2.2. Construction Emissions by Year, Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Year	ROG	NOx	CO	PM10E	PM2.5E

Daily - Summer (Max)	—	—	—	—	—
2023	1.31	12.6	12.6	0.60	0.55
2024	1.00	6.50	12.2	0.26	0.24
Daily - Winter (Max)	—	—	—	—	—
2023	1.03	7.04	12.0	0.29	0.27
2024	71.6	6.62	11.6	0.26	0.24
2025	71.5	0.96	1.96	0.03	0.03
Average Daily	—	—	—	—	—
2023	0.33	2.41	3.69	0.10	0.09
2024	3.45	4.42	7.62	0.18	0.16
2025	0.28	< 0.005	0.01	< 0.005	< 0.005
Annual	—	—	—	—	—
2023	0.06	0.44	0.67	0.02	0.02
2024	0.63	0.81	1.39	0.03	0.03
2025	0.05	< 0.005	< 0.005	< 0.005	< 0.005

2.4. Operations Emissions Compared Against Thresholds

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Un/Mit.	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Unmit.	5.15	2.37	19.1	0.06	0.06
Daily, Winter (Max)	—	—	—	—	—
Unmit.	5.01	2.71	19.4	0.06	0.06
Average Daily (Max)	—	—	—	—	—
Unmit.	4.82	2.46	17.4	0.06	0.06
Annual (Max)	—	—	—	—	—
Unmit.	0.88	0.45	3.17	0.01	0.01
Exceeds (Annual)	—	—	—	—	—

Threshold	10.0	10.0	—	15.0	10.0
Unmit.	No	No	—	No	No

2.5. Operations Emissions by Sector, Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Sector	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Mobile	3.08	2.00	19.0	0.03	0.03
Area	2.05	—	—	—	—
Energy	0.02	0.37	0.16	0.03	0.03
Water	—	—	—	—	—
Waste	—	—	—	—	—
Refrig.	—	—	—	—	—
Total	5.15	2.37	19.1	0.06	0.06
Daily, Winter (Max)	—	—	—	—	—
Mobile	2.93	2.34	19.3	0.03	0.03
Area	2.05	—	—	—	—
Energy	0.02	0.37	0.16	0.03	0.03
Water	—	—	—	—	—
Waste	—	—	—	—	—
Refrig.	—	—	—	—	—
Total	5.01	2.71	19.4	0.06	0.06
Average Daily	—	—	—	—	—
Mobile	2.74	2.09	17.2	0.03	0.03
Area	2.05	—	—	—	—
Energy	0.02	0.37	0.16	0.03	0.03
Water	—	—	—	—	—
Waste	—	—	—	—	—

Refrig.	—	—	—	—	—
Total	4.82	2.46	17.4	0.06	0.06
Annual	—	—	—	—	—
Mobile	0.50	0.38	3.14	0.01	< 0.005
Area	0.37	—	—	—	—
Energy	< 0.005	0.07	0.03	0.01	0.01
Water	—	—	—	—	—
Waste	—	—	—	—	—
Refrig.	—	—	—	—	—
Total	0.88	0.45	3.17	0.01	0.01

3. Construction Emissions Details

3.1. Demolition (2023) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	ROG	NOx	CO	PM10E	PM2.5E
Onsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Off-Road Equipment	0.54	4.99	5.91	0.21	0.20
Demolition	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—
Average Daily	—	—	—	—	—
Off-Road Equipment	0.05	0.44	0.52	0.02	0.02
Demolition	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Off-Road Equipment	0.01	0.08	0.09	< 0.005	< 0.005

Demolition	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Worker	0.04	0.03	0.45	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	< 0.005	0.13	0.05	< 0.005	< 0.005
Daily, Winter (Max)	—	—	—	—	—
Average Daily	—	—	—	—	—
Worker	< 0.005	< 0.005	0.03	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	< 0.005	0.01	< 0.005	< 0.005	< 0.005
Annual	—	—	—	—	—
Worker	< 0.005	< 0.005	0.01	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005

3.3. Site Preparation (2023) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	ROG	NOx	CO	PM10E	PM2.5E
Onsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Off-Road Equipment	0.54	5.02	5.57	0.27	0.25
Dust From Material Movement	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—
Average Daily	—	—	—	—	—
Off-Road Equipment	< 0.005	0.04	0.05	< 0.005	< 0.005

Dust From Material Movement	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Off-Road Equipment	< 0.005	0.01	0.01	< 0.005	< 0.005
Dust From Material Movement	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Worker	0.02	0.01	0.22	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—
Average Daily	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00

3.5. Grading (2023) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	ROG	NOx	CO	PM10E	PM2.5E
Onsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Off-Road Equipment	1.28	12.6	11.4	0.60	0.55
Dust From Material Movement	—	—	—	—	—

Onsite truck	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—
Average Daily	—	—	—	—	—
Off-Road Equipment	0.02	0.21	0.19	0.01	0.01
Dust From Material Movement	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Off-Road Equipment	< 0.005	0.04	0.03	< 0.005	< 0.005
Dust From Material Movement	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Worker	0.03	0.02	0.33	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—
Average Daily	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00

3.7. Building Construction (2023) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	ROG	NOx	CO	PM10E	PM2.5E

Onsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Off-Road Equipment	0.58	5.93	7.00	0.28	0.26
Onsite truck	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—
Off-Road Equipment	0.58	5.93	7.00	0.28	0.26
Onsite truck	0.00	0.00	0.00	0.00	0.00
Average Daily	—	—	—	—	—
Off-Road Equipment	0.14	1.45	1.71	0.07	0.06
Onsite truck	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Off-Road Equipment	0.03	0.26	0.31	0.01	0.01
Onsite truck	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Worker	0.45	0.33	5.34	0.00	0.00
Vendor	0.02	0.63	0.28	0.01	0.01
Hauling	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—
Worker	0.43	0.45	4.73	0.00	0.00
Vendor	0.02	0.67	0.29	0.01	0.01
Hauling	0.00	0.00	0.00	0.00	0.00
Average Daily	—	—	—	—	—
Worker	0.10	0.10	1.12	0.00	0.00
Vendor	< 0.005	0.16	0.07	< 0.005	< 0.005
Hauling	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Worker	0.02	0.02	0.20	0.00	0.00

Vendor	< 0.005	0.03	0.01	< 0.005	< 0.005
Hauling	0.00	0.00	0.00	0.00	0.00

3.9. Building Construction (2024) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	ROG	NOx	CO	PM10E	PM2.5E
Onsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Off-Road Equipment	0.56	5.60	6.98	0.26	0.23
Onsite truck	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—
Off-Road Equipment	0.56	5.60	6.98	0.26	0.23
Onsite truck	0.00	0.00	0.00	0.00	0.00
Average Daily	—	—	—	—	—
Off-Road Equipment	0.35	3.55	4.42	0.16	0.15
Onsite truck	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Off-Road Equipment	0.06	0.65	0.81	0.03	0.03
Onsite truck	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Worker	0.43	0.30	4.97	0.00	0.00
Vendor	0.01	0.61	0.27	0.01	0.01
Hauling	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—
Worker	0.41	0.38	4.38	0.00	0.00
Vendor	0.01	0.64	0.28	0.01	0.01
Hauling	0.00	0.00	0.00	0.00	0.00

Average Daily	—	—	—	—	—
Worker	0.26	0.24	2.69	0.00	0.00
Vendor	0.01	0.40	0.17	< 0.005	< 0.005
Hauling	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Worker	0.05	0.04	0.49	0.00	0.00
Vendor	< 0.005	0.07	0.03	< 0.005	< 0.005
Hauling	0.00	0.00	0.00	0.00	0.00

3.11. Paving (2024) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	ROG	NOx	CO	PM10E	PM2.5E
Onsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Off-Road Equipment	0.53	4.52	5.32	0.21	0.19
Paving	0.00	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Average Daily	—	—	—	—	—
Off-Road Equipment	0.02	0.20	0.23	0.01	0.01
Paving	0.00	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Off-Road Equipment	< 0.005	0.04	0.04	< 0.005	< 0.005
Paving	0.00	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—

Daily, Winter (Max)	—	—	—	—	—
Worker	0.06	0.06	0.64	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00
Average Daily	—	—	—	—	—
Worker	< 0.005	< 0.005	0.03	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00

3.13. Architectural Coating (2024) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	ROG	NOx	CO	PM10E	PM2.5E
Onsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Off-Road Equipment	0.14	0.91	1.15	0.03	0.03
Architectural Coatings	71.3	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Average Daily	—	—	—	—	—
Off-Road Equipment	0.01	0.04	0.04	< 0.005	< 0.005
Architectural Coatings	2.79	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Off-Road Equipment	< 0.005	0.01	0.01	< 0.005	< 0.005

Architectural Coatings	0.51	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Worker	0.08	0.08	0.88	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00
Average Daily	—	—	—	—	—
Worker	< 0.005	< 0.005	0.03	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Worker	< 0.005	< 0.005	0.01	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00

3.15. Architectural Coating (2025) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	ROG	NOx	CO	PM10E	PM2.5E
Onsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Off-Road Equipment	0.13	0.88	1.14	0.03	0.03
Architectural Coatings	71.3	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Average Daily	—	—	—	—	—
Off-Road Equipment	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005

Architectural Coatings	0.28	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Off-Road Equipment	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005
Architectural Coatings	0.05	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Worker	0.08	0.07	0.82	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00
Average Daily	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	0.00	0.00
Vendor	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00

4. Operations Emissions Details

4.1. Mobile Emissions by Land Use

4.1.1. Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Land Use	ROG	NOx	CO	PM10E	PM2.5E

Daily, Summer (Max)	—	—	—	—	—
Apartments Mid Rise	2.91	1.86	17.6	0.03	0.03
Strip Mall	0.17	0.13	1.32	< 0.005	< 0.005
Total	3.08	2.00	19.0	0.03	0.03
Daily, Winter (Max)	—	—	—	—	—
Apartments Mid Rise	2.77	2.19	18.0	0.03	0.03
Strip Mall	0.16	0.16	1.27	< 0.005	< 0.005
Total	2.93	2.34	19.3	0.03	0.03
Annual	—	—	—	—	—
Apartments Mid Rise	0.47	0.36	2.94	< 0.005	< 0.005
Strip Mall	0.03	0.02	0.20	< 0.005	< 0.005
Total	0.50	0.38	3.14	0.01	< 0.005

4.2. Energy

4.2.1. Electricity Emissions By Land Use - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Land Use	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Apartments Mid Rise	—	—	—	—	—
Strip Mall	—	—	—	—	—
Total	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Apartments Mid Rise	—	—	—	—	—
Strip Mall	—	—	—	—	—
Total	—	—	—	—	—
Annual	—	—	—	—	—
Apartments Mid Rise	—	—	—	—	—

Strip Mall	—	—	—	—	—
Total	—	—	—	—	—

4.2.3. Natural Gas Emissions By Land Use - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Land Use	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Apartments Mid Rise	0.02	0.37	0.16	0.03	0.03
Strip Mall	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005
Total	0.02	0.37	0.16	0.03	0.03
Daily, Winter (Max)	—	—	—	—	—
Apartments Mid Rise	0.02	0.37	0.16	0.03	0.03
Strip Mall	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005
Total	0.02	0.37	0.16	0.03	0.03
Annual	—	—	—	—	—
Apartments Mid Rise	< 0.005	0.07	0.03	0.01	0.01
Strip Mall	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005
Total	< 0.005	0.07	0.03	0.01	0.01

4.3. Area Emissions by Source

4.3.1. Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Source	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Consumer Products	1.74	—	—	—	—
Architectural Coatings	0.31	—	—	—	—
Total	2.05	—	—	—	—

Daily, Winter (Max)	—	—	—	—	—
Consumer Products	1.74	—	—	—	—
Architectural Coatings	0.31	—	—	—	—
Total	2.05	—	—	—	—
Annual	—	—	—	—	—
Consumer Products	0.32	—	—	—	—
Architectural Coatings	0.06	—	—	—	—
Total	0.37	—	—	—	—

4.4. Water Emissions by Land Use

4.4.1. Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Land Use	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Apartments Mid Rise	—	—	—	—	—
Strip Mall	—	—	—	—	—
Total	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Apartments Mid Rise	—	—	—	—	—
Strip Mall	—	—	—	—	—
Total	—	—	—	—	—
Annual	—	—	—	—	—
Apartments Mid Rise	—	—	—	—	—
Strip Mall	—	—	—	—	—
Total	—	—	—	—	—

4.5. Waste Emissions by Land Use

4.5.1. Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Land Use	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Apartments Mid Rise	—	—	—	—	—
Strip Mall	—	—	—	—	—
Total	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Apartments Mid Rise	—	—	—	—	—
Strip Mall	—	—	—	—	—
Total	—	—	—	—	—
Annual	—	—	—	—	—
Apartments Mid Rise	—	—	—	—	—
Strip Mall	—	—	—	—	—
Total	—	—	—	—	—

4.6. Refrigerant Emissions by Land Use

4.6.1. Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Land Use	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Apartments Mid Rise	—	—	—	—	—
Strip Mall	—	—	—	—	—
Total	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Apartments Mid Rise	—	—	—	—	—
Strip Mall	—	—	—	—	—

Total	—	—	—	—	—
Annual	—	—	—	—	—
Apartments Mid Rise	—	—	—	—	—
Strip Mall	—	—	—	—	—
Total	—	—	—	—	—

4.7. Offroad Emissions By Equipment Type

4.7.1. Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Equipment Type	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Total	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Total	—	—	—	—	—
Annual	—	—	—	—	—
Total	—	—	—	—	—

4.8. Stationary Emissions By Equipment Type

4.8.1. Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Equipment Type	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Total	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Total	—	—	—	—	—
Annual	—	—	—	—	—

Total	—	—	—	—	—

4.9. User Defined Emissions By Equipment Type

4.9.1. Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Equipment Type	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Total	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Total	—	—	—	—	—
Annual	—	—	—	—	—
Total	—	—	—	—	—

4.10. Soil Carbon Accumulation By Vegetation Type

4.10.1. Soil Carbon Accumulation By Vegetation Type - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Vegetation	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Total	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Total	—	—	—	—	—
Annual	—	—	—	—	—
Total	—	—	—	—	—

4.10.2. Above and Belowground Carbon Accumulation by Land Use Type - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Land Use	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Total	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Total	—	—	—	—	—
Annual	—	—	—	—	—
Total	—	—	—	—	—

4.10.3. Avoided and Sequestered Emissions by Species - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Species	ROG	NOx	CO	PM10E	PM2.5E
Daily, Summer (Max)	—	—	—	—	—
Avoided	—	—	—	—	—
Subtotal	—	—	—	—	—
Sequestered	—	—	—	—	—
Subtotal	—	—	—	—	—
Removed	—	—	—	—	—
Subtotal	—	—	—	—	—
—	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—
Avoided	—	—	—	—	—
Subtotal	—	—	—	—	—
Sequestered	—	—	—	—	—
Subtotal	—	—	—	—	—
Removed	—	—	—	—	—
Subtotal	—	—	—	—	—
—	—	—	—	—	—
Annual	—	—	—	—	—

Avoided	—	—	—	—	—
Subtotal	—	—	—	—	—
Sequestered	—	—	—	—	—
Subtotal	—	—	—	—	—
Removed	—	—	—	—	—
Subtotal	—	—	—	—	—
—	—	—	—	—	—

5. Activity Data

5.1. Construction Schedule

Phase Name	Phase Type	Start Date	End Date	Days Per Week	Work Days per Phase	Phase Description
Demolition	Demolition	7/3/2023	8/15/2023	5.00	32.0	—
Site Preparation	Site Preparation	8/16/2023	8/18/2023	5.00	3.00	—
Grading	Grading	8/21/2023	8/28/2023	5.00	6.00	—
Building Construction	Building Construction	8/29/2023	11/19/2024	5.00	321	—
Paving	Paving	11/20/2024	12/11/2024	5.00	16.0	—
Architectural Coating	Architectural Coating	12/12/2024	1/2/2025	5.00	16.0	—

5.2. Off-Road Equipment

5.2.1. Unmitigated

Phase Name	Equipment Type	Fuel Type	Engine Tier	Number per Day	Hours Per Day	Horsepower	Load Factor
Demolition	Tractors/Loaders/Backhoes	Diesel	Average	2.00	6.00	84.0	0.37
Demolition	Rubber Tired Dozers	Diesel	Average	1.00	1.00	367	0.40
Demolition	Concrete/Industrial Saws	Diesel	Average	1.00	8.00	33.0	0.73

Site Preparation	Tractors/Loaders/Back	Diesel	Average	1.00	8.00	84.0	0.37
Site Preparation	Graders	Diesel	Average	1.00	8.00	148	0.41
Grading	Graders	Diesel	Average	1.00	6.00	148	0.41
Grading	Rubber Tired Dozers	Diesel	Average	1.00	6.00	367	0.40
Grading	Tractors/Loaders/Back hoes	Diesel	Average	1.00	7.00	84.0	0.37
Building Construction	Cranes	Diesel	Average	1.00	4.00	367	0.29
Building Construction	Forklifts	Diesel	Average	2.00	6.00	82.0	0.20
Building Construction	Tractors/Loaders/Back hoes	Diesel	Average	2.00	8.00	84.0	0.37
Paving	Cement and Mortar Mixers	Diesel	Average	4.00	6.00	10.0	0.56
Paving	Pavers	Diesel	Average	1.00	7.00	81.0	0.42
Paving	Rollers	Diesel	Average	1.00	7.00	36.0	0.38
Paving	Tractors/Loaders/Back hoes	Diesel	Average	1.00	7.00	84.0	0.37
Architectural Coating	Air Compressors	Diesel	Average	1.00	6.00	37.0	0.48

5.3. Construction Vehicles

5.3.1. Unmitigated

Phase Name	Trip Type	One-Way Trips per Day	Miles per Trip	Vehicle Mix
Site Preparation	—	—	—	—
Site Preparation	Worker	5.00	11.7	LDA,LDT1,LDT2
Site Preparation	Vendor	—	8.40	HHDT,MHDT
Site Preparation	Hauling	0.00	20.0	HHDT
Site Preparation	Onsite truck	—	—	HHDT
Grading	—	—	—	—
Grading	Worker	7.50	11.7	LDA,LDT1,LDT2
Grading	Vendor	—	8.40	HHDT,MHDT

Grading	Hauling	0.00	20.0	HHDT
Grading	Onsite truck	—	—	HHDT
Building Construction	—	—	—	—
Building Construction	Worker	120	11.7	LDA,LDT1,LDT2
Building Construction	Vendor	17.9	8.40	HHDT,MHDT
Building Construction	Hauling	0.00	20.0	HHDT
Building Construction	Onsite truck	—	—	HHDT
Paving	—	—	—	—
Paving	Worker	17.5	11.7	LDA,LDT1,LDT2
Paving	Vendor	—	8.40	HHDT,MHDT
Paving	Hauling	0.00	20.0	HHDT
Paving	Onsite truck	—	—	HHDT
Architectural Coating	—	—	—	—
Architectural Coating	Worker	24.0	11.7	LDA,LDT1,LDT2
Architectural Coating	Vendor	—	8.40	HHDT,MHDT
Architectural Coating	Hauling	0.00	20.0	HHDT
Architectural Coating	Onsite truck	—	—	HHDT
Demolition	—	—	—	—
Demolition	Worker	10.0	11.7	LDA,LDT1,LDT2
Demolition	Vendor	—	8.40	HHDT,MHDT
Demolition	Hauling	1.46	20.0	HHDT
Demolition	Onsite truck	—	—	HHDT

5.4. Vehicles

5.4.1. Construction Vehicle Control Strategies

Non-applicable. No control strategies activated by user.

5.5. Architectural Coatings

Phase Name	Residential Interior Area Coated (sq ft)	Residential Exterior Area Coated (sq ft)	Non-Residential Interior Area Coated (sq ft)	Non-Residential Exterior Area Coated (sq ft)	Parking Area Coated (sq ft)
Architectural Coating	162,476	54,159	1,643	548	0.00

5.6. Dust Mitigation

5.6.1. Construction Earthmoving Activities

Phase Name	Material Imported (Ton of Debris)	Material Exported (Ton of Debris)	Acres Graded (acres)	Material Demolished (Building Square Footage)	Acres Paved (acres)
Demolition	0.00	0.00	0.00	3,000	—
Site Preparation	0.00	0.00	20.5	0.00	—
Grading	0.00	0.00	15.8	0.00	—
Paving	0.00	0.00	0.00	0.00	0.00

5.6.2. Construction Earthmoving Control Strategies

Control Strategies Applied	Frequency (per day)	PM10 Reduction	PM2.5 Reduction
Water Exposed Area	2	61%	61%

5.7. Construction Paving

Land Use	Area Paved (acres)	% Asphalt
Apartments Mid Rise	—	0%
Strip Mall	0.00	0%

5.8. Construction Electricity Consumption and Emissions Factors

kWh per Year and Emission Factor (lb/MWh)

Year	kWh per Year	CO2	CH4	N2O
2023	0.00	204	0.03	< 0.005
2024	0.00	204	0.03	< 0.005

2025	0.00	204	0.03	< 0.005

5.9. Operational Mobile Sources

5.9.1. Unmitigated

Land Use Type	Trips/Weekday	Trips/Saturday	Trips/Sunday	Trips/Year	VMT/Weekday	VMT/Saturday	VMT/Sunday	VMT/Year
Apartments Mid Rise	903	815	679	313,337	4,857	4,383	3,651	1,685,134
Strip Mall	48.5	46.0	22.4	16,219	405	384	187	135,264

5.10. Operational Area Sources

5.10.1. Hearths

5.10.1.1. Unmitigated

5.10.2. Architectural Coatings

Residential Interior Area Coated (sq ft)	Residential Exterior Area Coated (sq ft)	Non-Residential Interior Area Coated (sq ft)	Non-Residential Exterior Area Coated (sq ft)	Parking Area Coated (sq ft)
162475.875	54,159	1,643	548	—

5.10.3. Landscape Equipment

Season	Unit	Value
Snow Days	day/yr	0.00
Summer Days	day/yr	180

5.11. Operational Energy Consumption

5.11.1. Unmitigated

Electricity (kWh/yr) and CO2 and CH4 and N2O and Natural Gas (kBTU/yr)

Land Use	Electricity (kWh/yr)	CO2	CH4	N2O	Natural Gas (kBTU/yr)
Apartments Mid Rise	566,301	204	0.0330	0.0040	1,461,476
Strip Mall	9,357	204	0.0330	0.0040	6,240

5.12. Operational Water and Wastewater Consumption

5.12.1. Unmitigated

Land Use	Indoor Water (gal/year)	Outdoor Water (gal/year)
Apartments Mid Rise	5,894,801	56,141
Strip Mall	81,109	0.00

5.13. Operational Waste Generation

5.13.1. Unmitigated

Land Use	Waste (ton/year)	Cogeneration (kWh/year)
Apartments Mid Rise	123	—
Strip Mall	1.15	—

5.14. Operational Refrigeration and Air Conditioning Equipment

5.14.1. Unmitigated

Land Use Type	Equipment Type	Refrigerant	GWP	Quantity (kg)	Operations Leak Rate	Service Leak Rate	Times Serviced
Apartments Mid Rise	Average room A/C & Other residential A/C and heat pumps	R-410A	2,088	< 0.005	2.50	2.50	10.0
Apartments Mid Rise	Household refrigerators and/or freezers	R-134a	1,430	0.12	0.60	0.00	1.00

Strip Mall	Other commercial A/C and heat pumps	R-410A	2,088	< 0.005	4.00	4.00	18.0
Strip Mall	Stand-alone retail refrigerators and freezers	R-134a	1,430	0.04	1.00	0.00	1.00
Strip Mall	Walk-in refrigerators and freezers	R-404A	3,922	< 0.005	7.50	7.50	20.0

5.15. Operational Off-Road Equipment

5.15.1. Unmitigated

Equipment Type	Fuel Type	Engine Tier	Number per Day	Hours Per Day	Horsepower	Load Factor

5.16. Stationary Sources

5.16.1. Emergency Generators and Fire Pumps

Equipment Type	Fuel Type	Number per Day	Hours per Day	Hours per Year	Horsepower	Load Factor

5.16.2. Process Boilers

Equipment Type	Fuel Type	Number	Boiler Rating (MMBtu/hr)	Daily Heat Input (MMBtu/day)	Annual Heat Input (MMBtu/yr)

5.17. User Defined

Equipment Type	Fuel Type
—	—

5.18. Vegetation

5.18.1. Land Use Change

5.18.1.1. Unmitigated

Vegetation Land Use Type	Vegetation Soil Type	Initial Acres	Final Acres

5.18.1. Biomass Cover Type

5.18.1.1. Unmitigated

Biomass Cover Type	Initial Acres	Final Acres

5.18.2. Sequestration

5.18.2.1. Unmitigated

Tree Type	Number	Electricity Saved (kWh/year)	Natural Gas Saved (btu/year)

6. Climate Risk Detailed Report

6.1. Climate Risk Summary

Cal-Adapt midcentury 2040–2059 average projections for four hazards are reported below for your project location. These are under Representation Concentration Pathway (RCP) 8.5 which assumes GHG emissions will continue to rise strongly through 2050 and then plateau around 2100.

Climate Hazard	Result for Project Location	Unit
Temperature and Extreme Heat	7.10	annual days of extreme heat
Extreme Precipitation	7.50	annual days with precipitation above 20 mm
Sea Level Rise	0.00	meters of inundation depth
Wildfire	0.00	annual hectares burned

Temperature and Extreme Heat data are for grid cell in which your project are located. The projection is based on the 98th historical percentile of daily maximum/minimum temperatures from observed historical data (32 climate model ensemble from Cal-Adapt, 2040–2059 average under RCP 8.5). Each grid cell is 6 kilometers (km) by 6 km, or 3.7 miles (mi) by 3.7 mi.
Extreme Precipitation data are for the grid cell in which your project are located. The threshold of 20 mm is equivalent to about ¾ an inch of rain, which would be light to moderate rainfall if received over a full day or heavy rain if received over a period of 2 to 4 hours. Each grid cell is 6 kilometers (km) by 6 km, or 3.7 miles (mi) by 3.7 mi.
Sea Level Rise data are for the grid cell in which your project are located. The projections are from Radke et al. (2017), as reported in Cal-Adapt (Radke et al., 2017, CEC-500-2017-008), and consider inundation location and depth for the San Francisco Bay, the Sacramento-San Joaquin River Delta and California coast resulting different increments of sea level rise coupled with extreme storm events. Users may select from four scenarios to view the range in potential inundation depth for the grid cell. The four scenarios are: No rise, 0.5 meter, 1.0 meter, 1.5 meters

Wildfire data are for the grid cell in which your project are located. The projections are from UC Davis, as reported in Cal-Adapt (2040–2059 average under RCP 8.5), and consider historical data of climate, vegetation, population density, and large (> 400 ha) fire history. Users may select from four model simulations to view the range in potential wildfire probabilities for the grid cell. The four simulations make different assumptions about expected rainfall and temperature are: Warmer/drier (HadGEM2-ES), Cooler/wetter (CNRM-CM5), Average conditions (CanESM2), Range of different rainfall and temperature possibilities (MIROC5). Each grid cell is 6 kilometers (km) by 6 km, or 3.7 miles (mi) by 3.7 mi.

6.2. Initial Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	2	0	0	N/A
Sea Level Rise	1	0	0	N/A
Wildfire	1	0	0	N/A
Flooding	N/A	N/A	N/A	N/A
Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	N/A	N/A	N/A	N/A
Air Quality Degradation	0	0	0	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.
The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.
The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores do not include implementation of climate risk reduction measures.

6.3. Adjusted Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	2	1	1	3
Sea Level Rise	1	1	1	2
Wildfire	1	1	1	2
Flooding	N/A	N/A	N/A	N/A
Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	N/A	N/A	N/A	N/A
Air Quality Degradation	1	1	1	2

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.
The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.
The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores include implementation of climate risk reduction measures.

6.4. Climate Risk Reduction Measures

7. Health and Equity Details

7.1. CalEnviroScreen 4.0 Scores

The maximum CalEnviroScreen score is 100. A high score (i.e., greater than 50) reflects a higher pollution burden compared to other census tracts in the state.

Indicator	Result for Project Census Tract
Exposure Indicators	—
AQ-Ozone	3.12
AQ-PM	41.3
AQ-DPM	71.9
Drinking Water	4.21
Lead Risk Housing	64.9
Pesticides	0.00
Toxic Releases	57.1
Traffic	60.1
Effect Indicators	—
CleanUp Sites	50.3
Groundwater	78.9
Haz Waste Facilities/Generators	64.8
Impaired Water Bodies	0.00
Solid Waste	0.00
Sensitive Population	—
Asthma	43.9

Cardio-vascular	10.5
Low Birth Weights	59.2
Socioeconomic Factor Indicators	—
Education	7.82
Housing	50.3
Linguistic	11.3
Poverty	48.6
Unemployment	82.3

7.2. Healthy Places Index Scores

The maximum Health Places Index score is 100. A high score (i.e., greater than 50) reflects healthier community conditions compared to other census tracts in the state.

Indicator	Result for Project Census Tract
Economic	—
Above Poverty	63.35172591
Employed	86.50070576
Median HI	51.39227512
Education	—
Bachelor's or higher	91.67201335
High school enrollment	100
Preschool enrollment	70.537662
Transportation	—
Auto Access	7.314256384
Active commuting	98.42166046
Social	—
2-parent households	42.60233543
Voting	67.21416656
Neighborhood	—
Alcohol availability	4.516874118

Park access	81.35506224
Retail density	76.22225074
Supermarket access	85.74361607
Tree canopy	53.0347748
Housing	—
Homeownership	28.53843193
Housing habitability	41.30630053
Low-inc homeowner severe housing cost burden	28.02515078
Low-inc renter severe housing cost burden	47.18336969
Uncrowded housing	70.98678301
Health Outcomes	—
Insured adults	78.89131272
Arthritis	67.1
Asthma ER Admissions	41.3
High Blood Pressure	69.1
Cancer (excluding skin)	40.8
Asthma	51.9
Coronary Heart Disease	83.6
Chronic Obstructive Pulmonary Disease	86.1
Diagnosed Diabetes	84.4
Life Expectancy at Birth	60.6
Cognitively Disabled	30.7
Physically Disabled	30.9
Heart Attack ER Admissions	93.1
Mental Health Not Good	76.1
Chronic Kidney Disease	79.8
Obesity	62.5
Pedestrian Injuries	98.1

Physical Health Not Good	87.1
Stroke	75.8
Health Risk Behaviors	—
Binge Drinking	14.4
Current Smoker	77.7
No Leisure Time for Physical Activity	90.4
Climate Change Exposures	—
Wildfire Risk	0.0
SLR Inundation Area	0.0
Children	90.9
Elderly	64.7
English Speaking	85.1
Foreign-born	12.2
Outdoor Workers	91.6
Climate Change Adaptive Capacity	—
Impervious Surface Cover	18.7
Traffic Density	46.0
Traffic Access	87.4
Other Indices	—
Hardship	16.6
Other Decision Support	—
2016 Voting	67.6

7.3. Overall Health & Equity Scores

Metric	Result for Project Census Tract
CalEnviroScreen 4.0 Score for Project Location (a)	35.0
Healthy Places Index Score for Project Location (b)	85.0
Project Located in a Designated Disadvantaged Community (Senate Bill 535)	No

Project Located in a Low-Income Community (Assembly Bill 1550)	No
Project Located in a Community Air Protection Program Community (Assembly Bill 617)	No

a: The maximum CalEnviroScreen score is 100. A high score (i.e., greater than 50) reflects a higher pollution burden compared to other census tracts in the state.
b: The maximum Health Places Index score is 100. A high score (i.e., greater than 50) reflects healthier community conditions compared to other census tracts in the state.

7.4. Health & Equity Measures

No Health & Equity Measures selected.

7.5. Evaluation Scorecard

Health & Equity Evaluation Scorecard not completed.

7.6. Health & Equity Custom Measures

No Health & Equity Custom Measures created.

8. User Changes to Default Data

Screen	Justification
Land Use	Project site plans
Construction: Construction Phases	Adjusted construction schedule assumptions to be consistent with applicant provided information
Operations: Hearths	no fireplaces or woodstoves
Construction: Dust From Material Movement	BAAQMD BMPS
Construction: Trips and VMT	Based on aerial Google Earth measurements, approx. 7,663 sf of asphalt would be removed during demolition phase. Assued 4 inch depth.
Construction: On-Road Fugitive Dust	Based on BAAQMD CEQA Guidelines

ZONING ADJUSTMENTS BOARD

STAFF REPORT

FOR BOARD ACTION
MAY 11, 2023

3000 Shattuck Avenue

Use Permit #ZP2022-0046 to demolish the existing gas station, and construct a 10-story (114 feet) mixed-use building utilizing a Density Bonus, with 166 dwellings, including 17 Very Low-Income units, and 1,043 square-feet of commercial space.

I. Background

A. Land Use Designations:

- General Plan: AC – Avenue Commercial
- Zoning: C-SA – South Area Commercial District

B. Zoning Permits Required:

- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.326.070(A) to demolish a non-residential main building
- Use Permit pursuant to BMC Section 23.204.100(B)(4)(b) to construct a mixed-use development of more than 5,000 square-feet
- Use Permit pursuant to BMC Section 23.204.020 to add multi-family dwellings
- Use Permit pursuant to BMC Section 23.204.100(D)(2) to modify the height and stories, setbacks, and lot coverage
- Administrative Use Permit pursuant to BMC Section 23.304.050(A) to allow architectural features over the maximum height limit

C. Concessions and Waivers and Pursuant to State Density Bonus Law (CA Gov't. Code Section 65915)

- Waiver of BMC Section 23.204.100(D)(1) to exceed the Floor Area Ratio (FAR) limit – to be 6, where 4 is the maximum
- Waiver of BMC Section 23.204.100(D)(1) to exceed building height limits – to be 113 feet 10 inches and 10 stories, where 36 feet and 3 stories is the limit
- Waiver of BMC Section 23.204.100(D)(1) to reduce the required front setback from 15 feet to 2 feet 6 inches
- Waiver of BMC Section 23.204.100(D)(1) to reduce the required rear setback from 15 feet to 11 feet 3 inches

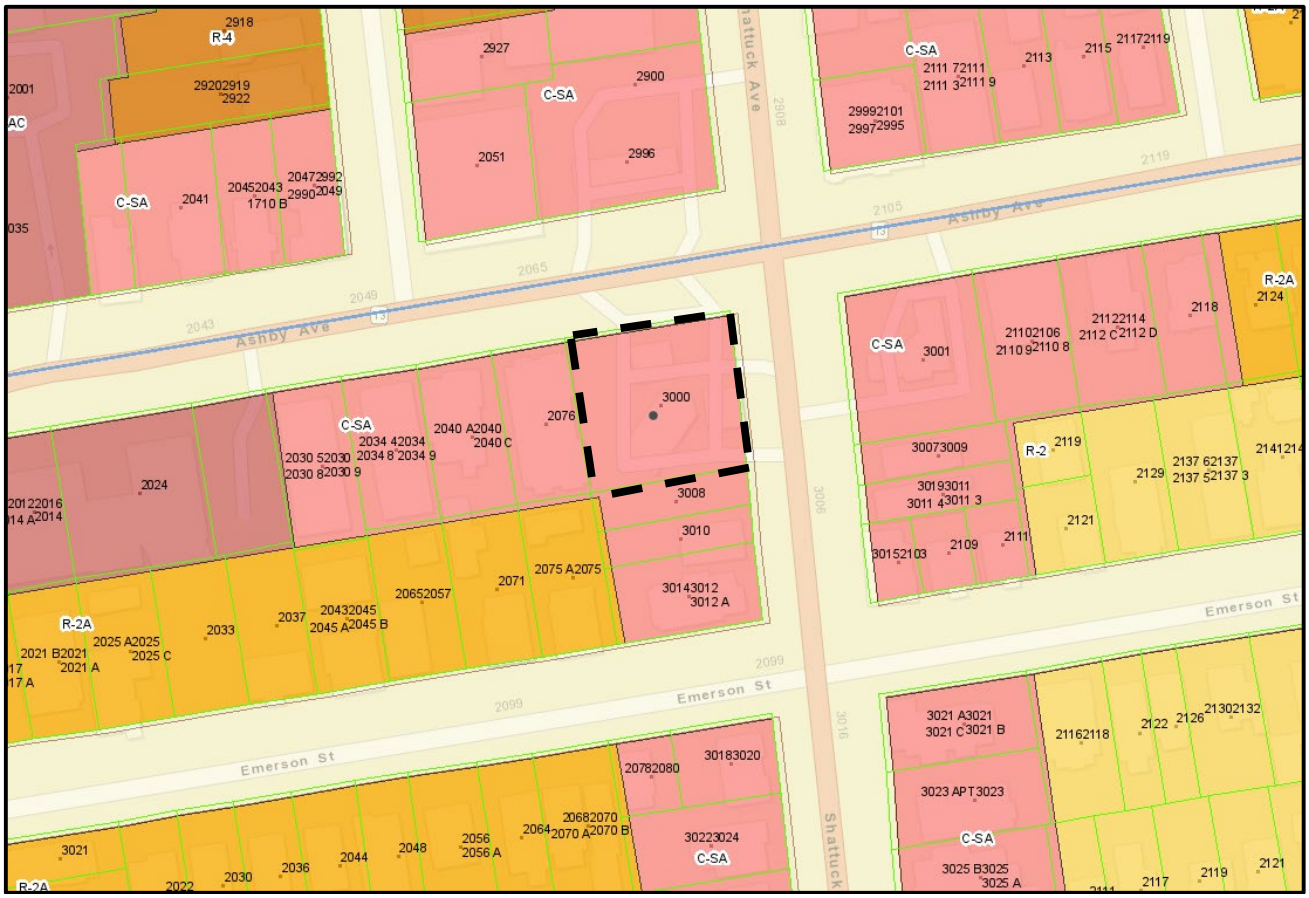
- Waiver of BMC Section 23.204.100(D)(1) to reduce the required street side (left side) setback from 6 feet to 15 feet (varies by story) to 0 to 6 feet 9 inches
- Waiver of BMC Section 23.204.100(D)(1) to reduce the required interior side (right side) setback from 4 feet to 12 feet (varies by story) to 5 feet 7 inches
- Waiver of BMC Section 23.204.100(D)(1) to exceed the lot coverage limit – to be 62 percent, where 40 percent is the maximum

D. CEQA Recommendation: It is staff's recommendation that the Zoning Adjustments Board (ZAB) adopt the Addendum to the 3000 Shattuck Initial Study/Negative Declaration (IS/ND) (SCH# 2017062025) pursuant to the California Environmental Quality Act (CEQA). The Addendum are attached to this staff report (see Attachment 3). See Section V for further discussion of the project's CEQA review.

E. Parties Involved:

- Applicant Isaiah Stackhouse, 2421 Fourth Street, Berkeley
- Property Owner 3000 Shattuck Avenue, LLC, 2343 Stuart Street, Berkeley

Figure 1: Zoning Map



Legend
Zoning

C-SA:	South Area Commercial
R-2:	Restricted Two-Family Residential
R-2A:	Restricted Multiple-Family Residential
R-4:	Multi-Family Residential

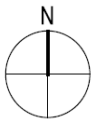


Figure 2: Site Plan/Ground Floor Plan

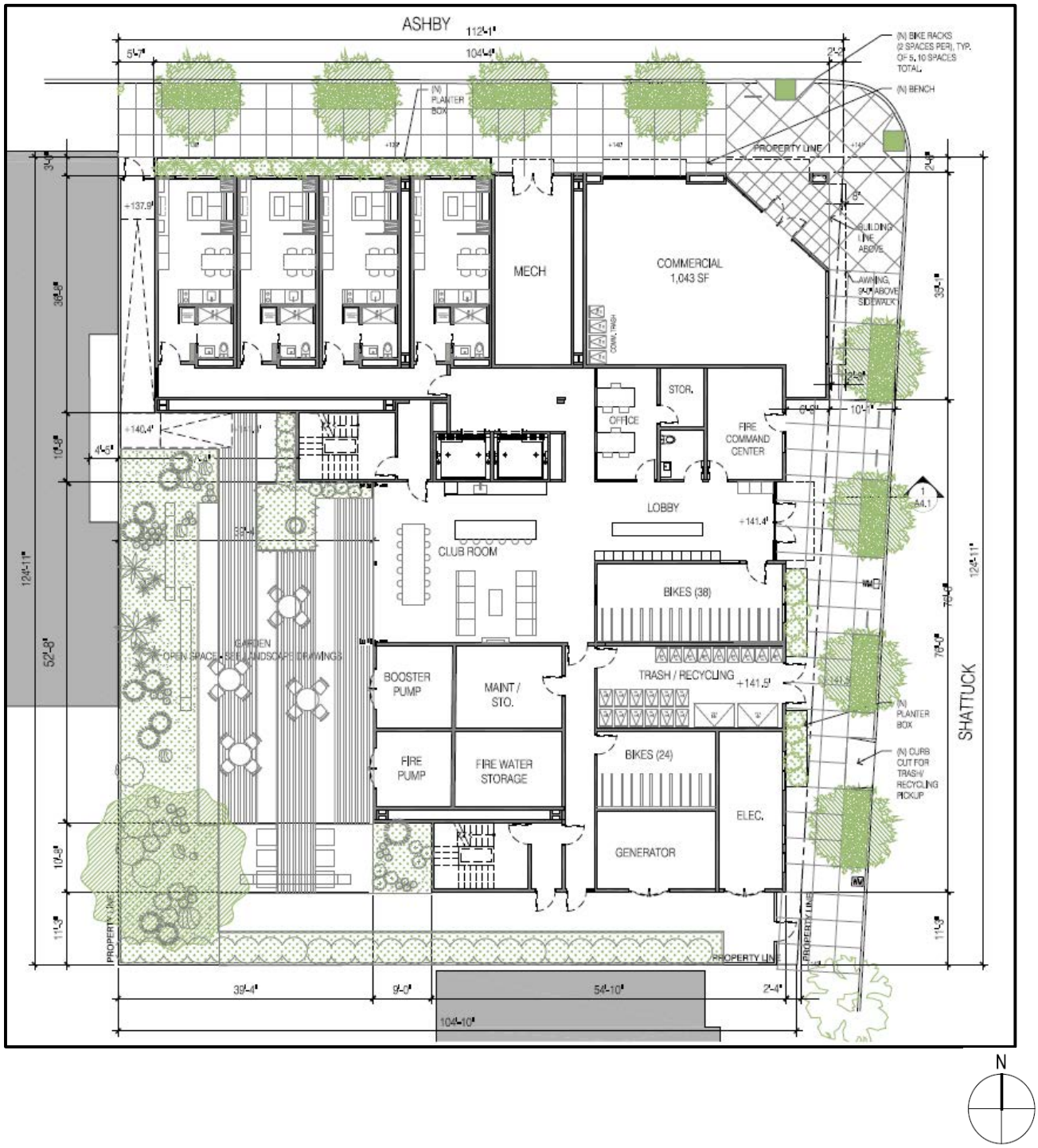


Figure 3: Shattuck Avenue Elevation (East)



Figure 4: Ashby Avenue Elevation (North)

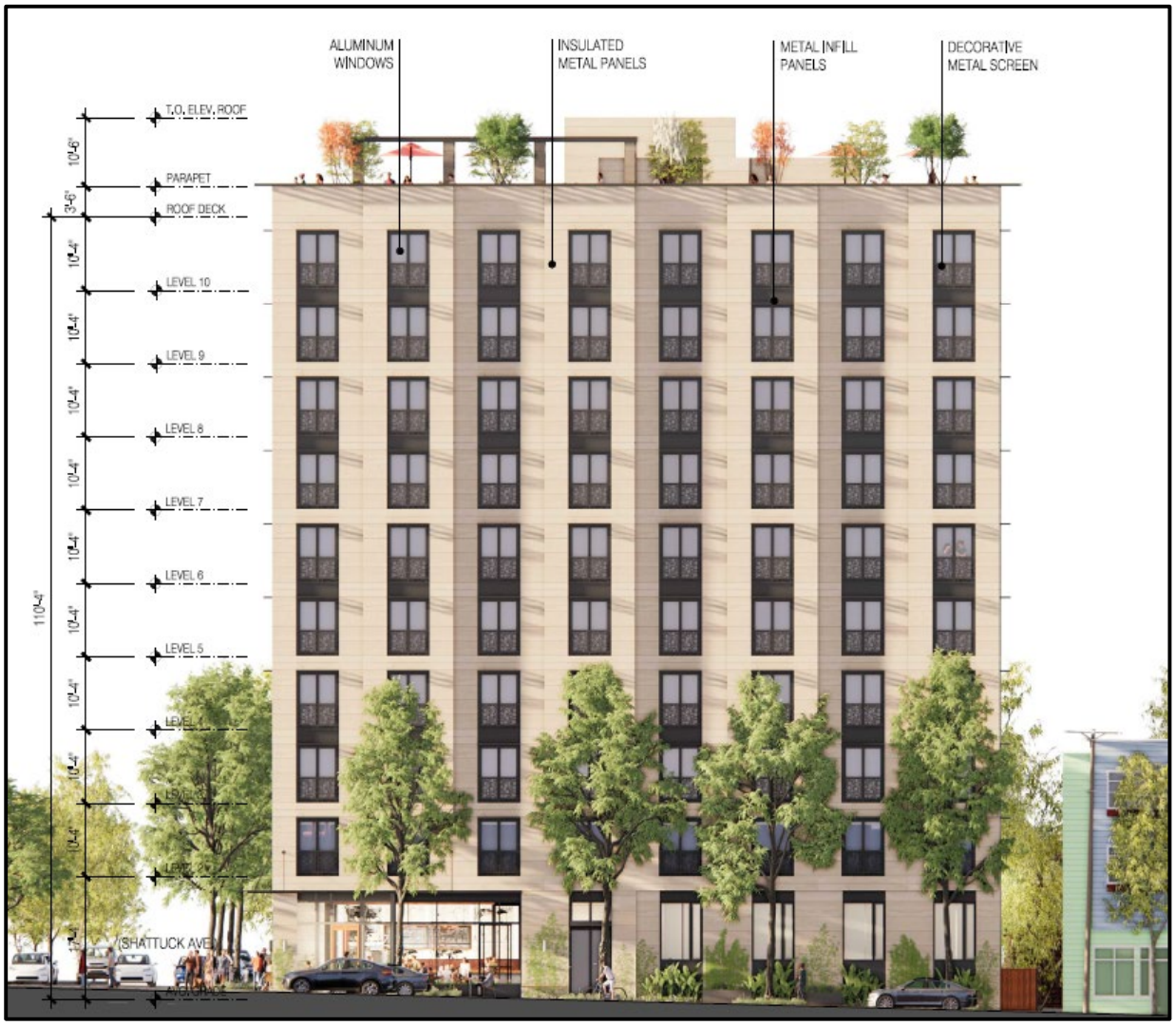


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Gas Station	C-SA	Avenue Commercial (AC)
Surrounding Properties	North	Gas Station		Neighborhood Commercial (NC)
	South	Residential		Avenue Commercial (AC)
	East	Car Rental		Neighborhood Commercial (NC)
	West	Commercial/Multi-Family Residential		Avenue Commercial (AC)

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S. Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	The proposed net new non-residential floor area is less than7,500 square feet and therefore this project is not subject to these resolutions.
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)[1]	Yes	Project would provide 17 Below Market Rate (BMR) units at the Very Low-Income (VLI) rate and pay a fee to satisfy the requirements of BMC Section 22.20.065(D).
Alcohol Sales/Service	No	The applicant is not proposing alcohol sales or service with this permit.
Creeks	No	The site is not near a mapped creek or a creek culvert.
Density Bonus	Yes	The project would provide 17 Very Low-Income units, or 15 percent of the Base Project units, and qualifies for a 50 percent density bonus, or 56 bonus units (55 taken) under State Density Bonus law. See Section VI.C below.
Historic Resources	No	In May 2016 the property was referred to the Landmarks Preservation Commission (LPC), and the LPC took no action to designate the building. See Section IV.C for additional discussion on the Landmarks review of this property.
Housing Accountability Act (Gov't Code Section 65589.5(j))	Yes	The project is a mixed-use building that meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2)[2]. The base project complies with applicable, objective general plan and zoning standards, and thus

[1] Project vested under SB 330 on/before March 31, 2023, prior to effective date of new inclusionary housing requirements and is therefore subject to the Affordable Housing Mitigations in BMC 22.20.065 that was in effect at the time of vesting.
[2]Government Code Section 65589.5(h)(2) "Housing development project" means a use consisting of any of the following: (A) residential units only, (B) mixed-use developments consisting of residential and nonresidential uses in which at least two-thirds of the square footage is designated for residential use, and (C) transitional or supportive housing.

		section (j) of the Housing Accountability Act applies. See Section VI.B of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Crisis Act of 2019 (SB330)	Yes	The project is a mixed-use building that meets the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2)[3]. See Section VI.A of this report for additional discussion on the sections of SB 330 that apply to the project.
Natural Gas Prohibition (Per BMC 12.80.020)	Yes	This application is for new construction and was submitted after January 1, 2020, and is therefore subject to the Natural Gas Prohibition.
Oak Trees	No	There are no oak trees on the project site.
Percent for Art (BMC Chapter 23.316)	Yes	The project is subject to the City's Public Art on Private Projects ordinance. The applicant has indicated that they would provide the artwork on site (valued at 1.75 percent of total building permit valuation).
Rent Controlled Units	No	The project would involve the demolition of non-residential structures; no rent-controlled units would be demolished.
Residential Preferred Parking (RPP)	No	The site is not located in an RPP zone. Also, newly constructed dwellings would not be eligible to participate in the RPP program.
Seismic Hazards (SHMA)	No	The site is not located within an area susceptible to liquefaction, fault rupture, or landslides as shown on the State Seismic Hazard Zones map.
Soil/Groundwater Contamination	Yes	The project site is located within the City's Environmental Management Area. The project site is listed on the Cortese List, and Phase I and Phase II reports were prepared. The Toxics Management Division will refer this project during building permit review for sign off from the Regional Water Quality Control Board, Department of Toxic Substances Control, or the Alameda County Department of Environmental Health. Also, standard Conditions of Approval related to hazardous materials would apply (COA #23).
Transit	Yes	The project site is located on the southwest corner of Shattuck Avenue and Ashby Avenue, is served by multiple bus lines (local and Transbay), and is 0.3 miles from the Ashby BART Station. In addition, the Bike Boulevard on Milvia Street is within 0.3 miles.

[3] See footnote 1

Table 3: Project Chronology

Date	Action
December 14, 2021	SB 330 complete preliminary housing development project application submitted
March 29, 2022	Application submitted
May 11, 2022	Application deemed incomplete
July 8, 2022	Revised application materials submitted
August 3, 2022	Application deemed complete
January 19, 2023	Design Review Committee Preliminary Design Review
January 27, 2023	Addendum to previous Initial Study published
April 27, 2023	Public hearing notices mailed/posted
May 11, 2023	ZAB hearing

Table 4: Development Standards

Commercial Corridor (C-SA) Standards BMC Sections 23.204.100		Existing	Proposed	Permitted/ Required
Lot Area (sq. ft.)		13,561	13,561	n/a
Gross Floor Area (sq. ft.)		1,180	81,552	n/a
Floor Area Ratio		0.09	6	4 (modifiable with Use Permit)
Dwelling Units	Total	0	166	n/a
	Affordable	0	17	n/a
Building Height	Maximum (ft.)	14’	113’-10”	36’ (modifiable with Use Permit)
	Stories	1	10	3 (modifiable with Use Permit)
Building Setbacks (ft.)	Front (Ashby)	35’	2’-6” to 3’	15’ (modifiable with Use Permit)
	Rear	41’	11’-3” to 85’-2”	15’ (modifiable with Use Permit)
	Left Side Street (East/Shattuck)	35’	0’ to 6’-8”	6’-15’ (modifiable with Use Permit)
	Right Side (West)	26’	5’-7” to 39’-4”	4’-12’ (modifiable with Use Permit)
Lot Coverage (%)		9	62	40 (modifiable with Use Permit)
Usable Open Space (sq. ft.) per Dwelling Unit		n/a	7,879	6,640
Parking	Car	11	0	0
	Bike Commercial (1,043 sq. ft.)	0	2	1 (1 space/2,000 sq. ft.)
	Bike Residential (long-term)	0	55	55 (1 space/3 bedrooms)
	Bike Residential (short-term)	0	5	4 (1 space/40 bedrooms, or 2)
	Total Bike Parking	0	62	61

= Waiver, pursuant to State Density Bonus Law, requested to modify the district standard.

II. Project Setting

A. Neighborhood/Area Description: The project site is located on the southwest corner of Ashby Avenue and Shattuck Avenue. The surrounding area consists of a mix of commercial and residential development ranging from one to three stories in height. The Ashby BART station is 0.3 miles to the west. In addition, bus service is available via AC Transit routes 18 and 800.

B. Site Conditions: The 13,561-square-foot project site comprises two parcels, and is currently developed with a gas station that includes a mini-market with an office, car repair services, smog test center, two gas station canopies with pump islands, and surface parking for 11 automobiles. Access to the site is provided from both Ashby and Shattuck Avenues.

III. Project Description

A. Proposed Project: The project would demolish the existing commercial buildings, remove the existing paving and the curb cuts, and construct a new ten-story mixed-use building with the following primary components:

- 166 dwelling units (all studios) for a total of 166 bedrooms;
- Commercial space: 1,043 square feet in area, for one tenant on the ground floor at the northwest corner of the property;
- Two bicycle storage rooms, one for 38 bicycles, the other for 24 bicycles on the ground floor, and five short-term bicycle parking spaces along Shattuck Avenue and Ashby Avenue;
- Residential access from Shattuck Avenue;
- Residential amenities on the ground floor including club room, and property management and leasing offices;
- Laundry rooms within each unit;
- New street trees along Shattuck Avenue and Ashby Avenue;
- Useable open space totaling 8,516 square feet consisting of ground level space and a roof deck;
- Roof deck areas containing plantings, a pergola, seating, and an outdoor kitchen;

B. Base Project and Density Bonus: The applicant has requested a density bonus under the State Density Bonus Law. Under the City's density bonus procedures, the "base project"[4] is 111 units, as the maximum allowable density for the site. The six-story Base Project and the resulting ten-story Proposed Project both have an average unit size of 485 square feet. The Density Bonus calculations are provided in more detail, below:

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

Table 5: Density Bonus

Base Project Units*	Qualifying Units	Percent Density Bonus	Number of Density Bonus Units*	Proposed Project Units
111	17 VLI (15% of base project)	50%	56 (50%x111)	166
*Per Gov't Code 65915(q), all unit calculations are rounded up to the nearest whole number.				

By providing 17 Very Low Income (VLI) Below Market Rate (BMR) units on site (15 percent of the 111-unit base density), the project is eligible for a 50 percent density bonus, or 56 additional units. Therefore, the applicant proposes 55 additional units above the base density for a total of 166 dwelling units.

To accommodate the additional units, the project would use seven waivers/ modifications:

1) Exceed the Floor Area Ratio (FAR) limit from 4.0 to 6.0
2) Exceed the building height limit from 36 feet and 3 stories to 113 feet 10 inches and 10 stories
3) Reduce the required front setback from 15 feet to 2 feet 6 inches
4) Reduce the required rear setback from 15 feet to 11 feet 3 inches
5) Reduce the required street side (left side) setback from 6 feet to 15 feet (varies by story) to 0 feet
6) Reduce the required interior side (right side) setback from 4 feet to 12 feet (varies by story) to 5 feet 7 inches
7) Exceed the lot coverage limit from 40 percent to 62 percent

IV. Community Discussion

A. Neighbor/Community Concerns: Prior to submitting this application to the city, the applicant invited interested neighborhood organizations as well as owners and occupants within 300 feet of the project to a project preview meeting. The meeting was held on March 14, 2022, and attended by nine people (meeting minutes are included as Attachment 4). A pre-application poster was erected by the applicant in March 2022. On April 27, 2023, the City mailed public hearing notices to property owners and occupants, and to interested neighborhood organizations and the City posted notices within the neighborhood in three locations. At the time of this writing, staff has not received any communications regarding the project, other than inquiries about the status of the project.

B. Design Review Committee: On January 19, 2023, the Design Review Committee (DRC) reviewed the project design for 3000 Shattuck Avenue, gave a favorable recommendation on the design as presented, and provided conditions and direction for Final Design Review (FDR) (Attachment 5).

C. **Landmarks Preservation Commission (LPC):** The project involves the demolition of an existing commercial building that is over 40 years in age. As detailed in a Historic Resource Evaluation completed by Bridget Maley in November 2015, and discussed in the addendum to the Initial Study-Negative Declaration, the building proposed for demolition does not meet the criteria for the California Register or a City of Berkeley Landmark. Pursuant to BMC Section 23.326.070(C), the proposed demolition was referred to the LPC in May 2016 for review prior to the consideration of the prior Use Permit. The LPC reviewed the demolition referral and took no action.

V. Environmental Review

A. **CEQA Approach:** Pursuant to Section 15164 of the CEQA Guidelines, codified in Sections 15000 et seq. of Title 14 of the California Code of Regulations, a lead agency shall prepare an addendum to a previously adopted negative declaration if some changes or additions are necessary but none of the conditions described in Section 15612 calling for preparation of a subsequent negative declaration have occurred. Under Section 15162 (a), where a negative declaration has been adopted for a project, no subsequent environmental impact report (EIR) or negative declaration (ND) shall be prepared for the project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, that there are substantial changes in the project or circumstances or substantially important new information that will cause the project to have significant new impacts or substantially increase previously identified significant impacts.

Table 6 below compares the previously approved project and the revised project. As discussed in detail in the Addendum, potential impacts associated with the modified project (the proposed changes compared to the project evaluated in the negative declaration) currently before the ZAB would be consistent with potential impacts discussed in the negative declaration. Although the addendum includes an analysis of energy and wildfire, which were not included in the negative declaration, no significant impacts were found to occur regarding these resource areas. Substantive revisions to the negative declaration are not necessary because no new significant impacts would occur. Thus, the conditions outlined in CEQA Guidelines Section 15162 requiring preparation of a subsequent EIR or ND would not be met and an addendum is the appropriate CEQA document.

Table 6: Changes to Previously Approved Project

Project Characteristic	Previously Approved Project	Updated Project
Total Floor Area	**38,828 sf**	**81,552 sf**
Lot Coverage	83%	62%
Residential[1]	32,603 sf	80,509 sf
Retail	6,225 sf	1,043 sf
Building Height	56 feet and 11 inches; 5 stories	113 feet and 10 inches; 10 stories
Total Residential Units	**44 units[1]**	**166 units[2]**
Affordable Units	4 units	17 units
Open Space		
Roof Deck	N/A	4,488 sf
Ground Level Open Space	N/A	3,391 sf
Usable Open Space	2,092 sf	7,879 sf
Parking		
Automobile	17 spaces	0 spaces
Bicycle	62 spaces	62 spaces[3]
Construction		
Length	18 months	18 months

[1]Includes 4 studios (430 sf on average), 31 1-bedrooms (616 sf on average), and 8 2-bedrooms (902 sf on average).

[2]All units would be studios.

[3]Includes 55 long-term residential spaces, 5 short-term residential spaces, and 2 short-term commercial spaces

sf = square feet

B. **Initial Study/Negative Declaration Addendum:** An Addendum to the 3000 Shattuck IS/ND, which was adopted in November 2018, was prepared to evaluate the potentially significant environmental impacts of the proposed project, pursuant to CEQA. The Addendum considered the IS/ND and evaluated the modified project, i.e., the proposed project currently before the ZAB. Impacts related to implementation of the proposed project would remain less than significant.

VI. Issues and Analysis

A. SB 330 – Housing Crisis Act of 2019: The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development. Housing development is defined as a project that is: all residential; a mixed-use project with at least two-thirds of the square-footage residential; or for transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

1. Government Code §65905.5(a) states that if a proposed housing development project complies with the applicable, objective general plan and zoning standards

in affect at the time an application is deemed complete, then the city shall not conduct more than five hearings in connection with the approval of that housing development project. This includes all public hearings in connection with the approval of the housing development project and any continuances of such public hearings. The city must consider and either approve or disapprove the project at any of the five hearings consistent with applicable timelines under the Permit Streamlining Act (Chapter 4.5 (commencing with §65920)).

The project application was deemed complete on August 3, 2022. The DRC meeting on January 19, 2023 was the first public hearing, and the May 11, 2023 ZAB hearing is the second for the proposed project since the project was deemed complete. The City can hold up to three additional public hearings on this project, if needed. One of those hearings must be reserved for any possible appeal to the City Council.

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

   As discussed in the Addendum, the property does not appear to be historically significant and therefore is not eligible for listing on the California Register of Historical Resources or as a City of Berkeley Landmark or Structure of Merit. The demolition referral was heard at the May 5, 2016, Landmark Preservation Commission meeting, and no action was taken. Therefore, it was determined the site is not a historic resource. Further, standard conditions of approval have been included to halt work in case of any unanticipated discovery of archeological, paleontological, or tribal cultural resources.

3. Government Code §65950(a)(4) requires a public agency to approve or disapprove a project within 60 days from the date of adoption by the lead agency of the negative declaration for a housing development project. A negative declaration for the original use permit on the project site was adopted on November 27, 2018. The modified project was deemed complete on August 3, 2022. Staff determined on August 3, 2022 that the appropriate level of CEQA review was preparation of an Addendum to the negative declaration, in order to evaluate the modified project's potential impacts on the environment. (See Section V for details on the CEQA Approach and Addendum.) Therefore, Section 65950(a)(4) does not apply to the project. However, should ZAB adopt the Addendum at the May 11, 2023 public hearing, the application must be approved or disapproved by July 10, 2023.

B. Housing Accountability Act Analysis: The Housing Accountability Act (HAA), California Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning

standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

1. The development would have a specific adverse impact[5] on public health or safety unless disapproved, or approved at a lower density; and
2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

The Base Project, including the extension of height to 65 feet and six stories, allowed by Use Permits[6], complies with applicable, objective general plan and zoning standards. Further, Section 65589.5(j)(3) provides that a request for a density bonus "shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision." Therefore, the City may not deny the Base Project or density bonus request or reduce the density with respect to those units without basing its decision on the written findings under Section 65589.5(j), above. Staff is aware of no specific adverse impacts that could occur with the construction of the Base Project or the density bonus units. Therefore, Section 65589.5(j) *does apply* to the Proposed Project. All findings discussed below are subject to the requirements of Government Code Section 65589.5.

C. Density Bonus Concessions and Waivers: The project is entitled to three concessions (or incentives) under Government Code Section 65915(d), and an unlimited number of waivers under Section 65915(e).

Concessions. A concession is a modification of a development standard that reduces the cost of providing affordable housing. The applicant is not requesting any concessions for the project.

Waiver. A waiver is a modification of a development standard that would otherwise physically preclude the construction of the project with the permitted density bonus and concessions. The applicant is requesting seven waivers from the following development standards: 1) to exceed the maximum floor area ratio (FAR) from 4.0 to 6; 2) exceed the height limit of 36 feet/3 stories and propose 113 feet 10 inches/10 stories; 3) Reduce the required front setback from 15 feet to 2 feet 6 inches; 4) Reduce the required rear setback from 15 feet to 11 feet 3 inches; 5) Reduce the required street side (left side) setback from 6 feet to 15 feet (varies by story) to 0 feet; 6) Reduce

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

[6] The City has determined that the "protections afforded by the HAA and the definition of a base project for density bonus calculations apply to a housing development project up to and including the maximum development allowed with use permits and/or administrative use permits". Therefore, the use permits to allow height to 50 feet and 4 stories are included in the Base Project for the purpose of determining the applicability of Section 65589.5(j).

the required interior side (right side) setback from 4 feet to 12 feet (varies by story) to 5 feet 7 inches;7) Exceed the lot coverage limit from 40 percent to 62 percent. The waivers are requested because they are necessary to physically accommodate the additional 56 units (55 taken) as allowed under the density bonus project on the site.

The City may only deny the waivers if it finds that the waivers would have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low-income, very-low income, and moderate-income households, or if the waiver would be contrary to State or Federal law. Staff believes such a finding cannot be made.[7]

D. **Use Permit to Demolish Non-residential Buildings:** The proposed project includes the demolition of the gas station and associated structures on the site. Pursuant to BMC Section 23.326.070, the demolition of a non-residential building requires ZAB approval. In addition, pursuant to BMC Section 23.326.070(C), an application for a permit to demolish a non-residential building or structure which is 40 or more years old must be forwarded to the LPC for review prior to the consideration of the use permit. As noted above in Section IV.C, at a duly noticed hearing, the LPC reviewed the demolition referral and took no action to initiate a local historic designation.

Pursuant to BMC 23.326.070(D), the demolition of the non-residential building would not be materially detrimental to the commercial and public interest of any affected neighborhood in the city. The new mixed-use building would replace the existing gas station with a new 81,522 square-foot building, 166 dwelling units (studios), and 1,043 square-feet of commercial space. The proposed project includes a mixed-use building which would provide new dwelling units and commercial space in the C-SA District, and thus would be compatible with adjacent and nearby commercial and residential uses.

Therefore, staff believes that ZAB can make the required finding that demolition would be necessary to allow construction of the proposed mixed-use building, subject to the condition of approval allowing demolition of the existing buildings only after complete construction plans are submitted to the City for the replacement buildings.

VII. Other Zoning and Land Use Considerations

The analyses of conformance with district purposes, use permit findings for non-detriment, and the South Berkeley Area Plan (adopted 1990) and 2002 General Plan goals and policies are provided for Board consideration. The proposed project is HAA-compliant. The following permits have been determined by the City to be included in the Base Project of the proposal, and are subject to Section 65589.5(j) of the HAA. See section VI.B for discussion of the HAA.

[7] See Footnote 4.

All permits are subject to the C-SA District permit findings and General Non-Detriment findings discussed in sections VII.A and VII.B.

A. Findings for Use Permits in the C-SA District: Pursuant to BMC Section 23.204.100(E), in order to approve any Use Permit in the district, the Board must make the findings that the proposed use or structure:

1) Is compatible with the purposes of the district: The project is a higher-density development in proximity to regional transit, shops, and amenities, that is compatible with the purposes of the zoning district and the surrounding uses and buildings. The project site is located within the South Area Commercial District (C-SA) and is designated Avenue Commercial in the City's General Plan. It would create 166 new studio dwelling units. Seventeen of the units would be deed restricted as affordable housing units for very-low-income residents.

   The proposal also includes 1,043 square feet of commercial space and a total of 62 secure bicycle parking spaces (short-term and long-term) on the ground floor. The project site is well served by public transportation, including a BART station less than half-mile to the southwest. The surrounding commercial area includes retail sales, restaurants, personal services, and multi-family residential uses; the project would add to these commercial and residential uses and add population to support these uses.

2) Is compatible in design and character with the district and the adjacent residential neighborhoods: The project site currently includes automotive uses. The proposed project would change uses on the site to ground-floor commercial, with residential uses on all floors. The project would not introduce new land uses that do not already exist in the area. The design would be residential mixed-use, and would be consistent with the character of the commercial corridors of Shattuck Avenue and Ashby Avenue.

3) Will not result in the domination of one type of commercial/retail use in any one area of the district: The project includes 1,043 square feet of ground floor commercial space, and would not result in the domination of one type of commercial use in this portion of the C-SA District.

B. General Non-Detriment Finding: BMC Section 23.406.040 states that before the ZAB approves an application for a Use Permit, it must find that the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

Shadows: According to the shadow studies submitted for the project (See Attachment 2, Project Plans – Sheets A0.4A-A0.4C), new shadows would affect dwellings at the following locations:

- Newbury Street, northwest of the site, casting new shadows on the winter solstice two hours after sunrise.
- The northeast intersection of Ashby Avenue and Shattuck Avenue, casting new shadows on the winter solstice two hours before sunset.
- Ashby Avenue, west of the project site, casting new shadows on the summer solstice two hours after sunrise.
- Shattuck Avenue, southeast of the project site, casting new shadows on the summer solstice two hours before sunset.

Shadow impacts on adjacent dwellings are to be expected, because the subject site is located in the C-SA district, which allows a Use Permit to exceed the 36 foot/3 story height limit, with no limitation on the height, and is allowed to be included in the density bonus base project. A waiver to height and stories is allowed to accommodate the density bonus units (see section VI.D for a discussion of waivers). Because the impacts to neighboring properties would occur on limited areas, and would only partially shade neighboring buildings for a limited time during the year, and only for a few hours of the day, the building would not result in a significant loss of direct sunlight on abutting dwellings, and these shading impacts are not deemed detrimental.

Non-Detriment: The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City. These standard conditions would ensure that the project would satisfy this finding.

C. Use Permit to Modify the Height and Stories, Setbacks, and Lot Coverage: Pursuant to BMC Section 23.204.100(D)(2) ZAB may modify development standards in the C-SA District for mixed-use projects, including height and stories, setbacks, and lot coverage, upon making one of the following findings:

a. The project encourages utilization of public transit and existing off-street parking facilities in the area of the proposed building;
b. The modification allows consistency with the building setbacks existing in the immediate area where a residential building setback would not serve a useful purpose;
c. The modification facilitates the construction of affordable housing as defined by the U.S. Department of Housing and Urban Development (HUD) Guidelines; or
d. The modification provides consistency with the purposes of the district as listed in Section 23.204.100.A (District Purpose).

The proposed project is served by multiple bus lines (local and Transbay), is 0.3

miles from the Ashby BART Station, and the Bike Boulevard on Milvia Street is within 0.3 miles. Car parking is not required and will not be provided, but secure bike parking is required.

The reduction in the setbacks is greatest along the Shattuck and Ashby frontages, where it will have less of an impact on nearby dwelling units, and minimal street side and front setbacks are typical for commercial corridors.

The modification of height and stories, setbacks, and lot coverage supports the location of on-site affordable housing.

D. Administrative Use Permit for Roof-Top Projections: BMC Section 23.304.050(A) requires an Administrative Use Permit for roof-top projections, such as mechanical penthouses, elevator equipment rooms or stair towers, that would exceed the maximum height limit. Such projections are limited to no more than 15 percent of the average floor area of all of the building's floors and cannot be used as habitable space or for commercial purposes. With a gross floor area of 81,522 square feet, the average floor area for ten floors is 8,152 square feet, and 15 percent of the average floor area is 1,223 square feet. The proposed features occupy 1,020 square feet, which complies with the limit.

E. 1990 South Berkeley Area Plan Consistency:

A. Housing Element Policy 3.7: Encourage the construction of new affordable housing units.

B. Housing Element Policy 3.10: Locate higher density housing in area with easy access to retail activity, the workplace, and public transportation.

Staff Analysis: The project would provide 17 units affordable to Very Low-Income households. The project is located in the Shattuck Corridor that is within walking distance to Ashby BART station, several bus lines, and the Berkeley Bowl market.

C. Housing Element Policy 5.2: Ensure that usable open space improvements are integrated into new housing and mixed-use developments.

Staff Analysis: The project provides 7,879 square feet of usable open space at the ground level and roof deck and this area includes landscaping and seating.

D. Land Use Policy A. 1: Preserve the character and quality of life of residential areas.

E. Land Use Policy C.1.2: Regulate mixed development to ensure compatibility with adjacent residential neighborhoods.

Staff Analysis: The building is concentrated toward the corner of Ashby and Shattuck with the greatest setbacks at the rear and sides near the adjacent R-2A District, and the rooftop elevator penthouse and stair overrun near the center of the building, generally aware from the R-2A District.

F. 2002 General Plan Consistency:

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
3. Policy H-33 – Regional Housing Needs: Encourage housing production adequate to meet City needs and the City's share of regional housing needs.
4. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
5. Policy H-12 – Transit-Oriented New Construction: Encourage construction of new medium- and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plans, design review guidelines, and the Climate Action Plan.
6. Policy T-43 – Bicycle Network, Action C: Encourage, and when appropriate, require new multi-family residential developments to provide secure locker space for resident bicycles.
7. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

   The project would improve the utilization of the site with development that is of appropriate intensity, that is compatible with the existing surrounding development, and that would further improve the neighborhood character and quality of life by providing new housing and a new commercial space. The project site is served by multiple bus lines (local and Transbay), and is 0.3 miles from the Ashby BART Station. In addition, the Bike Boulevard on Milvia Street is within 0.3 miles.

8. Policy UD-33–Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.
9. Policy EM-5–"Green" Buildings: Promote and encourage compliance with "green" building standards. (Also see Policies EM-8, EM-26, EM-35, EM-36, and UD-6.)

   The project would help Berkeley meet its regional housing needs by adding 166 new housing units, including 17 VLI units. The project would be subject to standard conditions of approval that promote sustainable building design, including conditions for solar PV systems, water efficient landscaping, and natural gas prohibitions.

VIII. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board:

A. **ADOPT** the Addendum to the 3000 Shattuck Initial Study-Negative Declaration.

B. **APPROVE** Use Permit ZP2022-0046, pursuant to BMC Section 23.406.040 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:
1. Findings and Conditions
2. Project Plans, received May 2, 2023
3. Addendum to the 3000 Shattuck Initial Study-Negative Declaration, dated January 27, 2023
4. Neighborhood Meeting Notes
5. Design Review Committee Summary, January 19, 2023
6. Notice of Public Hearing
7. 3000 Shattuck Initial Study-Negative Declaration, adopted November 27, 2018
8. Communications

Staff Planner:
Allison Riemer, ariemer@cityofberkeley.info, (510) 981-7433



3000 Shattuck Avenue Mixed Use Project

Initial Study – Negative Declaration

prepared by

City of Berkeley
Department of Planning & Development, Land Use Division
1947 Center Street, 2nd Floor
Berkeley, California 94704
Contact: Layal Nawfal, Project Planner, (510) 981-7424

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Appendices

Appendix A Environmental Review Letter & Site Closure Letters
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Appendix C Assembly Bill 52 Consultation

1. BACKGROUND

1.	**Project Title:**	3000 Shattuck Avenue
2.	**Lead Agency:**	City of Berkeley Land Use Planning Division 1947 Center Street, 2nd Floor Berkeley, CA 94704
3.	**Contact Person:**	Layal Nawfal Associate Planner 510-981-7424 Lnawfal@cityofberkeley.info
4.	**Project Location:**	3000 Shattuck Avenue Berkeley, CA 94705
5.	**Project Sponsor Name and Addresses:**	3000 Shattuck Avenue LLC. 1958A University Avenue Berkeley, CA 94704
6.	**General Plan Designation :**	Avenue Commercial
7.	**Zoning:**	South Area Commercial (C-SA)
8.	**Description of Project:**	See the “Project Description” section
9.	**Surrounding Land Uses and Settings:**	See the “Project Description” section
10.	**Other public agencies whose approval is required:**	Caltrans encroachment permit for construction of sidewalk on Ashby Avenue (State Route 13)
11.	**Have California Native American tribes traditionally and cultural affiliated with the project area requested consultation?**	The City notified Andrew Galvan of The Ohlone Tribe Inc. on May 9, 2017, who alerted the City of Berkeley on May 19, 2017 that no consultation was requested.

2. PROJECT DESCRIPTION

2.1 INTRODUCTION

This Initial Study evaluates the potential environmental effects of demolition of an existing 1-story commercial building and related site improvements and construction of a 5-story mixed-use building, with commercial and residential uses, located at 3000 Shattuck Avenue, Berkeley, CA.

2.2 ENVIRONMENTAL ANALYSIS

In accordance with CEQA Guidelines Section 15070, this Initial Study identifies that there is no substantial evidence, in light of the whole record before the agency that the project may have a significant effect on the environment. This Initial Study consists of an environmental checklist, an evaluation of potential project impacts for each topic in the checklist, and a Negative Declaration.

2.3 PROJECT LOCATION

Project Site

This project is located on the southwest corner of Ashby and Shattuck Avenues in the Lorin District neighborhood, as shown in Figure 1. The project site includes two relatively flat and contiguous parcels, totaling 13,561 square feet. The corner property is currently developed with a smog test center, car repair and gas station office, within one building, and two gas station canopies/pump islands. Regulatory-compliant double-walled storage tanks are located underground. A paved surface lot covers the remainder of the project site.

Setting and Surrounding Land Uses and Area

The project site is surrounded by a gas station across Ashby Avenue to the north, car rental business across Shattuck Avenue to the east, residences to the south and west. The surrounding neighborhood is composed of ground-floor commercial uses, single-family and multi-family dwellings units, and mixed use buildings with ground-floor retail or office and residential units above. Surrounding buildings are generally 2- and 3-stories in height.

Ashby Avenue (State Route 13), which is operated by Caltrans, runs east-west adjacent to the north boundary of the project site. AC Transit bus stops for the 49 and 18 bus lines are located adjacent to the project site. The site is also located .23 miles from the Ashby BART Station where BART runs at least every 15 minutes during commute hours. The Station also has AC Transit stops for the 12, 18, 49, 800 and F (transbay) lines and access to the West Berkeley Shuttle.

Figure 1: Project Location



Figure 2: Project Site



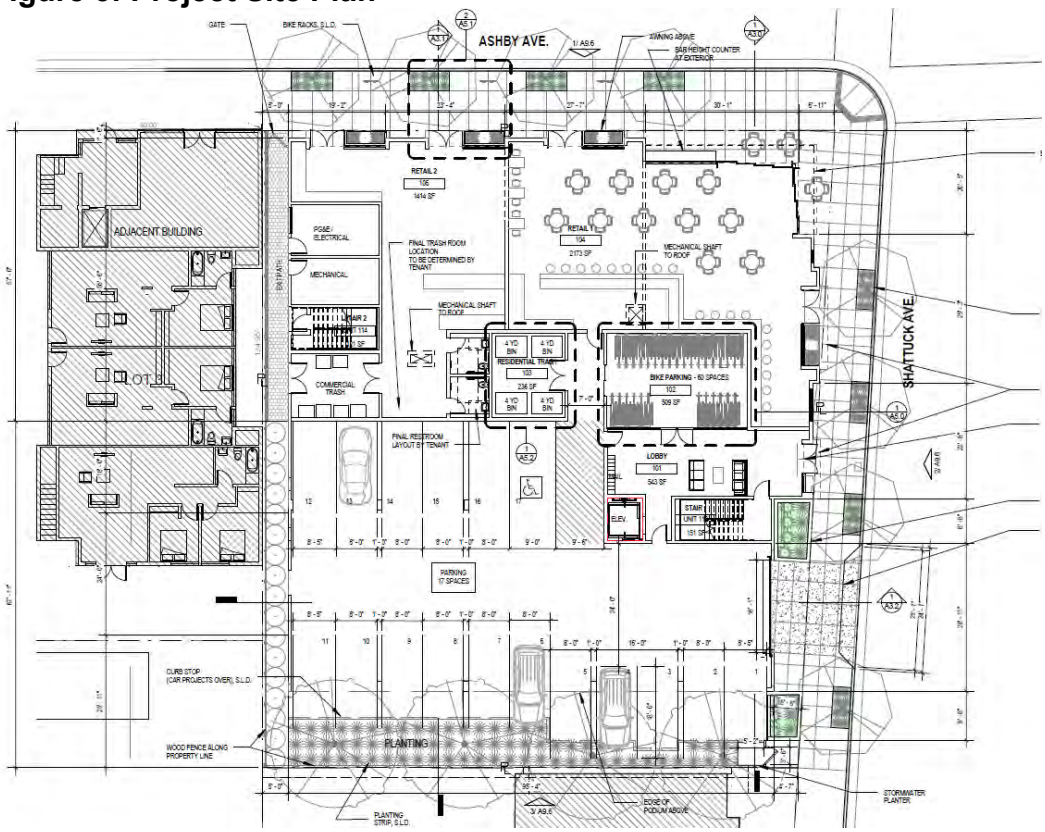
2.4 PROJECT DESCRIPTION

The project proposes demolition of one 1-story building, two gas pump islands, and related site improvements; removal of the regulatory-compliant underground storage tanks (USTs); and the construction of a 5-story, mixed-use building with ground-floor retail uses and residential dwelling units on the upper 4 stories. The site plan is provided in Figure 3. The total floor area of the project, per the Berkeley Zoning Ordinance definition, is 38,828 square feet.

The project includes the following components:

- 44 dwelling units
- 6,225 square feet of commercial retail and/or restaurant space
- Parking for 62 bicycles (where two are required) and 17 vehicles at the ground level, including carshare spaces; additional bike racks will be provided at the sidewalks on Ashby and Shattuck Avenues.
- 2,092 square feet of private or common open space
- Green building features including future installation of solar hot water or solar PV panels, extensive bicycle facilities, and flow-through stormwater planters.
- Garage access via a curb cut on Shattuck Avenue.

Figure 3: Project Site Plan



The project would include demolition of the existing building and surface parking lot on the site. Construction debris, such as old foundations, pavement, and structures, would be collected and hauled off site for disposal. The USTs would be removed in accordance with City and State laws, as described further in the analysis sections below. Demolition waste would be minimal given the low intensity of the site's current development and would be disposed of in accordance with all Berkeley, state and federal requirements, including waste diversion and recycling. Construction activities would also include excavation, utility trenching, mat foundations, vertical construction, and installation of pavement and landscaping. No impact pile driving would occur as part of the project. Construction would take place over an 18-month period.

2.5 PLAN AND ZONING CONSISTENCY

The project site is in an area designated as Avenue Commercial in the City's General Plan General Plan and is located in the C-SA, South Area Commercial zoning district. The proposed uses are consistent with these use designations. The project proposes an average building height of 56 feet 11 inches and 5 stories (where 36 feet and 3 stories are permitted, respectively); and a lot coverage of 83% where 40% is permitted. With the issuance of use permits for setbacks, building height, number of stories, and lot coverage, the project would be consistent with the C-SA zoning district. Per the requirements of the C-SA district, the project is subject to the following Use Permits:

- Demolition of a non-residential building
- Construction of gross floor area more than 3,000 square feet
- Mixed Use Development (Residential/Commercial) of 5,000 sq. ft. or more
- Quick/Full Service Restaurant under 5,000 sq. ft.
- Reduction of front and side yard setbacks
- Exceedance of the maximum height requirement of 36 feet, 3 stories for mixed use buildings
- Exceedance of 40% lot coverage
- Reduction in the required off-street parking ratio
- Installation of rooftop mechanical equipment

3. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact," as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Agriculture and Forestry Resources	☐ Air Quality
☐ Biological Resources	☐ Cultural Resources	☐ Geology / Soils
☐ Greenhouse Gas Emissions	☐ Hazards and Hazardous Materials	☐ Hydrology/Water Quality
☐ Land Use / Planning	☐ Mineral Resources	☐ Noise
☐ Population/Housing	☐ Public Services	☐ Recreation
☐ Transportation/Traffic	☐ Tribal Cultural Resources	☐ Utilities/Service Systems
☐ Mandatory Findings of Significance		

4. DETERMINATION

On the basis of this initial evaluation:

[x] I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

[ ] I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

[ ] I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

[ ] I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

[ ] I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

_____ _____

Date

5. ENVIRONMENTAL CHECKLIST

The following section contains the environmental checklist form presented in Appendix G of the CEQA Guidelines. The checklist form is used to describe the impacts of the proposed project. A discussion follows each environmental issue identified in the checklist.

For this project, the following designations are used:

- **Potentially Significant Impact:** An impact that could be significant and for which no mitigation has been identified. If any potentially significant impacts are identified, an EIR must be prepared.
- **Less Than Significant With Mitigation Incorporated:** An impact for which mitigation has been identified to reduce the impact to a less-than-significant level.
- **Less Than Significant:** Any impact that would not be considered significant under CEQA relative to existing standards.
- **No Impact:** Any impact that does not apply to the project.

5.1. AESTHETICS

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☒	☐
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

ENVIRONMENTAL SETTING

The project site is located in an urbanized area, surrounded primarily by 2- and 3-story commercial and residential uses.

DISCUSSION

a) The Berkeley General Plan identifies scenic resources including the San Francisco Bay, the hills, and significant landmarks such as the Golden Gate Bridge. The following policy from the General Plan seeks to protect views of these natural assets:

> Policy UD-31 Views: Construction should avoid blocking significant views, especially ones toward the Bay, the hills, and significant landmarks such as the Campanile, Golden Gate Bridge, and Alcatraz Island. Whenever possible, new buildings should enhance a vista or punctuate or clarify the urban pattern.

Partial views of the Berkeley hills, framed by development along Ashby Avenue, are visible from the public sidewalk. The project would not significantly alter views of the Berkeley hills from a public viewpoints, nor would they degrade public views of other visual resources identified in the Policy UD-31. From an urban design perspective, the proposed architectural design and infill nature of the project would improve views to the site as compared to the existing gas station. Therefore, the project would result in a less-than-significant impact with respect to scenic vistas.

b) The project site is not designated as a scenic resource or state scenic highway. Therefore, the project would result in no impact with respect to scenic resources within a State scenic highway.

c) The visual character of the site would change with the introduction of a 5-story building in place of a 1-story commercial building and surface parking lot. The project would provide commercial and residential uses in a new mixed-use building, consistent with the types of uses found in the surrounding neighborhood. Materials including smooth cement plaster, aluminum windows, and metal and wood details, would provide a visual change to the character of the street when viewed from both Shattuck and Ashby Avenues compared with existing conditions, but would be consistent with materials found in the neighborhood. The project would maintain a setback at the street edge, consistent with the abutting uses to the west and south. New sidewalks, landscaping, streets, and street trees would continue the pattern of development, circulation, and landscaping found in the neighborhood. Therefore, the existing visual character and quality of the site and its surroundings would be improved and not degraded, and the resulting impact would be less than significant.

d) Lighting at the existing commercial building and parking lot consists primarily of exterior building lights and street lighting. The project would introduce new sources of light and glare as a result of building materials and lighting. New sources of lighting are not anticipated to be substantial in the context of existing light sources. Glare from window glazing would be obstructed by existing surrounding buildings during much of the day and therefore is not expected to be substantial. Additionally, the proposed project would be subject to the City's standard conditions of approval which require light sources to be shielded and directed away from adjacent properties, as stated in the General Plan:

> Policy EM-42: Outdoor lighting should be chosen to avoid glare and provide an attractive nighttime environment with "fully shielded" fixtures to limit light rays emitted above the horizontal plane.

Therefore, adjacent uses would not be adversely affected by new light sources at the project site. As such, the project would result in less-than-significant light and glare impacts and the potential impact would be less than significant.

5.2. AGRICULTURAL AND FORESTRY RESOURCES

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	X
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g), timberland (as defined in Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	X
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	X
e) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	X

ENVIRONMENTAL SETTING

The project site is located in an urbanized area and is not currently being used for farmland, agricultural production, or forestry. The California State Department of Conservation designates the subject property as “Urban and Built-Up Land.”[1]

DISCUSSION

a)-e) No agricultural or forestry land is located on the site. The project would not result in the conversion of any farmland and the subject property is not zoned for agricultural use and does not have a Williamson contract in place. No loss or conversion of forest land would occur as a result of the project. Therefore, the project would result in no impact with respect to agricultural resources.

[1] California Department of Conservation, “Alameda County Important Farmland 2014.” Map published December 2016.

5.3. AIR QUALITY

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	X	☐
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	X	☐
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?	☐	☐	X	☐
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	X	☐
e) Create objectionable odors affecting a substantial number of people?	☐	☐	X	☐

ENVIRONMENTAL SETTING

The Bay Area Air Quality Management District (BAAQMD) regulates air quality in the Bay Area Region through its permit authority over stationary emission sources and through planning and review activities.

DISCUSSION

a) BAAQMD's 2010 Clean Air Plan (CAP) contains district-wide control measures to reduce ozone precursor emissions, particulate matter, and greenhouse gas emissions. The primary goals of the Plan are to: attain air quality standards; reduce population exposure to air pollutants; protect public health in the Bay Area; reduce greenhouse gas emissions; and protect the climate. Consistency with the Plan can be determined if the project support's the Plan's goals, includes applicable control measures, and would not disrupt implementation of the Plan's control measures.

The project contains features that would benefit regional air quality and support the goals of the CAP, including accommodation for future solar hot water or photovoltaic panels, water-efficient landscaping, installation of ENERGY STAR fans and appliances, and use of efficient lighting systems. Additionally, the infill project location provides for dwelling units proximate to high-frequency transit, bike lanes and routes, sidewalks, and neighborhood commercial uses within walking distance of the project site—all of which may reduce greenhouse gas emissions.

The 2010 CAP includes 55 control measures that aim to reduce air pollution from stationary, area, and mobile sources. The control measures are organized into five categories; the project's consistency with each control measure category is described below:

1. Stationary source measures: Since the project would not be a permitted BAAQMD facility, these measures are not applicable to the project.

2. Mobile source measures are generally statewide-programs implemented by CARB that aim to reduce vehicle emissions by accelerating the replacement of older, dirtier vehicles and equipment. Consistent with the mobile source measures, heavy-duty diesel vehicles used during project construction would be required to comply with the CARB's Off-Road Diesel Vehicle Regulation.

3. Transportation control measures are strategies to reduce vehicle trips, use, miles traveled, idling, or traffic congestion for the purpose of reducing motor vehicle emissions. Project-specific measures include developing land use patterns that facilitate alternative commutes, such as walking, bicycling and transit. The project would be consistent with these measures by providing access to existing and improved sidewalks, bicycle lanes and routes; AC Transit buses and BART; and on-site carshare vehicles.

4. Land use and local impact measures are designed to promote mixed-use, compact development to reduce motor vehicle travel and emissions, and ensure that growth is planned in a way that protects people from exposure to air pollution from stationary and mobile sources of emissions. The project would provide mixed-use infill development in an existing mixed-use and transit-oriented neighborhood, further contributing to compact development that promotes pedestrian access to goods and services.

5. Energy and climate measures are designed to reduce ambient concentrations of criteria pollutants, reduce emissions of carbon dioxide, and protect the climate by promoting energy conservation, renewable energy production, reductions in "urban heat island" effects, and tree plantings. The project would be consistent with the energy and climate measures by complying with the City's green building requirements. The project demonstrates 146 points on the GreenPoint Rated New Home Multifamily Checklist, where a minimum 50 points are required. The project would also plant new street trees and landscaping on-site, where no landscaping currently exists.

Based on the analysis above, according to BAAQMD's CEQA Air Quality Guidelines, the project would have a less-than-significant impact on the implementation of the applicable air quality plan.

b) During operation of the project, air quality impacts would come primarily from vehicle emissions. As described in Section 5.16(a), redevelopment of the site from a gas station to a mixed-use building would result in a net reduction in vehicle trips, compared with the

trips generated by the existing uses. As a result, the project would not exceed emissions thresholds, as specified by BAAQMD.

The project is expected to generate short-term impacts related to construction activities. BAAQMD has established standard measures for reducing fugitive dust emissions (PM2.5 and PM10), including the use of water or other soil stabilizers. Construction equipment would also be required to meet all current exhaust standards for emissions. With the implementation of standard conditions for construction measures, such as frequent watering (e.g., two times per day at a minimum), fugitive dust emissions from construction activities would not result in adverse air quality impacts. These requirements would be conditions of project approval and would reduce potential air quality impacts to less-than-significant levels.

c) Air pollution in the region is generally a cumulative impact and therefore future development projects contribute to the region's adverse air quality impacts on a cumulative basis. As discussed under Section 5.3(b), above, emissions during the construction, demolition, and operational phases of the project would not exceed the emissions thresholds. Therefore, the cumulative impact of ozone precursors and particulate matter from the project would be less than significant.

d) Land uses such as residences, particularly when occupied by children or older adults, are considered to be sensitive receptors to poor air quality. The project would not generate emissions that would expose sensitive receptors to substantial pollutant concentrations. Additionally, there are no known stationary source emissions within the vicinity of the project site. The project site is located at the intersection of two major roadways—Ashby and Shattuck Avenues—which represent mobile source of emissions which could expose sensitive receptors to potential pollutant concentrations. However, consistent with existing Building Code regulations, design measures (e.g., types of windows, ventilation requirements) would be determined and implemented during the Building plan check review phase in order to meet Title 24 interior noise and air quality standards. As a result, the potential impact on sensitive receptors would be less than significant.

e) The project is not anticipated to create objectionable odors affecting a substantial number of people during construction or operation. Therefore, this impact would be less than significant.

5.4. BIOLOGICAL RESOURCES

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☐	X	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or United States Fish and Wildlife Service?	☐	☐	X	☐
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	X	☐
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	X	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	X	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	X

ENVIRONMENTAL SETTING

The project site is located within an urban area and has no natural vegetation, habitat for special-status species, wetlands, or riparian habitats.

DISCUSSION

a-d) There are no rare, endangered, or threatened species of flora or fauna known to inhabit the property site. In addition, there is no existing stream, river, lake, drainage channel, or other water body/course on or adjacent to the project site. The project site is

immediately surrounded by developed area with no significant vegetation. Therefore, the potential impact would be less than significant.

e) The project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. The project would add drought-tolerant landscaping on-site and street trees, where none currently exists, consistent with City Arborist requirements and recommendations. Therefore, the potential impact would be less than significant.

f) No Habitat Conservation Plan, Natural Community Conservation Plan, or other conservation plans apply to the project site. Therefore, there would be no impact.

5.5. CULTURAL RESOURCES

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	☐	☐	☐	X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☐	X	☐
c) Directly or indirectly destroy a unique Paleontological resource or site or unique geologic feature?	☐	☐	X	☐
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	X	☐

ENVIRONMENTAL SETTING

The project site is not located in an area identified as having site-specific archeological, paleontological, or geologic features or resources.

DISCUSSION

a) The existing structure on the project site does not appear to be eligible for the California Register of Historical Resources under any of the criteria of evaluation at the national, state or local level of significance. The project came before the City's Landmark Preservation Commission at their May 2016 meeting where no action was taken to designate the building. Therefore, there would be no impact with respect to historic resources.

b-d) There are no known archaeological or paleontological sites identified on the subject site. It is possible (though unlikely) that archaeological resources could be identified on the site during ground disturbance activities. Should potential subsurface resources or human remains be found upon excavation, all work would be halted and the City would be

immediately notified. Necessary measures, such as consulting with an archaeologist, would take place prior to construction resuming. These measures are required by State law. As a result, the potential impact on cultural resources and human remains would be less than significant.

5.6. GEOLOGY AND SOILS

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	X	☐
ii) Strong seismic ground shaking?	☐	☐	X	☐
Iii) Seismic-related ground failure, including liquefaction?	☐	☐	X	☐
iv) Landslides?	☐	☐	X	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	X	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	X	☐
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	X	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	X

ENVIRONMENTAL SETTING

The project site is relatively flat, with limited grading required to excavate for utilities and construct the drainage, landscaping, and structure on the site.

DISCUSSION

a) The project site is located outside of the Alquist-Priolo Earthquake Fault Zone and outside of liquefaction and landslide zones, as identified by the California Geological Survey.[2] However, as is the case for most of California, people and property in Berkeley are subject to risks from seismic activity. The Hayward fault line is the most active fault near the project site. Based on an existing regulatory framework that addresses earthquake safety issues and adherence to the requirements of the California Building Code, seismically-induced ground shaking would not be a substantial hazard on this site. As a condition of approval, the project would be required to comply with the recommendations of the project's geotechnical consultant, including designing foundation and drainage geotechnical aspects of the project to ensure that the recommended measures have been properly incorporated into the project. Therefore, the potential impact on exposing people or structures to substantial adverse effects would be less than significant.

b) Grading, excavation and trenching for utility lines, would disturb soils, which could increase the rate of erosion if controls or best management practices were not in place. As a standard condition of approval, the project would be required to meet the requirements for stormwater erosion control measures during design, construction and implementation phases of the project. Therefore, potential erosion impacts would be less than significant.

c-d) There are no known geologic hazards on the site and minimal risk of landslide, lateral spreading, subsidence, liquefaction or collapse. The State of California provides minimum standards for building design through the California Building Code, including specific seismic safety requirements. State earthquake protection law requires that buildings be designed to resist stresses produced by lateral forces caused by earthquakes. The project would be required to comply with the applicable codes and standards to provide earthquake resistant design to meet or exceed current seismic requirements and mitigate any specific soil condition concerns. The geotechnical report is required by the City of Berkeley at the time of building plan check and would include an assessment of soil properties and recommendations to reduce adverse effects associated with expansive soils to a less-than-significant level. Therefore, potential soil instability impacts would be categorized as less than significant.

e) No septic systems or alternative wastewater disposal systems are proposed as part of the project; therefore, the project would have no impact.

[2] California Department of Conservation, California Geological Survey, Oakland West Quadrangle. http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps. Accessed March 14, 2017.

5.7. GREENHOUSE GAS EMISSIONS

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	X	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	X	☐

ENVIRONMENTAL SETTING

Assembly Bill (AB) 32 mandates local governments adopt strategies to reduce greenhouse gas (GHG) emissions. Consistent with the objectives of AB 32, the City has adopted a Climate Action Plan (CAP) to outline strategies to reduce Berkeley's community-wide global warming emissions 33 percent by 2020 relative to 2000 levels. The City's CAP is not a qualified GHG Reduction Strategy, since it precedes the BAAQMD CEQA Air Quality Guidelines which can allow for streamlined environmental review on new development projects. Still, the CAP does represent the City's policy for GHG reduction.

DISCUSSION

a-b) The project is designed to meet the City's CAP. It represents a transit-oriented residential project that proposes well-designed housing less than ¼ mile from a BART Station and adjacent to numerous AC Transit lines. The project would incorporate a landscape plan that meets the State of California's Model Water Efficient Landscape Ordinance and Bay Friendly Basics requirements for water-saving and drought-resistant planting. It also meets green building and energy efficiency measures consistent with the State's Green Building Standards Code (CALGreen). The project demonstrates 146 points on the GreenPoint Rated New Home Multifamily Checklist, where a minimum 50 points are required. The project would also accommodate solar hot water or PV panels, and plant new street trees and landscaping on-site, where no landscaping currently exists. These project features would be expected to reduce GHG emissions and assist the City in meeting the goals of AB 32.

The primary source of GHG emissions during operation of the project would be from mobile sources (i.e., vehicle trips). However, as described in Section 5.16(a), redevelopment of the site from a gas station to a mixed-use building would result in a net reduction in vehicle trips. As a result, the project would not generate significant greenhouse gas emissions nor conflict with the City's CAP. Additionally, per the BAAQMD CEQA Guidelines the proposed project (mid-rise apartment building between 3 and 10 levels) as would result in a less-than-

significant impact as projects of this size generate emissions under the significance thresholds.[3] Therefore, this potential impact would be less than significant.

5.8. HAZARDS AND HAZARDOUS MATERIALS

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	X	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	X	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	X	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	X
f) For a project within the vicinity of a private airstrip would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	X	☐
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	X

[3] Bay Area Air Quality Management District CEQA Guidelines Updated May 2011, http://www.baaqmd.gov/~/media/Files/Planning%20and%20Research/CEQA/BAAQMD%20CEQA%20Guidelines%20May%202011.ashx?la=en. Accessed March 30, 2017.

ENVIRONMENTAL SETTING

The project site is a retail service station and smog inspection facility, which historically has been characterized and remediated for constituents related to releases from the former underground storage tanks (USTs). In 1997, a 200-gallon waste oil tank was removed. In 2000, three 12,000-gallon gasoline USTs were removed and replaced with new regulatory-compliant USTs. Approximately 1,415 tons of soil was removed and disposed off-site when the USTs and associated product lines were replaced in 2000. In February 2013, the local lead agency confirmed completion of investigation and corrective action, and granted no further action for the release associated with the USTs.[4]

An additional investigation was opened at the site in December 2012 to address a potential new release presumably associated with the hydraulic lifts at the site. The new release was discovered during groundwater monitoring activities in October 2007; a sample was collected from the impacted well in January 2008. In February and March of 2013, groundwater samples were collected from impacted well A-2 and downgradient well AR-1. Investigations indicated that the nature and extent of hydraulic fluid contamination has been adequately characterized, and the associated plume was decreasing in size.

The Regional Water Quality Control Board (RWQCB) issued case closure for this case in September 2014, concluding that the current plume is restricted to the site and does not present a current or potential risk to human health or the environment. The closure letter did not include any site management requirements for the residual impact.

DISCUSSION

a,b) Available site data indicates that very limited, if any, residual gasoline-related impact is present at the site. The most recent subsurface data includes groundwater data from all program monitoring wells in January 2008, from select program wells in March 2010, and, in March 2014, from one well (AR-1) immediately downgradient of the current USTs and dispensers and one well (A-2) downgradient of the building and underground hoist area. No TPHg or BTEX compounds were detected in the onsite wells in 2008, 2010 and 2014.[4] The only residual impact in groundwater is very low concentrations of the former gasoline additive MTBE (MTBE use was banned after 2004) and limited oil range impact, apparently related to a prior release of hydraulic oil. The depth to water has ranged from approximately 5 to 11 feet depth below grade surface.

No hazardous materials are proposed as part of operation of the project. As a condition of approval the project would be required to complete a hazard and safety plan consistent with the City of Berkeley's broadly applicable condition designed for circumstances such as this. During construction, potentially hazardous liquid materials such as oil, diesel fuel, gasoline, and hydraulic fluid may be used at the site, related to construction activities. If spilled, these substances could pose a risk to the environment and to human health.

[4] Environmental Review for Purchase and Site Redevelopment, "Environmental Review for Purchase and Site Redevelopment." Letter to Mr. Xin Jin, December 13, 2014

During UST removal, the condition of the UST would be examined, evidence of soil contamination would be observed and soil testing would be required. Impacted soil around the UST could possibly be removed as part of the UST closure. Based on this process, the ultimate disposition of impacts from the UST would be evaluated by the UST removal consultant.

The City has in place a Local Hazard Mitigation Plan should a spill or a hazardous event take place. In the event of a hazardous materials event, the Fire Department is the first responder and has access to chemical inventories, locations and emergency planning. The Department of Public Works manages the City's hazardous materials emergency response to spills on the right-of-way and also manages the hazardous materials emergency response contractor.[5]

Many areas in the City of Berkeley are known or suspected to have groundwater contamination. The project site is located in one of these Environmental Management Areas (EMA). Given this location, as a standard condition of approval, the City would require preparation of a Soil and Groundwater Management Plan to identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP would identify permits required and comply with all applicable local, state and regional requirements. The SGMP would provide guidance on managing odors during excavation. The SGMP would also require notification to the City's Toxics Management Division of any hazardous materials found in soils and groundwater during development. Additionally, the proposed project would be subject to the City's standard conditions of approval by the Toxics Management Division.

As a result of the conditions and policies described above, this potential impact would be less than significant.

c) There are no schools located within ¼-mile from the project site. As a result, this would be categorized as no impact.

d) The site is included on the list of hazardous materials sites compiled pursuant to Government Code 65962.5 (Cortese List) as "closed" cases.[6] As described in the Environmental Setting, the RWQCB issued a case closure letter for the clean-up case in September 2014, concluding that the current plume is restricted to the site and does not present a current or potential risk to human health or the environment. Therefore, the project would not create a significant hazard to the public or the environment and the impact would be less than significant.

e) The project is not located within a public airport land use plan or within two miles of a public use airport. As a result, this would be categorized as no impact.

[5] City of Berkeley, 2014 Local Hazard Mitigation Plan, June 1, 2014.
[6] State Water Resources Control Board. http://geotracker.waterboards.ca.gov. Accessed March 14, 2017.

f) The project site is not located within the vicinity of a private airstrip. Therefore, this would be categorized as no impact.

g) The proposed project would not interfere with emergency and evacuation plans, as specified in the City's 2014 Local Hazard Mitigation Plan. Therefore, this impact would be less than significant.

h) Wildlands do not exist within or adjacent to the project site. Therefore, this would be categorized as no impact.

5.9. HYDROLOGY AND WATER QUALITY

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	X	☐
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	X	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner, which would result in substantial erosion or siltation on- or off-site?	☐	☐	X	☐
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?	☐	☐	X	☐
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	X	☐
f) Otherwise substantially degrade water quality?	☐	☐	X	☐
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	X

h) Place within a 100-year flood hazard area structures, which would impede or redirect flood flows?	☐	☐	☐	X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	X	☐
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	X

ENVIRONMENTAL SETTING

The project site does not contain creeks, wetlands, or other water bodies and is located in Zone X, outside the 100-year flood zone. The project reduces impervious areas (which currently cover the entirety of the site) by approximately 1,500 square feet.

DISCUSSION

a,f) Compliance with the Alameda Countywide Clean Water Program NPDES Permit, including C.3 provisions and implementation of Best Management Practices (BMPs) appropriate to activities conducted on-site would limit the discharge of pollutants to the City's storm drainage system and reduce potential water quality impacts. Since the project would replace more than 10,000 square feet of impervious area, as a standard condition of approval, the project would incorporate stormwater controls to enhance water quality. This would include: a) site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) source control measures to keep pollutants out of stormwater runoff; c) stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) engineering calculations for all stormwater devices (both mechanical and biological). These measures would filter contaminants from the stormwater before entering San Francisco Bay.

As described in the Environmental Setting in Section 5.6, the gas station and smog test center includes USTs and previous releases presumably associated with hydraulic lifts at the site. RWQCB issued a case closure letter for this case in September 2014, concluding that the current plume is restricted to the site and does not present a current or potential risk to human health or the environment. The closure letter did not include any site management requirements for the residual impact.

During operation of the project, the project is required, by standard conditions, to collect and convey all stormwater entering and/or originating from the development to an adequate downstream drainage facility. The project proposes to install stormwater planters along the street edge and courtyards to manage and treat runoff. Therefore, these potential impacts would be less than significant.

b) The project would not use groundwater to provide water for this project. Therefore, this would be categorized as a less-than-significant impact.

c-e) The existing site is covered completely by impervious surfaces without any stormwater controls. The project would remove approximately 1,500 square feet of impervious

surfaces and provide stormwater planters and other open spaces to manage and treat stormwater runoff. As a result, the project would not alter the existing drainage pattern of the site, such that substantial erosion or siltation would result or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site, or exceed storm drain capacity. Therefore, this impact would be categorized as less than significant.

g-h) Housing would not be placed within a 100-year flood hazard area. The project would not expose people or structures to a significant risk of loss, injury or death involving flooding. Therefore, this would be categorized as no impact.

i) The project site is not located within a mapped dam failure inundation area. Therefore, this impact would be less than significant.

j) No enclosed large surface water bodies, which might be subject to potential impacts from seiches, are located in the project vicinity. The project site, at an elevation of 140 feet above sea level, would generally not be subject to coastal hazards (tsunami, sea level rise, or extreme high tides). Therefore, this potential impact would be less than significant.

5.10. LAND USE PLANNING

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Physically divide an established community?	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

ENVIRONMENTAL SETTING

The project is located within an urbanized area.

DISCUSSION

a) The project site is an existing commercial property located in an urbanized area of Berkeley. The proposed project does not involve street closures, linear features or development that would separate land uses or neighborhoods. Redevelopment of the

project site would not physically divide an established community. There would be no impact.

b) The site is designated as Avenue Commercial in the City's General Plan and is located in the C-SA zoning district, which is generally intended for community-serving and regional-serving businesses, residential and mixed uses, and development and amenities that support pedestrian-oriented uses. The proposed use is consistent with the intent of the C-SA district and the Avenue Commercial designation, and generally consistent with Genera Plan policies. The project includes use permit requests to exceed the maximum height requirement of 36 feet and 3 stories for mixed use buildings and to exceed 40% lot coverage in the C-SA District, under BMC Section 23E.52.070.D.7. Therefore, the potential impact would be categorized as less than significant.

c) The project site is not located within any habitat conservation plan or natural community conservation plan area. As a result, the proposed project would not conflict with existing land use or planning policies of the community.

5.11. MINERAL RESOURCES

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

ENVIRONMENTAL SETTING

The project site is urbanized and is not known to contain any mineral resources.

DISCUSSION

a-b) The project site is not known to contain any mineral resources and thus would not result in the loss of locally important mineral resources. Therefore, there would be no impact with respect to mineral resources.

5.12. NOISE

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	X	☐
b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?	☐	☐	X	☐
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	X	☐
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	X	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	X

ENVIRONMENTAL SETTING

External noise sources in the vicinity of the project site are primarily generated by vehicles.

DISCUSSION

a,c,d) The City's Community Noise Ordinance (Chapter 13.40 of the Municipal Code) establishes maximum permissible day and night noise levels based on the zoning district of the property subject to the noise. In commercial districts where the project site is located, the Ordinance generally allows noise levels up to 65 dBa between 7am and 10pm, and 60 dBa between 10pm and 7am. If the ambient noise levels in an area are greater than the permissible noise levels, then the maximum permissible noise level is to be adjusted to the ambient noise level.

The project would generate added noise, such as vehicle travel, rooftop mechanical equipment, and landscape maintenance activities. However, as described in Section 5.16(a), vehicle trips are expected to decrease as a result of redevelopment of the project site. Therefore, noise levels are not expected to change substantially from those currently

experienced in the area. Ambient noise levels could decrease for some of the adjacent properties, particularly further south of Ashby Street and west of Shattuck Avenue, due to the shielding of traffic noise by the proposed building. As required by Title 24 Building Code requirements, rooms where windows need to be closed to reach interior noise goals would need to include ventilation or air-conditioning units.

Short-term construction noise would be generated at the project site. Conditions of approval for the project allow construction hours from 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. As a result, this potential impact during operation of the project and during construction would be less than significant.

b) Construction activities could contribute to short-term increases in vibration due to construction equipment, earthmoving, and vertical construction activities. No excessive vibration is anticipated during operation of the project. Therefore, vibration impacts would be less than significant.

e,f) The project site is located outside of an airport land use plan area, and not within the vicinity of a private airstrip. Therefore, this would be categorized as no impact.

5.13. POPULATION AND HOUSING

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	X	☐
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	X

ENVIRONMENTAL SETTING

The project site is currently occupied by a gas station and smog test center, with a surface parking lot. The project site is an infill site, surrounded by commercial and residential development.

DISCUSSION

a) The project would add 44 multi-family dwellings to the City's housing stock, which would contribute to the local population. However, the project is generally consistent with the General Plan and Zoning Ordinance, and population growth would not be substantial. Public streets and other infrastructure are readily available within the vicinity of the project site. Therefore, the project would not constitute direct or indirect growth inducing impacts for the City of Berkeley and the potential impact would be less than significant.

b-c) The project site is currently occupied by commercial uses and therefore would not displace any existing housing or residents. Therefore, these issues would be categorized as no impact.

5.14. PUBLIC SERVICES

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i) Fire protection?	☐	☐	X	☐
ii) Police protection?	☐	☐	X	☐
iii) Schools?	☐	☐	X	☐
iv) Parks?	☐	☐	X	☐
v) Other public facilities?	☐	☐	X	☐

ENVIRONMENTAL SETTING

Fire and police protection are provided by the Berkeley Fire Department and Berkeley Police departments, respectively. Berkeley Unified School District (BUSD) provides school services for children in grades K through 12. Berkeley Unified School District has 3 preschools, 11 elementary schools, 3 middle schools, a comprehensive high school, a continuation high school and an Adult School. The City of Berkeley's Department of Parks, Recreation, and Waterfront manages approximately 235 acres of parks and marinas.

DISCUSSION

a.i-ii) The project may result in an incremental increase in police and fire service calls due to the addition of 44 households and commercial uses, but this would not result in substantial adverse physical impacts that would require new or expanded facilities. The site is an infill site, within an existing residential neighborhood, located approximately 0.4 miles from Fire Station No. 5, located at 2680 Shattuck Avenue. Adequate access to the project is provided for police, fire, and other emergency vehicles, from Ashby and Shattuck Avenues. Moreover, buildings are designed to meet the requirements of the California Building Code and other applicable City codes and all new buildings would be equipped with automatic fire suppression systems (sprinklers). Police and Fire service capacities exist to adequately serve the project and therefore the potential impact would be less than significant.

a.iii) The project site falls within BUSD's Southeast Zone for elementary schools, which encompasses Emerson, John Muir, LeConte, and Malcolm X. The site is located within the zone for Willard Middle School located at 2425 Stuart Street. Berkeley High School would accommodate high-school age public school students from the project. BUSD has not formally adopted a ratio to estimate the number of students that would be generated by housing units within the City. However, BUSD generally uses a ratio of 0.5 students per housing unit as an appropriate generation rate for multi-family housing. Using this rate, the project could generate up to 22 students. As a required impact fee, the project sponsor would pay a fee to BUSD to offset the project's impact to school facilities. As a result, the potential impact would be less than significant.

a.iv-v)The project may result in an incremental increase in the use of parks and public facilities, such as libraries, but would not result in substantial adverse effects or require the construction of new facilities. Moreover, the project includes over 2,000 square feet of open space area for use by residents. As a result, the potential impact would be less than significant.

5.15. RECREATION

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☒	☐
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	☐	☐	☒	☐

ENVIRONMENTAL SETTING

The project site is within ½ mile of parks at Malcolm X and Le Conte schools, and the MLK Jr. Youth Services Center.

DISCUSSION

a) The project would result in an incremental increase in the use of existing neighborhood and regional parks and other recreational facilities. However, the addition of 44 households and commercial uses are not expected to result in substantial physical deterioration of these facilities. Moreover, the project includes over 2,000 square feet of open space area for use by residents. As a result, the potential impact would be less than significant.

b) The project includes landscape improvements along the sidewalk and frontage of the project, but does not include any recreational facilities. Therefore, the potential impact would be less than significant.

5.16. TRANSPORTATION AND TRAFFIC

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	X	☐
b) Conflict with an applicable congestion management program, including but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	X	☐
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location those results in substantial safety risks?	☐	☐	☐	X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	X
e) Result in inadequate emergency access?	☐	☐	X	☐

f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	X	☐

ENVIRONMENTAL SETTING

Access to the project site garage by vehicle would be provided on Shattuck Avenue. AC Transit bus stops for the 49 and 18 bus lines are located adjacent at the intersection abutting the project site. The site is also located .23 miles from the Ashby BART Station.

DISCUSSION

a) The City's level of service (LOS) standard states that an impact is significant when the criteria are reduced from LOS A, B, C, or D to LOS E (with the addition of 2 seconds of average delay) for signalized intersections. Intersections that exceed this service level threshold are considered to be impacted and should be considered for mitigation. For unsignalized intersections, additional considerations are involved, including the number of vehicles on the critical approach, vehicles contributed by the proposed project, and signal warrant analysis. At an unsignalized intersection, mitigation is required if a movement is LOS F, the peak hour signal warrant is met, and a minimum of 10 vehicles are added to the critical movement.

Three intersections were evaluated for potential impacts as a result of the project: Shattuck Avenue at Ashby Avenue, Emerson Street, and the project entrance. All of the intersections currently operate at acceptable levels of service (LOS D or better) and would continue to have acceptable conditions (LOS D or better) during the weekday AM and PM peak hours, with implementation of the project.[7]

Trip generation rates were assessed based on the 9th Edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual and reduced by 19%[8] to account for traffic conditions in this part of Berkeley. The project would generate approximately 40 vehicle trips during the AM peak hour and 41 trips during the PM peak hour. However, traffic counts for the current gas station on the site indicate that it generates more than twice the traffic that is forecast to be generated by the proposed project. Redevelopment of the site would result in a net reduction by approximately half in traffic on the surrounding roadway system: approximately 16 peak hour trips during the AM peak hour and about 44 trips during the PM peak hour.

As result, there would be no significant transportation impacts according to established standards and no off-site traffic or mitigations would be required. Therefore, the project would not conflict with an applicable plan, ordinance, or policy establishing measures of

[7] Abrams Associates, "Transportation Impact Analysis: 3000 Shattuck Avenue Mixed Use Project." May 31, 2017.
[8] Reduction based on data from the Alameda County Transportation Commission's Travel Demand Model, trip generation surveys compiled by ITE and the San Diego Association of Governments (SANDAG), and census data on vehicle ownership and travel patterns in this part of Berkeley.

effectiveness for the performance of the circulation system and the potential impact would be less than significant.

b) The project would not create 100 or more new peak hour trips, and the project would not exceed, either individually or cumulatively, an LOS standard established by the Alameda County Congestion Management Agency for designated roads or highways. As a result, Alameda County Congestion Management Agency's Congestion Management Program analysis is not required. Therefore, the project impact would be less than significant.

c) The project site is located 9 miles from the closest airport and therefore would not interfere with air traffic patterns nor increase air traffic levels. Therefore, the project would have no impact.

d-e) The project's sidewalks and emergency access have been designed to City standards and would provide adequate sight distances to accommodate the safe turning radius of emergency vehicles and passenger vehicles entering and exiting the driveway. The project would remove three of the four existing curb cuts, potentially reducing conflicts between modes. Therefore, the potential impact would be less than significant.

f) The project may incrementally increase the use of BART and bus transit, but is not expected to conflict with or decrease the performance of the existing transit system. There are existing bike lanes (Class II) on Adeline Street and one block to the north Russell Street is a Class III bike route and is designated as a bicycle boulevard. The project would improve the existing sidewalk by removing curb cuts and adding landscaping, and would add 60 bike parking spaces, which may increase the use of pedestrian and bicycle facilities, but not to the extent that would decrease the performance of these facilities. Therefore, the project would not conflict with adopted City policies supporting alternative transportation and the potential impact would be less than significant.

5.17. TRIBAL CULTURAL RESOURCES

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
a)Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:	☐	☐	X	☐
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	☐	☐	X	☐

ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	X	☐

ENVIRONMENTAL SETTING

The project is located in an urbanized area with no known cultural resources.

DISCUSSION

a.i-ii) The project site has no known features with cultural value to a California Native American tribe and is not considered eligible for listing with the California Register of Historic Resources. Additionally, California Assembly Bill 52 of 2014 (AB 52) was enacted on July 1, 2015, and establishes a formal consultation process for California tribes regarding tribal cultural resources. The consultation process must be completed before a CEQA document can be certified. Under AB 52, lead agencies are required to "begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project." Native American tribes to be included in the process are those that have requested notice of projects proposed within the jurisdiction of the lead agency. The City of Berkeley prepared and sent a formal notification in accordance with the provisions of AB 52 to Andrew Galvan, of The Ohlone Tribe Inc. on May 9, 2017, who alerted the City on May 19, 2017 that no consultation was requested. As a result, the project would have a less-than-significant impact with respect to tribal cultural resources.

5.18. UTILITIES AND SERVICE SYSTEMS

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	X	☐
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	X	☐
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	X	☐

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	X	☐
e) Result in a determination by the wastewater treatment provided which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	X	☐
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	X	☐
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	X	☐

ENVIRONMENTAL SETTING

The project site is an urban area served by existing infrastructure and utilities.

DISCUSSION

a,e) In compliance with a July 28, 2014 Consent Decree, the City has implemented a long-term mandated Sanitary Sewer Capital Improvement Program to eliminate Sanitary Sewer Overflows and reduce storm water infiltration and inflow (I/I) into the sanitary sewer system. Under this program, the City utilizes a comprehensive asset management approach based on complex and evolving hydrologic and hydraulic modeling and condition assessments to repair, replace, or upgrade the City's portion of the sanitary sewer system, ultimately to aid EBMUD in eliminating discharges from their Wet Weather Facilities by the end of 2035.

The project would generate an incremental increase in domestic wastewater, which would be treated by EBMUD treatment facilities. In addition, the project would use an incremental portion of EBMUD's wet weather treatment capacity. EBMUD is required to meet applicable Regional Water Board treatment requirements. Wastewater discharges that may occur at the project site would be required to comply with the terms of the permit requirements and may be subject to monitoring by EBMUD to ensure that the development's sewage discharge does not impair the ability to meet wastewater treatment objectives and requirements. Therefore, the impact to wastewater treatment requirements would be less than significant.

b) Development of the project on an infill site would not substantially increase water demand or wastewater generation compared to existing conditions, such that new or expanded water or wastewater treatment facilities would be required. The project would connect to EBMUD's existing water delivery and sanitary sewer systems within the vicinity of the site. It is anticipated that these pipelines would have sufficient capacity to support project water and wastewater flows. Therefore, the impact would be less than significant.

c) The project would include new connections to existing stormwater infrastructure. The existing site is a parking lot and is entirely paved. Development of the project would result

in a decrease of impervious surfaces by 1,500 square feet. Runoff would be treated in accordance with C.3 requirements, before flowing to the City's storm drain system. The project would include drought-tolerant landscaping; stormwater treatment planters; and water-efficient fixtures in residential and commercial kitchens and bathrooms to reduce the demand for and impacts to stormwater infrastructure. This system would manage and treat stormwater runoff from the project and is designed to filter pollutants, regulate flows, and allow infiltration. It would not necessitate the construction or expansion of storm drain facilities off-site that would result in significant environmental effects. As a result, the potential impact would be less than significant.

d) EBMUD owns, operates and maintains the water distribution system in the City. Both supply and demand vary seasonally and become critical during drought periods which can last several years. For planning purposes and looking to the year 2040, EBMUD's current water supply is sufficient to meet customer needs during normal years and single dry years.[9] EBMUD is pursuing a range of strategies to reduce demand and increase supply (including during multiple dry years), such as public outreach, leak fixes, water storage, infrastructure improvements and water conservation measures. EBMUD also imposes a system capacity charge on new developments to fund system maintenance and the development of new water sources. The project sponsor would be required to pay this fee and undertake water conservation measures. In addition, the project would be required to comply with Section 31 of EBMUD's Water Service Regulations, which require water-efficiency measures and appliances to be installed.[10] The project would also be required to coordinate with EBMUD and the City of Berkeley Fire Department to assess fire flow requirements and comply with them as part of the project. As result, the potential impact would be less than significant.

f-g) The City of Berkeley provides curbside recycling and refuse collection services to the project site. There are two permitted landfills in Alameda County with the capacity to accommodate solid waste generated in Berkeley: Altamont Landfill and the Vasco Road Sanitary Landfill. The combined permitted capacity of waste for these two landfills is 95 million cubic yards, which the project would not exceed.

The proposed project's demolition represents a lower level of material than most projects are required to do in Berkeley, given the low intensity of uses on the site. The existing building's 1-story footprint and that of the gasoline pump islands is a relatively small component of the site. All demolition and construction waste would be recycled to the extent feasible, and consistent with the Berkeley Green Code (Chapter 19.37 of the Municipal Code). A Waste Diversion Report, with receipts or weigh slips documenting debris disposal or recycling during all phases of the project, would be required as a standard condition of approval. The project would be required to comply with all federal, state, and local statutes and regulations related to solid waste. Therefore, these issues would be categorized as less-than-significant impacts.

[9] East Bay Municipal Utility District. "Water Supply Management Program 2040 Plan." April 2012.
[10] East Bay Municipal Utility District. "Section 31: Water Efficiency Requirements." July 15, 2015.

5.19. MANDATORY FINDINGS OF SIGNIFICANCE

Issues	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	X	☐
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	X	☐
c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	X	☐

DISCUSSION

a) The project is located on an infill site that is completely paved and therefore not supportive of significant habitat or fish, wildlife, or plant species. There are no existing water bodies, or rare, endangered, or threatened species known to inhabit the subject property, nor are there historic resources. Therefore, the project would have a less-than-significant impact on biological and cultural resources.

b) Constructing this project would incrementally increase impacts to certain environmental factors as detailed in the preceding sections. However, given that the site is an infill location, surrounded by residential and commercial development and served by existing utilities and public facilities and services, the increases would not be cumulatively considerable. Therefore, this potential impact would be less than significant.

c) The project would not include any activities or uses causing substantial adverse effects on human beings either directly or indirectly or on the environment. The project has been designed to substantially comply with City of Berkeley General Plan and Zoning regulations and would incorporate conditions of approval to meet local codes and regulations, and mitigate potential impacts. The project design, existing regulations, and conditions of approval reduce potential impacts to less-than-significant levels.

Bibliography

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City of Berkeley, 2014 Local Hazard Mitigation Plan, June 1, 2014.

East Bay Municipal Utility District, “Water Supply Management Program 2040 Plan.” April 2012.

East Bay Municipal Utility District, “Section 31: Water Efficiency Requirements.” July 15, 2015.

Pangea Environmental Services, Inc, Environmental Review for Purchase and Site Redevelopment, Letter to Mr. Xin Jin, December 13, 2014.

State Water Resources Control Board. http://geotracker.waterboards.ca.gov/. Accessed March 14, 2017.

December 13, 2014

Mr. Xin Jin
3000 Shattuck, LLC
1958A University Ave
Berkeley, 94704

Re: **Environmental Review for Purchase and Site Redevelopment**
U.S. Smog and Gas
3000 Shattuck Avenue
Berkeley, California

Dear Mr. Jin:

As requested, Pangea Environmental Services, Inc (Pangea) has prepared this letter summarizing subsurface environmental conditions and regulatory oversight status to assist with your property transaction and planned future site redevelopment for the subject site. This summary is based on our understanding of site conditions from prior site work, a site inspection, review of information on the State Water Board's Geotracker database, and our experience with the California Regional Water Quality Control Board – San Francisco Bay Region (RWQCB), the California UST Cleanup Fund (Cleanup Fund), the City of Berkeley's Toxics Management Division (TMD), and the City of Berkeley Department of Planning and Development. This letter also describes potential environmental costs associated with future site redevelopment.

BACKGROUND AND CORRECTIVE ACTION HISTORY

The Site is a retail service station and smog inspection facility, which historically has been characterized and remediated for constituents related to releases from the former underground storage tanks (USTs). In 1997, a 200-gallon waste oil tank was removed. In 2000, three 12,000-gallon gasoline USTs were removed and replaced with new double-walled USTs. Approximately 1,415 tons of soil was removed and disposed off site when the USTs and associated product lines were replaced in 2000. In February 2013, the local lead agency (TMD) confirmed completion of investigation and corrective action, and granted no further action for the release associated with the USTs (case #27540; City of Berkeley, 2013).

An additional investigation was opened at the site in December 2012 to address a potential new release presumably associated with the hydraulic lifts at the site. The new release was discovered during groundwater monitoring activities in October 2007; a sample was collected from the impacted well (A-2) in January 2008. A release notification dated December 12, 2012, listed both BP and property owner Shazada Khan as potential responsible parties. In February and March of 2013, groundwater samples were collected from impacted well A-2 and downgradient well AR-1. Investigations indicated that the nature and extent of hydraulic fluid contamination has been adequately characterized, and the associated plume is decreasing in size.

The RWQCB issued case closure for this case in September 2014. The RWQCB's closure summary, included in Attachment A, concluded that the 'current plume is restricted to the site and does not present a current or potential risk to human health or the environment.' The closure letter did not include any site management requirements for the residual impact.

REDUCED REGULATORY CONCERN FOR UST SITES

The State Water Resources Control Board recently commenced implementation of a *Low Threat Closure Policy* (LTCP) in November 2012. The LTCP, acknowledging that petroleum hydrocarbon releases have tended not to pose significant concern at most sites, established general and media-specific criteria for closing low-threat cases. This policy has drastically reduced the amount of corrective action performed for hydrocarbon release sites. In the event of a new authorized release at this site, the new LTCP policy would result in less corrective action than required previously.

CALIFORNIA UST CLEANUP FUNDS

Pangea understands that retail gasoline operations will resume following completion of the property transaction and securing a new tenant. In the event of a future unauthorized release from the UST system, the owner and/or operator of the system can apply to the Cleanup Fund for reimbursement of up to $1MM of corrective action costs. The UST Fund has been reauthorized until December 31, 2024.

SITE CONDITION EVALUATION

Available site data indicates that very limited, if any, residual gasoline-related impact is present at the site. The most recent subsurface data includes groundwater data from all program monitoring wells in January 2008, from select program wells in March 2010, and, in March 2014, from one well (AR-1) immediately downgradient of the current USTs and dispensers and one well (A-2) downgradient of the building and underground hoist area. No TPHg or BTEX compounds were detected in the onsite wells in 2008, 2010 and 2014. The only residual impact in groundwater is very low concentrations of the former gasoline additive MTBE (MTBE use was banned after 2004) and limited oil range impact, apparently related to a prior release of hydraulic oil. The depth to water has ranged from approximately 5 to 11 ft depth below grade surface.

Compliance testing of the fueling facilities was performed recently. Pangea is not aware of any recent releases at the site.

REDEVELOPMENT ISSUES

Pangea understands that prospective future redevelopment will involve only limited subsurface work to install site utilities and the building foundation; no other subgrade development is planned. In conjunction with future redevelopment, the City of Berkeley may require a soil and groundwater management plan to ensure proper handling and disposal of material during construction. If significant hydrocarbon impact is found during UST removal or redevelopment activities, some soil removal and subsurface soil and soil gas sampling may be required by the oversight agencies. To help mitigate potential vapor intrusion from any residual hydrocarbon impact, the local agencies may require mitigation measures such as a passive ventilation system and/or vapor barrier. Estimated cost for these mitigation measures, if implemented during redevelopment, ranges from $10,000 to $100,000. The oil range impact does not represent a significant vapor intrusion concern. However, the estimated cost to excavate the oil impact, if performed during redevelopment, ranges from $10,000 to $50,000.

CONCLUSIONS

Based on the above information, Pangea concludes the following:

- The local agencies have issued regulatory case closure for two site cases in 2013 and 2014, concluding that the plume is restricted to the site and does not present a current or potential risk to human health or the environment. The closure letter did not include any site management requirements for the residual impact.

- Groundwater data from March 2014 immediately downgradient of the USTs and dispensers indicates that no new unauthorized release of gasoline at that time. Since March 2014 compliance testing has been performed to further evaluate the potential for hydrocarbon release.

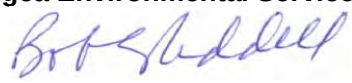
- In the event of a future unauthorized release from the UST system, the owner and/or operator of the system can apply to the California UST Cleanup Fund for reimbursement of up to $1MM of corrective action costs; the UST Fund has been reauthorized until December 31, 2024.

- Based on future redevelopment plans, construction activity is not anticipated to extend to groundwater (5 to 11 ft depth) where limited residual hydrocarbon may be present.

- If significant hydrocarbon impact is found during UST removal or redevelopment activities, soil removal and soil/soil gas sampling may be required by the oversight agencies. To help mitigate potential vapor intrusion from any residual hydrocarbon impact, the local agencies may require mitigation measures such as a passive ventilation system and/or vapor barrier. Estimated cost for these mitigation measures, if implemented during redevelopment, ranges from $10,000 to $100,000. The oil range impact does not represent a significant vapor intrusion concern. However, the estimated cost to excavate the oil impact, if performed during redevelopment, ranges from $10,000 to $50,000.

Pangea hopes this letter provides valuable information. If you have any questions, please feel free to contact me at (510) 435-8664 or briddell@pangeaenv.com.

Sincerely,
Pangea Environmental Services, Inc.



Bob Clark-Riddell, P.E.
Principal Engineer

Attachments: A - Case Closure Letters and Recent Groundwater Data

ATTACHMENT A

Case Closure Letters and Recent Groundwater Data

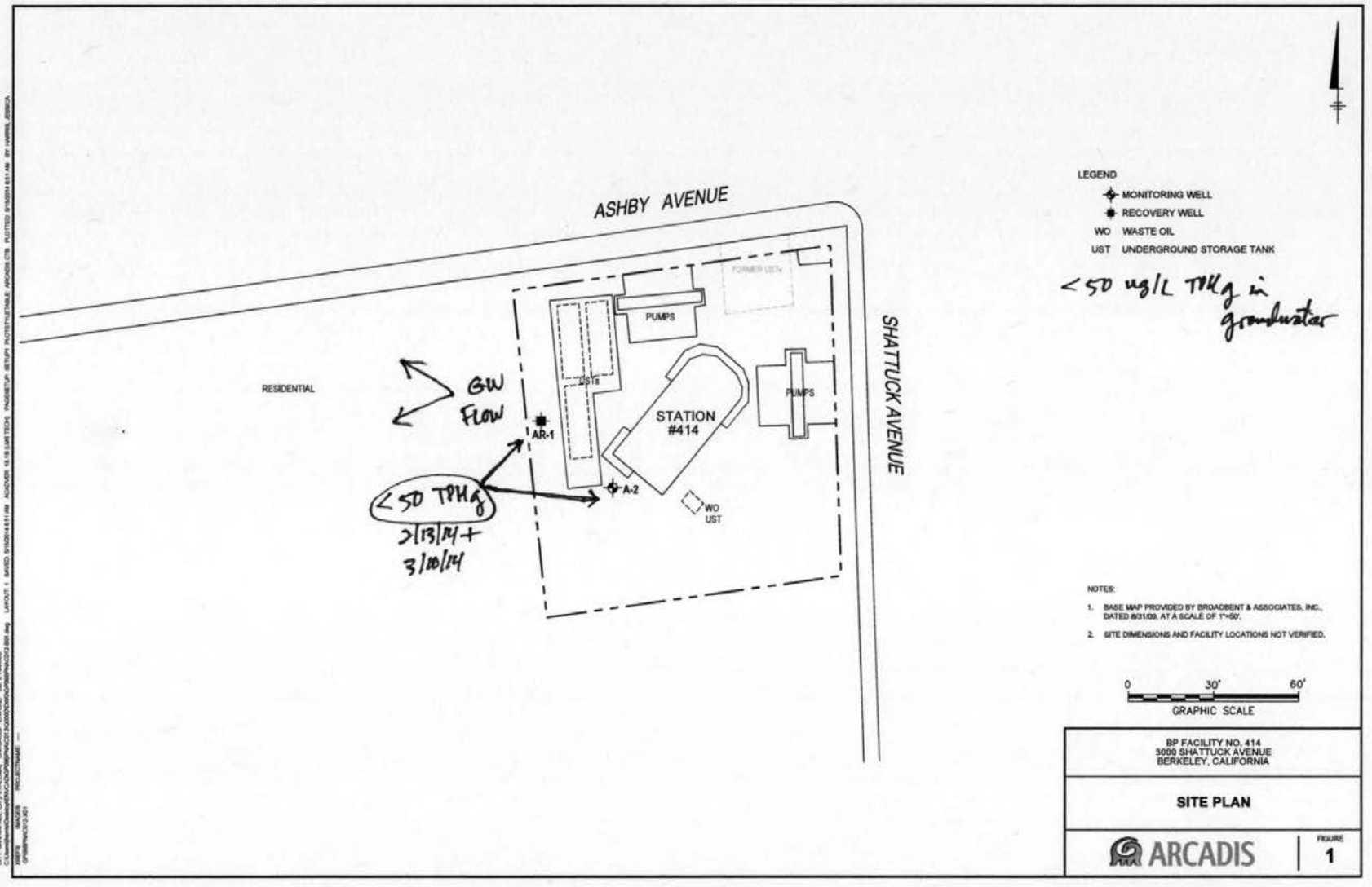
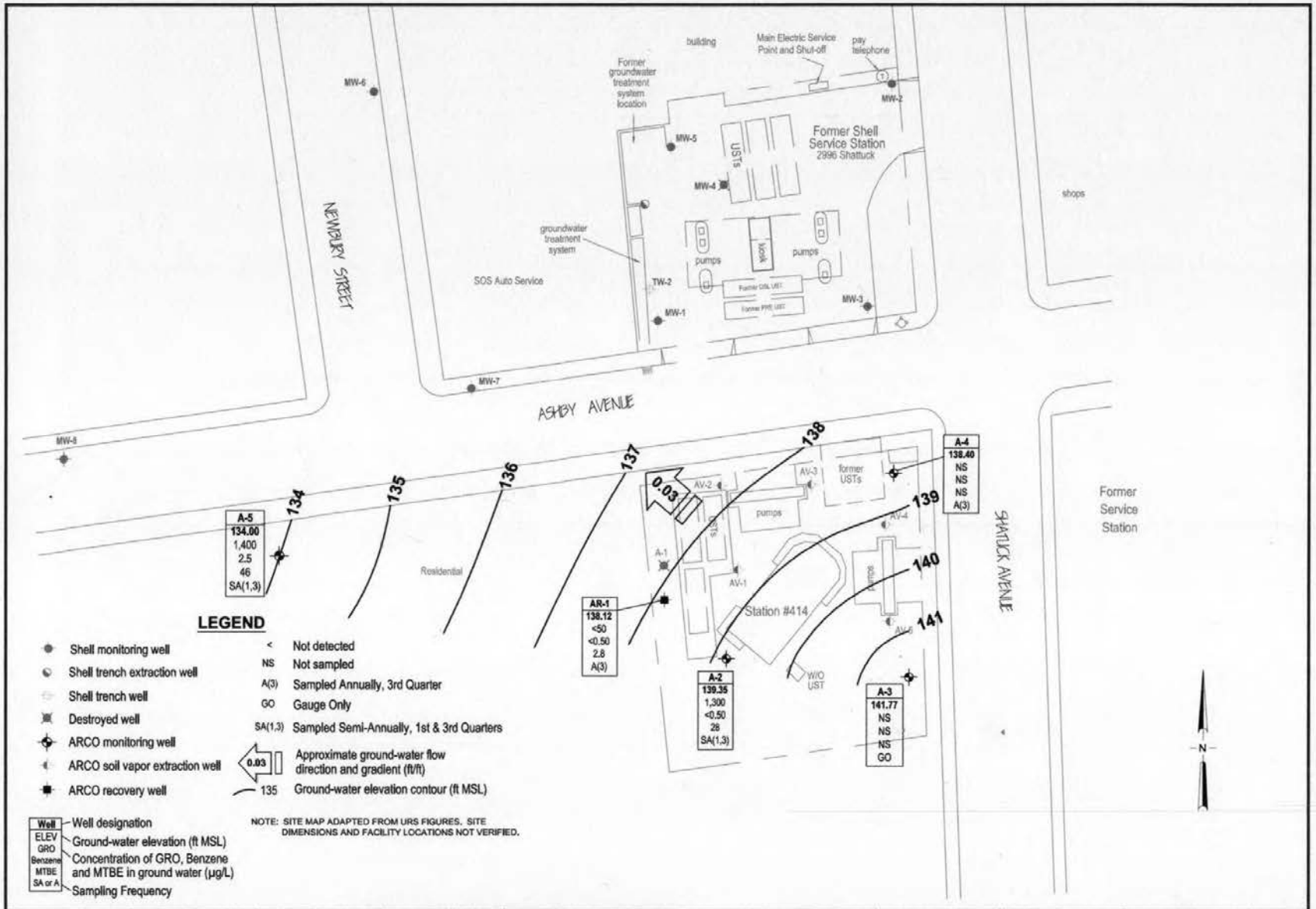

ASHBY AVENUE
SHATTUCK AVENUE
RESIDENTIAL
GW Flow
AR-1
A-2
STATION #414
PUMPS
PUMPS
USTs
WO UST
< 50 TPHg
2/13/14 +
3/10/14
LEGEND
MONITORING WELL
RECOVERY WELL
WO WASTE OIL
UST UNDERGROUND STORAGE TANK
< 50 ug/L TPHg in groundwater
NOTES:
1. BASE MAP PROVIDED BY BROADBENT & ASSOCIATES, INC., DATED 8/31/09, AT A SCALE OF 1"=50'.
2. SITE DIMENSIONS AND FACILITY LOCATIONS NOT VERIFIED.
0
30'
60'
GRAPHIC SCALE
BP FACILITY NO. 414
3000 SHATTUCK AVENUE
BERKELEY, CALIFORNIA
SITE PLAN
ARCADIS
FIGURE
1

Table 1
Summary Of Groundwater Monitoring Data
3000 Shattuck Avenue, Berkeley, California

Well ID	Date	TPHg (µg/L)	MTBE (µg/L)	TPHd (µg/L)	TPHmo (µg/L)	Mineral Oil (µg/L)	Hydraulic Oil (µg/L)	Transmission Oil (µg/L)	Jet A (µg/L)
A-2	1/31/2008	1,300	28	1,900	<1,900	3,500	3,300	3,700	470
	2/13/2014	<50	--	270	330	350	--	--	--
	3/10/2014	<50	6.9	410 Y	360	410 Y	790 Y	670 Y	<50
AR-1	1/31/2008	<50	2.8	100	<470	--	--	--	--
	2/13/2014	<50	--	86	<100	--	--	--	--
	3/10/2014	<50	1.6	130 Y	<300	<300	310	<300	<50

Notes: TPHg - total petroleum hydrocarbons as gasoline range organics
TPHd - total petroleum hydrocarbons as diesel range organics
TPHmo - total petroleum hydrocarbons as motor oil range organics
Y - sample exhibits chromatographic pattern which does not resemble standard
µg/L - micrograms per liter


building
Main Electric Service Point and Shut-off
pay telephone
Former groundwater treatment system location
MW-6
MW-2
MW-5
USTs
Former Shell Service Station
2996 Shattuck
MW-4
shops
NEWBURY STREET
groundwater treatment system
pumps
kiosk
pumps
SOS Auto Service
TW-2
MW-1
MW-3
MW-7
ASHBY AVENUE
MW-8
134
135
136
137
138
139
140
141
0.03
AV-2
AV-3
former USTs
A-4
138.40
NS
NS
NS
A(3)
pumps
AV-4
A-5
134.00
1,400
2.5
46
SA(1,3)
Residential
A-1
AV-1
Station #414
SHATTUCK AVENUE
Former Service Station
AR-1
138.12
<50
<0.50
2.8
A(3)
W/O UST
A-2
139.35
1,300
<0.50
28
SA(1,3)
A-3
141.77
NS
NS
NS
GO
N
LEGEND
Shell monitoring well
Shell trench extraction well
Shell trench well
Destroyed well
ARCO monitoring well
ARCO soil vapor extraction well
ARCO recovery well
< Not detected
NS Not sampled
A(3) Sampled Annually, 3rd Quarter
GO Gauge Only
SA(1,3) Sampled Semi-Annually, 1st & 3rd Quarters
0.03 Approximate ground-water flow direction and gradient (ft/ft)
135 Ground-water elevation contour (ft MSL)
Well
ELEV
GRO
Benzene
MTBE
SA or A
Well designation
Ground-water elevation (ft MSL)
Concentration of GRO, Benzene and MTBE in ground water (µg/L)
Sampling Frequency
NOTE: SITE MAP ADAPTED FROM URS FIGURES. SITE DIMENSIONS AND FACILITY LOCATIONS NOT VERIFIED.
0
50
100
SCALE (ft)
BROADBENT & ASSOCIATES, INC.
ENGINEERING, WATER RESOURCES & ENVIRONMENTAL
1324 Mangrove Ave. Suite 212, Chico, California
Project No.: 06-08-603 Date: 2/28/08
Station #414
3000 Shattuck Avenue
Berkeley, California
Ground-Water Elevation Contour and Analytical Summary Map
31 January 2008
Drawing
1

Planning and Development Department
Toxics Management Division
February 14, 2013

British Petroleum
c/o Janet Wager
BP Remediation Management
201 Helios Way
Houston, Texas 77079

Subject: **Approval of Request for No Further Action**
Arco # 00414, Berkeley Case No 27540;
RWQCB No. 01-0102 3000 Shattuck Avenue, Berkeley, California 94702

Dear Ms. Wager,

This letter confirms the completion of a site investigation and corrective action for the underground storage tank formerly located at the above-described location. Thank you for your cooperation throughout this investigation. Your willingness and promptness in responding to our inquiries concerning the former underground storage tank is greatly appreciated.

Based on information in the above-referenced file and with the provision that the information provided to this agency was accurate and representative of site conditions, this agency finds the site investigation and corrective action carried out at your underground storage tank site is in compliance with the requirements of subdivisions (a) and (b) of Section 25296.10 of the Health and Safety code and with the corrective action regulations adopted pursuant to Section 25299.3 of the Health and Safety Code and that no further action related to the petroleum release at the site is required. This notice is issued pursuant to subdivision (g) of Section 25296.1 of the Health and Safety Code.

Please contact our office if you have any questions regarding this matter.

Sincerely,

Geoffery Fiedler
Hazardous Materials Specialist, II

Cc: Shazada Khan, U.S. Smog and Gas, 3000 Shattuck Avenue Berkeley, California 94705

2118 Milvia Street, Suite 200, Berkeley, California 94704 TEL: (510) 981-7460 TDD: (510) 981-6903 FAX: (510) 981-7470

CALIFORNIA Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Francisco Bay Regional Water Quality Control Board

September 3, 2014
File No. 01S0746 (RL)

BP West Coast Products, LLC
c/o Ms. Janet Wager
BP Remediation Management
201 Helios Way
Houston, Texas 77079

SUBJECT: No Further Action, U.S. Smog and Gas, 3000 Shattuck Avenue, Berkeley, Alameda County

Dear Ms. Wager:

This letter confirms the completion of site investigation and remedial action for the pollutant releases at the subject site. The attached Case Closure Summary describes remedial activities and our case-closure rationale.

Based upon the available information, including the current land use, and with the provision that the information provided to this agency was accurate and representative of site conditions, no further action related to the pollutant releases at the subject site is required.

If you have any questions concerning this letter, please contact Randy Lee of my staff at (510) 622-2375, [e-mail: rylee@waterboards.ca.gov].

Sincerely,

Bruce H. Wolfe
Executive Officer

Attachment: Case Closure Summary
cc w/attach: Mailing List (next page)

Mailing List:

Nabil Al-Hadithy
Manager
City of Berkeley
2118 Milvia Street, Suite 200
Berkeley, California 94704

U.S. Smog and Gas
3000 Shattuck Avenue
Berkeley, CA, 947054

Hollis Phillips
Arcadis US Inc.,
100 Montgomery Street, Suite 300
San Francisco, CA 94539
Hollis.Phillips@arcadis-us.com

Khan Shazada & Farhat
47856 Avalon Heights Terrace
Fremont, CA 94539

CASE CLOSURE SUMMARY

I. AGENCY INFORMATION

Date: 9/3/2014

Agency Name: SF Bay Regional Water Quality Control Board	Address: 1515 Clay Street, Suite 1400
City/State/Zip: Oakland, CA 94612	Phone: 510-622-2300
Responsible Staff Person: Randy Lee	Title: Water Resource Control Engineer

II. SITE INFORMATION

Site Facility Name: U.S. Smog and Gas (a.k.a. ARCO # 00414)		
Site Facility Address: 3000 Shattuck Ave Berkeley		
RB Case No.: 01S0746 (aka 01-0102)	Local Case No.: 27540	Priority:
Responsible Parties (include addresses and phone numbers)		
Jim Smith BP Remediation Management, 201 Helios Way, Houston, Texas, 77079		
(713) 323-4153		

Tank No.	Size in Gallons	Contents	Closed In—Place/Removed?	Date
1*	200	waste oil	removed	11/19/1997
2*	12,000	gasoline	removed	8/11/2000
3*	12,000	gasoline	removed	8/11/2000
4*	12,000	gasoline	removed	8/11/2000
(* Closed by City of Berkeley on 2/14/2013)				

III. RELEASE AND SITE CHARACTERIZATION INFORMATION

Cause and Type of Release: leakage from USTs and hydraulic lifts		
Site characterization complete? yes	Date Approved by Oversight Agency: 2/14/2013	
Monitoring wells installed? yes	Number: 6	Proper screened interval? yes
Highest GW Depth Below Ground Surface: 11.28 ft bgs	Lowest Depth: 4.61 ft bgs	Flow Direction: ranged from northwest to southwest, with the predominant direction to the west
Most Sensitive Current Use: municipal, industrial process, industrial service and agricultural are identified in the Basin Plan		
Most Sensitive Potential Use		

and Probability of Use : municipal, industrial process, industrial service and agricultural are identified in the Basin Plan	
Are drinking water wells affected? no	Aquifer Name: n/a
Is surface water affected? no	Nearest surface water name: San Francisco Bay
Off-Site Beneficial Use Impacts (Addresses/Locations): none	
Report(s) on file? yes	Where is report(s) filed? GeoTracker

TREATMENT AND DISPOSAL OF AFFECTED MATERIAL

Material	Amount (Include Units)	Action (Treatment or Disposal w/Destination)	Date
Tanks	4	1 waste oil tank - 11/19/1997- unknown 3 gasoline USTs -8/11/2000- Disposal (Mid-Valley Landfill)	11/19/1997 & 8/11/2000
Piping	unknown	Disposal (Mid-Valley Landfill)	8/11/2000
Free Product	400 gallon	Disposal (DeMeeno/Kerdoon in Compton CA)	8/11/2000
Soil	1,416 ton	Disposal (Forward Landfill, Manteca, CA)	8/11/2000
Groundwater	1,200 gallon	Disposal (Seaport Environmental Facility, Redwood City, CA)	8/11/2000
Barrels			

MAXIMUM DOCUMENTED POLLUTANT CONCENTRATIONS—BEFORE AND AFTER CLEANUP

POLLUTANT	Soil (ppm)		Water (ppb)		POLLUTANT	Soil (ppm)		Water (ppb)	
	Before	After	Before	After		Before	After	Before	After
TPHg 27540-closed)	8,410	n/a	31,000	<50	TPHg (*01S0746*)	n/a	n/a	1,300	<50
Benzene (27540-closed)	3.44	n/a	5,900	<0.5	MTBE (*01S0746*)	n/a	n/a	28	6.9
Toluene (27540-closed)	136	n/a	6,500	<0.5	TPHd (*01S0746*)	n/a	n/a	1,900	410
Ethylbenzene (27540-closed)	127	n/a	620	<0.5	TPHmo (*01S0746*)	n/a	n/a	<1,900	360
Xylenes (27540-closed)	531	n/a	4,600	<0.5	Mineral oil (*01S0746*)	n/a	n/a	3,500	410
MTBE (27540-closed)	19.8	n/a	8,400	2,130	Hydraulic oil (*01S0746*	n/a	n/a	3,300	790

TPHd (27540-closed)	1,920	n/a	n/a	100	Transmission Oil (*01S0746*)	n/a	n/a	3,700	670
Lead (27540-closed)	<7.5	n/a	n/a	n/a	Jet A (*01S0746*)	n/a	n/a	470	<50

Comments (Depth of Remediation, etc.):

- GRI removed an oil/water separator in June 1992.
- GSI conducted vapor extraction tests on August 18 and November 19, 1992, using vapor extraction wells AV-1 through AV-6. Based on the results of the two tests, vapor extraction was deemed a suitable remedy based on an estimated radius of influence of 20 to 30 feet (GSI 1992c).There is no available documentation stating that recovery well AR-1 or the six vapor extraction wells were ever used for full-scale remediation purposes.
- Oxygen release compound (ORC) socks were used at wells AR-1 and A-1 through A-4 for various time periods from the third quarter 1996 to the first quarter 1997.
- Cambria removed three fiberglass USTs in August 2000 and installed new tanks.
- Cambria removed approximately 1,415 tons of soil and disposed of the soil off site in 2000 when the tanks and associated product lines were excavated.

IV. CLOSURE

Does completed corrective action protect existing beneficial uses per the Regional Board Basin Plan? yes		
Does completed corrective action protect potential beneficial uses per the Regional Board Basin Plan? yes		
Does corrective action protect public health for current land use? yes		
Site Management Requirements: none		
Monitoring Wells Decommissioned: A-1	Number Decommissioned: 1	Number Retained: 5 (to be destroyed upon closure)
List Enforcement Actions Taken: none		
List Enforcement Actions Rescinded: none		

V. TECHNICAL REPORTS, CORRESPONDENCE, ETC., THAT THIS CLOSURE RECOMMENDATION WAS BASED UPON

Case Closure Summary Report	6/9/2010
Approval of Request for No Further Action	2/14/2013
BP414 Summary of Investigation Results	7/9/14

VI. ADDITIONAL COMMENTS, DATA, ETC.

The Site is an operational service station, which historically has been characterized and remediated for constituents related to releases from the former USTs. In February 2013, confirmation of completion of investigation and corrective action was given for the Site, and no further action was granted for the release associated with the USTs (case #27540; City of Berkeley, 2013).

However, an additional investigation was opened at the Site in December 2012 prior to closure of the original case to address a potential new release likely associated with the hydraulic lifts present at the Site. The new release was discovered during groundwater monitoring activities in October 2007, a sample from the impacted well was not collected until first quarter 2008. The release notification, dated December 12, 2012, lists both BP and the current property owner (Shazada Khan) as potential responsible parties (PRP). In February and March of 2013, groundwater samples were collected from the impacted well and the downgradient wells. The investigations indicate that the nature and extent of hydraulic fluid contamination has been adequately characterized, and the associated plume is decreasing in size.

In June 2013, the case involving the potential release associated with the hydraulic lifts was referred to the San Francisco Bay Regional Water Board (Case # 01S0746, RWQCB). The current plume is restricted to the Site and does not present a current or potential risk to human health or the environment. Based on results of characterization activities, ARCADIS requested case closure on behalf of BP on July 9, 2014. This case closure summary prepared by the Regional Water Board, although included prior information related to the UST releases, is intended to close investigation associated with the potential release associated with the hydraulic lifts.

This document and the related CASE CLOSURE LETTER shall be retained by the lead agency as part of the official site file.



Transportation Impact Analysis

3000 SHATTUCK AVENUE MIXED USE PROJECT

City of Berkeley

Prepared by:
Abrams Associates
1875 Olympic Boulevard, Suite 210
Walnut Creek, CA 94596

Abrams Associates
TRAFFIC ENGINEERING, INC.

MAY 31, 2017

Abrams Associates
TRAFFIC ENGINEERING, INC.

3000 Shattuck Avenue Mixed Use Project
in the
City of Berkeley

TRANSPORTATION AND CIRCULATION

1) EXECUTIVE SUMMARY

The 3000 Shattuck Avenue mixed use project is proposed to include 44 apartment units and 4,015 of retail/restaurant space. **Figure 1** shows the location of the project and the surrounding roadway network and **Figure 2** shows the ground floor site plan for the project**.** Based on the trip generation forecasts the project would result in a net reduction in traffic on the surrounding street system. Traffic counts of the current gas station on the site indicate it generates more than twice the traffic that is forecast to be generated by the proposed project. The project itself is forecast to generate approximately 40 vehicle trips during the AM peak hour and 41 trips during the PM peak hour. However, please note these numbers do not take into account removal of the trips from the service station that currently operates on the site. Again, if the removal of traffic from the existing service station is accounted for then the implementation of the proposed project results in a reduction in traffic on the surrounding roadway system.

Based on a detailed analysis conducted according to City's guidelines there would be no significant transportation impacts according to established standards and no off-site traffic or transportation mitigations would be required.[1] The City's base code requirement for the project is 43 parking spaces and the project is proposing to accommodate its parking demand by providing 17 parking spaces which would include 5 car share spaces. The project would exceed the requirements for on-site bicycle parking by providing parking for 48 bicycles and is located less than four blocks from the Ashby BART Station.

2) INTRODUCTION

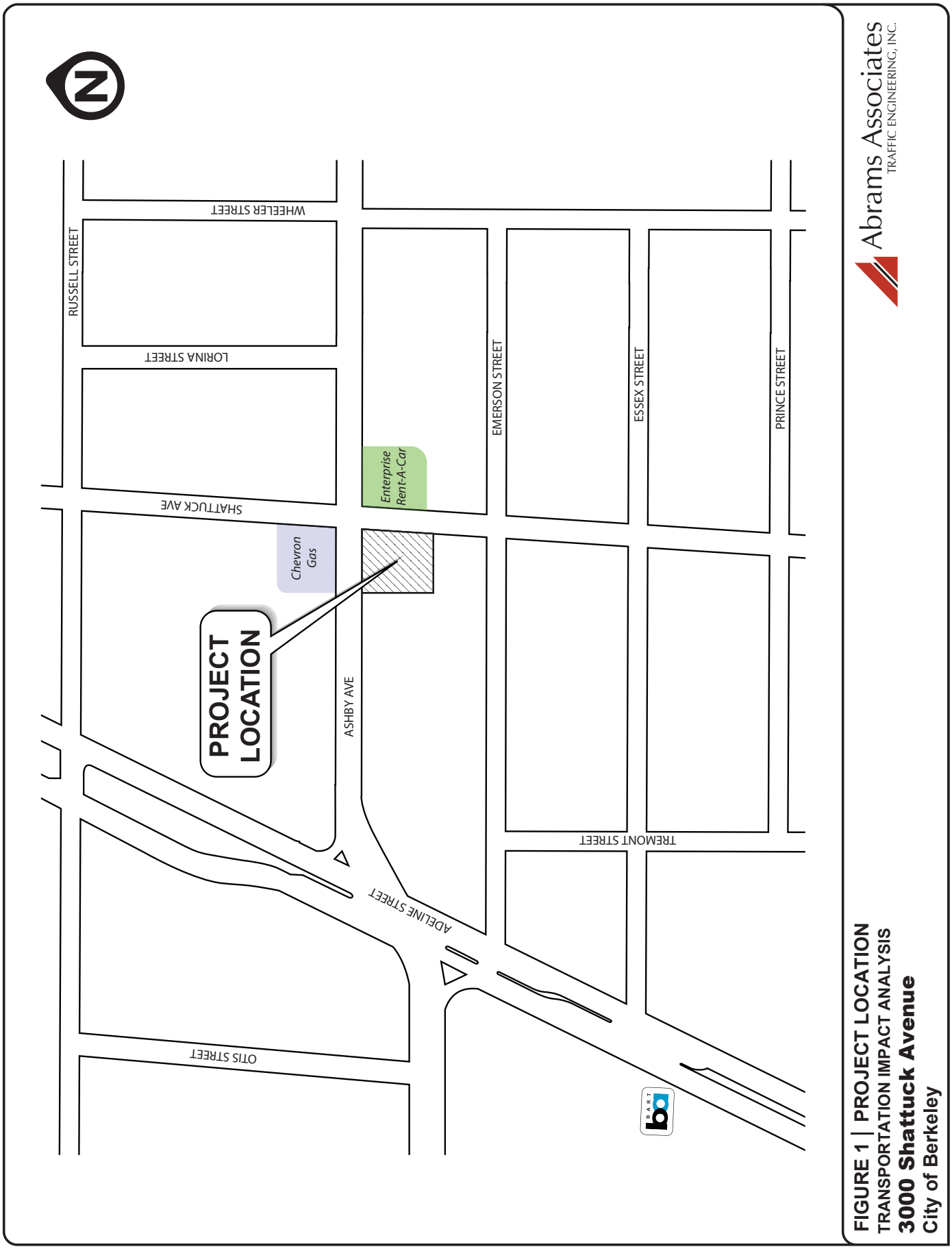
This transportation impact analysis describes the existing and future conditions for transportation and circulation both with and without the proposed project. The study presents information on the regional and local roadway networks, the pedestrian and transit conditions, and provides an analysis of the effects on transportation facilities associated with the project.

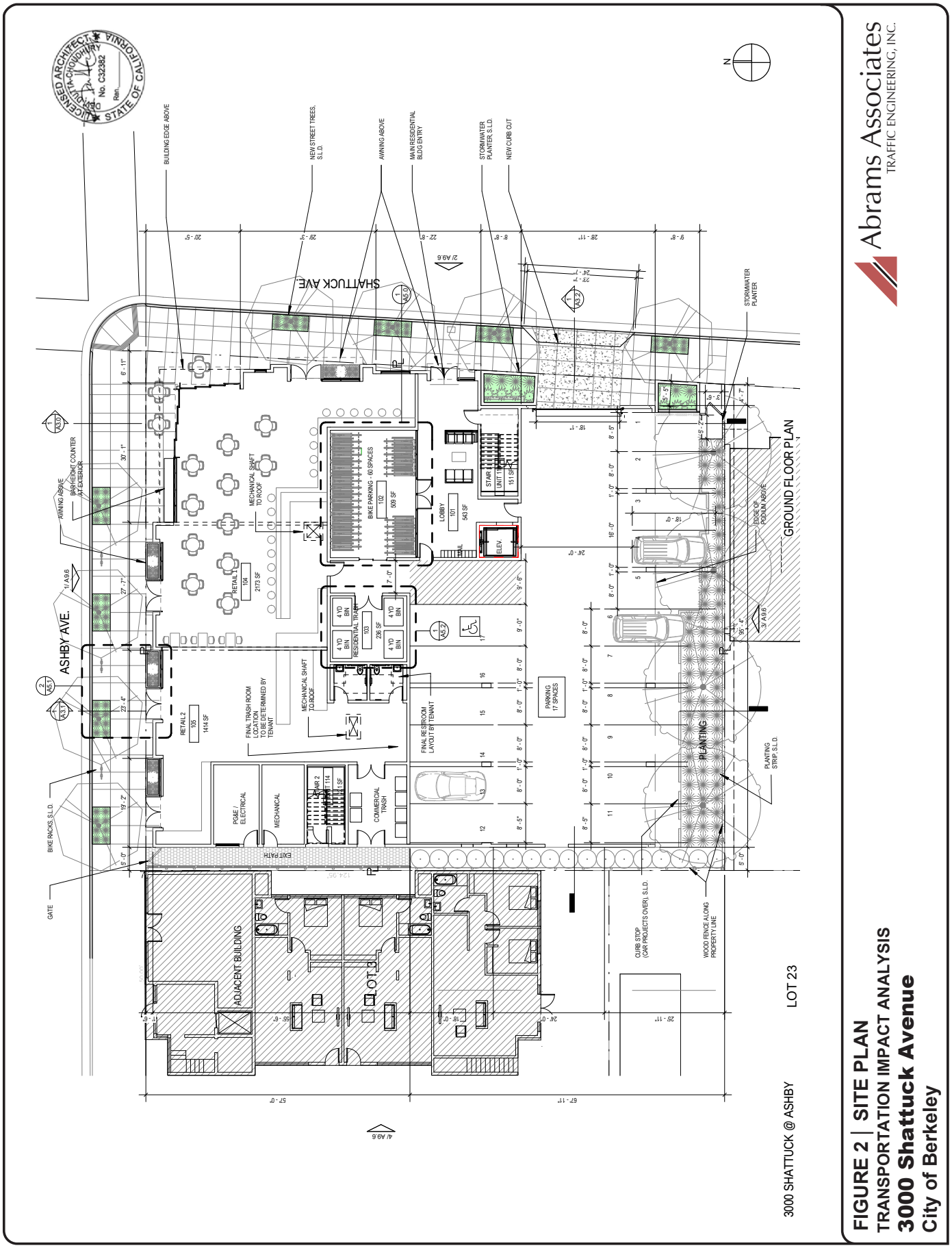
This study also describes the regulatory setting; the criterion used for determining the significance of environmental impacts; and summarizes potential environmental impacts and appropriate mitigation measures when necessary. This study has been conducted in accordance with the requirements and methodologies set forth by the City of Berkeley, Alameda County, Caltrans, and the applicable provisions of CEQA.

3) ENVIRONMENTAL SETTING

This section of the report describes the roadways, traffic conditions and other existing transportation characteristics in the vicinity of the project. The primary basis for the traffic operations portion of the analysis is the peak hour level of service at the key study intersections. In this report, these peak commute hours will be identified as the AM and PM peak hours.

[1] *Guide for Development of Traffic Impact Reports*, City of Berkeley Office of Transportation, Berkeley, CA, January, 2009.


N
WHEELER STREET
RUSSELL STREET
LORINA STREET
SHATTUCK AVE
EMERSON STREET
ESSEX STREET
PRINCE STREET
Enterprise Rent-A-Car
Chevron Gas
PROJECT LOCATION
ASHBY AVE
ADELINE STREET
TREMONT STREET
OTIS STREET
BART
Abrams Associates
TRAFFIC ENGINEERING, INC.
FIGURE 1 | PROJECT LOCATION
TRANSPORTATION IMPACT ANALYSIS
3000 Shattuck Avenue
City of Berkeley



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TRAFFIC ENGINEERING, INC.

FIGURE 2 | SITE PLAN
TRANSPORTATION IMPACT ANALYSIS
3000 Shattuck Avenue
City of Berkeley

3.1 Project Study Intersections

Based on the project's trip generation and the potential for traffic impacts an analysis of the intersections of Shattuck Avenue with Ashby Avenue, Emerson Street, and the project entrance was required. **Figure 1** presents the location of the project study intersections where a detailed level of service analysis was prepared.

3.2 Traffic Analysis Scenarios

The study intersections were evaluated for the following six scenarios:

- Scenario 1: *Existing Conditions* – Level of Service (LOS) based on existing peak hour volumes and existing intersection configurations.
- Scenario 2: *Existing Plus Project* – Existing traffic volumes plus trips from the proposed project.
- Scenario 3: *Baseline (No Project) Conditions* – The Baseline scenario is based on the existing volumes plus growth in background traffic (for two years) plus the traffic from all reasonably foreseeable developments that could substantially affect the volumes at the project study intersection.
- Scenario 4: *Baseline Plus Project Conditions* – This scenario is based on the Baseline traffic volumes plus the trips that would be generated by the proposed project.

3.3 Existing Roadway Network

As shown on **Figure 1**, the roads that would be primarily affected by the project are Shattuck Avenue, Ashby Avenue and Emerson Street. The following is a brief description of these roadways:

- **Shattuck Avenue –** Shattuck Avenue is a four lane arterial roadway extending south from Vine Street to terminate to the south at Telegraph Avenue in the City of Oakland. It serves school, residential and commercial traffic and is an important north-south travel route. It is designated as a major street and a primary transit route in the City's General Plan.
- **Ashby Avenue –** Ashby Avenue is a two lane roadway extending east from I-80 to terminate to the west at Tunnel Road. It is also designated as State Route 13 in the City of Berkeley. It serves school, residential and commercial traffic and is an important east-west travel route.
- **Emerson Street –** Emerson Street is a two-lane local residential roadway in the City of Berkeley that extends west from Webster Street and terminates at Adeline Street. These roadways serve school, residential and commercial traffic.

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3.4 Intersection Analysis Methodology

Existing operational conditions at the study intersection was evaluated according to the requirements set forth by the City of Berkeley. Analysis of traffic operations was conducted using the 2010 *Highway Capacity Manual* (*HCM*) Level of Service (LOS) methodology with Synchro software.[1]

Level of service is an expression, in the form of a scale, of the relationship between the capacity of an intersection (or roadway segment) to accommodate the volume of traffic moving through it at any given time. The level of service scale describes traffic flow with six ratings ranging from A to F, with "A" indicating relatively free flow of traffic and "F" indicating stop-and-go traffic characterized by traffic jams.

As the amount of traffic moving through a given intersection or roadway segment increases, the traffic flow conditions that motorists experience rapidly deteriorate as the capacity of the intersection or roadway segment is reached. Under such conditions, there is general instability in the traffic flow, which means that relatively small incidents (e.g., momentary engine stall) can cause considerable fluctuations in speeds and delays that lead to traffic congestion. This near-capacity situation is labeled level of service (LOS) E.

Beyond LOS E, the intersection or roadway segment capacity has effectively been exceeded, and arriving traffic will exceed the ability of the intersection to accommodate it. **Table 1** summarizes the relationship between LOS, average control delay, and the volume to capacity ratio at signalized intersections. **Table 2** summarizes the relationship between LOS and delay at unsignalized intersections

For signalized intersections, The City of Berkeley's LOS standards are based on the average delay for the entire intersection. The *HCM* methodology determines the capacity of each lane group approaching the intersection. The LOS is then based on average control delay (in seconds per vehicle) for the various movements within the intersection. A combined weighted average control delay and LOS are presented for the intersection. A summary of the HCM results and copies of the detailed HCM LOS calculations are included in the appendix to this report.

For unsignalized (all-way stop controlled and two-way stop controlled) intersections, the average control delay and LOS operating conditions are calculated by approach (e.g., northbound) and movement (e.g., northbound left-turn) for those movements that are subject to delay. Operating conditions for unsignalized intersections are presented for the worst approach.

[1] *2010 Highway Capacity Manual*, Transportation Research Board, Washington D.C., 2011

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TABLE 1
SIGNALIZED INTERSECTION LEVEL OF SERVICE DEFINITIONS

Level of Service	Description of Operations	Average Delay (sec/veh)	Volume to Capacity Ratio
A	Insignificant Delays: No approach phase is fully used and no vehicle waits longer than one red indication.	≤ 10	< 0.60
B	Minimal Delays: An occasional approach phase is fully used. Drivers begin to feel restricted.	> 10 to 20	> 0.61 to 0.70
C	Acceptable Delays: Major approach phase may become fully used. Most drivers feel somewhat restricted.	> 20 to 35	> 0.71 to 0.80
D	Tolerable Delays: Drivers may wait through no more than one red indication. Queues may develop but dissipate rapidly without excessive delays.	> 35 to 55	> 0.81 to 0.90
E	Significant Delays: Volumes approaching capacity. Vehicles may wait through several signal cycles and long vehicle queues from upstream.	> 55 to 80	> 0.91 to 1.00
F	Excessive Delays: Represents conditions at capacity, with extremely long delays. Queues may block upstream intersections.	> 80	> 1.00

SOURCES: 2010 *Highway Capacity Manual*, Transportation Research Board, 2011.

TABLE 2
UNSIGNALIZED INTERSECTION LEVEL OF SERVICE DEFINITIONS

Level of Service	Description of Operations	Average Delay (seconds/vehicle)
A	No delay for stop-controlled approaches.	0 to 10
B	Operations with minor delays.	> 10 to 15
C	Operations with moderate delays.	> 15 to 25
D	Operations with some delays.	> 25 to 35
E	Operations with high delays and long queues.	> 35 to 50
F	Operation with extreme congestion, with very high delays and long queues unacceptable to most drivers.	> 50

SOURCE: 2010 *Highway Capacity Manual*, Transportation Research Board, 2011.

3.5 Existing Intersection Capacity Conditions

The existing intersection geometry at the project study intersections is presented in **Figure 3**. The existing traffic volumes at these intersections for the weekday AM and PM peak hours are presented in **Figure 4**. Traffic counts at the intersection were conducted in August, 2014. **Table 3** summarizes the associated LOS computation results for the existing weekday AM and PM peak hour conditions at these intersections. As shown in **Table 3**, all of the study intersections currently have acceptable conditions (LOS D or better) during the weekday AM and PM peak hours. Please note the detailed LOS calculations are included in the technical appendix to this report**.**

3.6 Pedestrian and Bicycle Facilities

Bicycle paths, lanes and routes are typical examples of bicycle transportation facilities, which are defined by Caltrans as being in one of the following three classes:

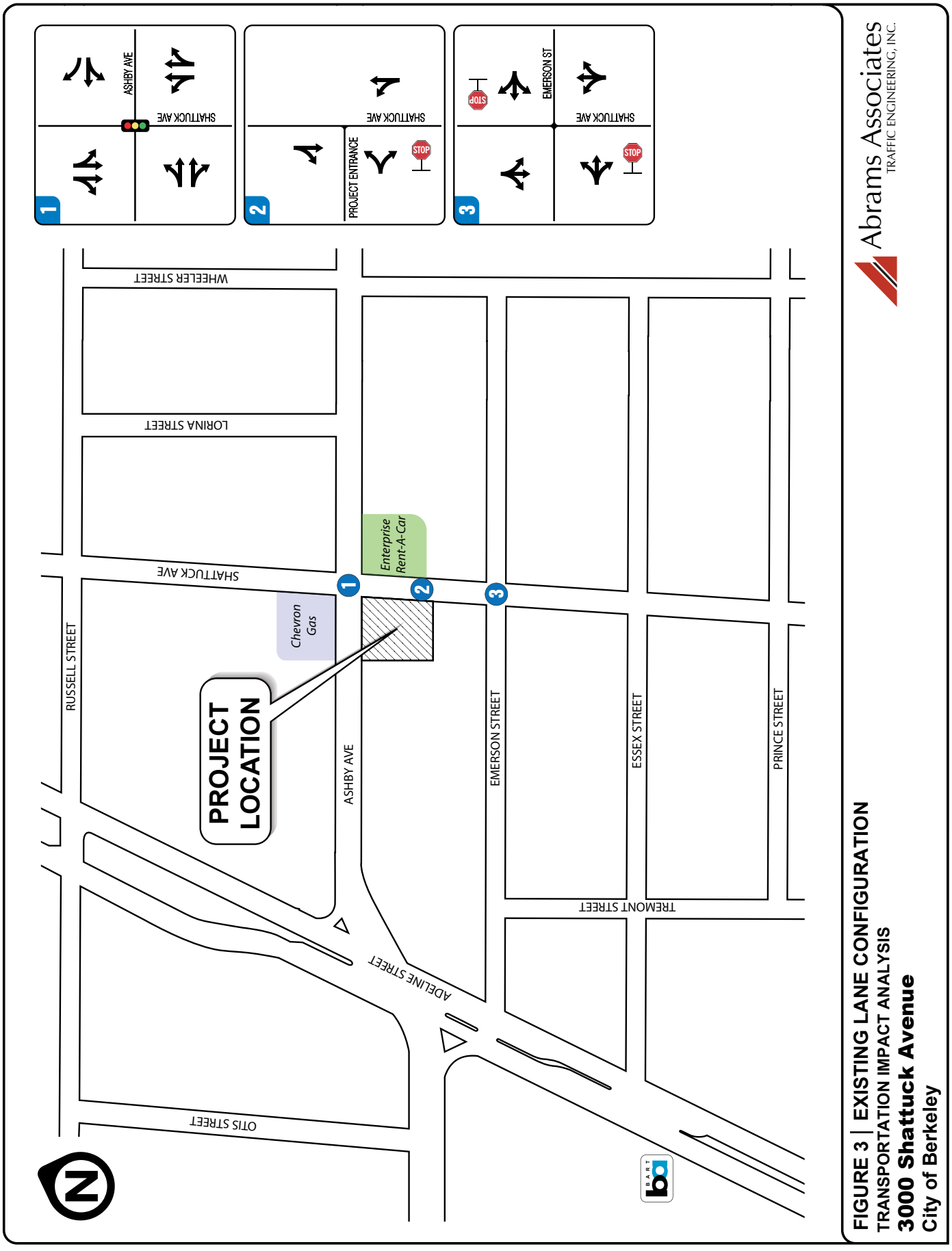
Class I – Provides a completely separated facility designed for the exclusive use of bicyclists and pedestrians with crossing points minimized.
Class II – Provides a restricted right-of-way designated lane for the exclusive or semi-exclusive use of bicycles with through travel by motor vehicles or pedestrians prohibited, but with vehicle parking and cross-flows by pedestrians and motorists permitted.
Class III – Provides a right-of-way designated by signs or permanent markings and shared with pedestrians and motorists.

There are existing bike lanes (Class II) on Adeline Street and one block to the north Russell Street is a Class III bike route and is designated as an official bicycle boulevard with signage and pavement markings encouraging motorists to share the road with bicyclists.

TABLE 3
EXISTING INTERSECTION LEVEL OF SERVICE CONDITIONS

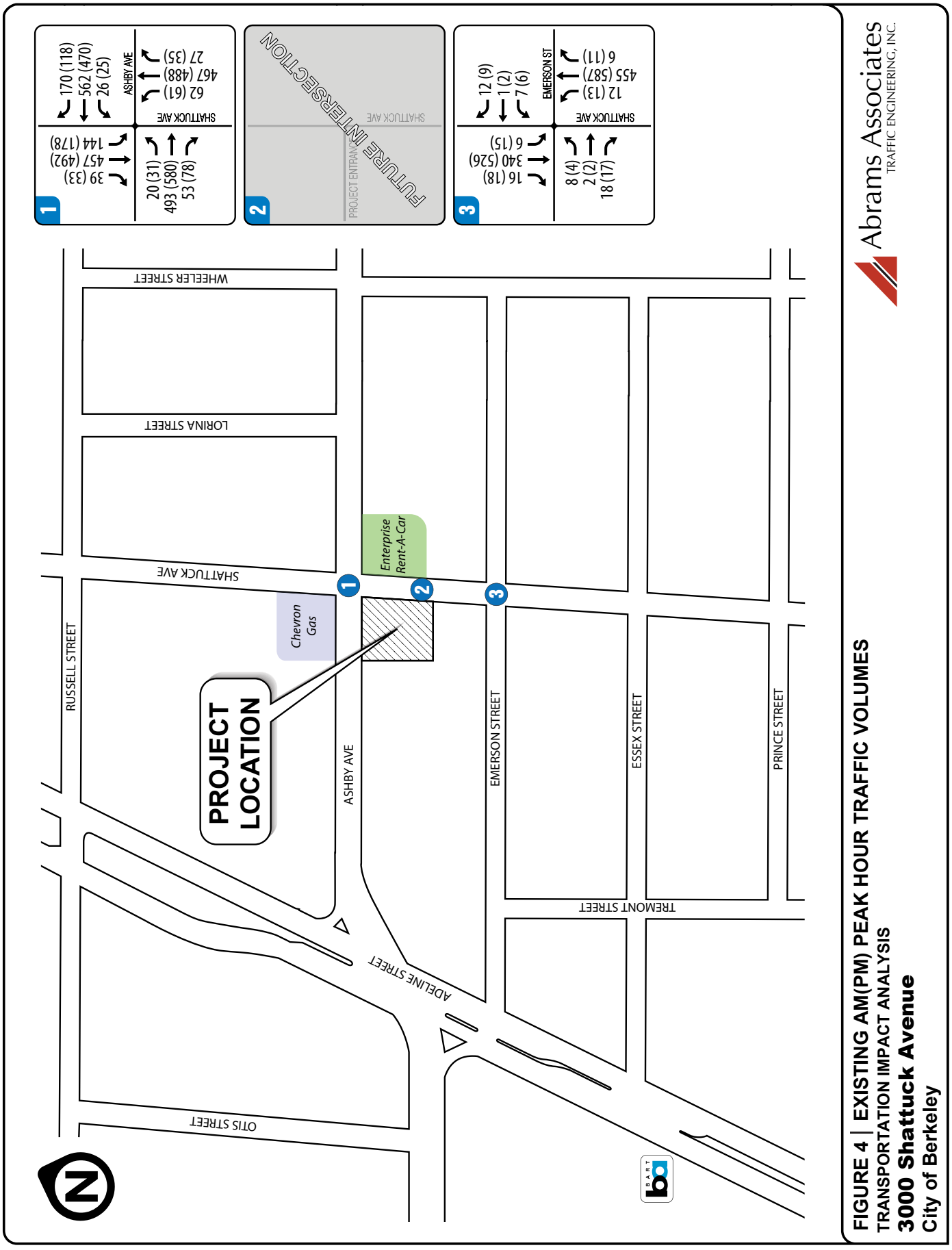
	INTERSECTION	CONTROL	PEAK HOUR	EXISTING	
				Delay	LOS
1	SHATTUCK AVENUE AT ASHBY AVENUE	Signalized	AM	13.3	B
			PM	13.8	B
2	SHATTUCK AVENUE AT THE PROJECT ENTRANCE	Side Street Stop	AM	N/A	N/A
			PM	N/A	N/A
3	SHATTUCK AVENUE AT EMERSON STREET	Side Street Stop	AM	15.4	B
			PM	23.3	C

SOURCE: Abrams Associates, 2015
NOTES: HCM LOS results are presented in terms of average intersection delay in seconds per vehicle.



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FIGURE 3 | EXISTING LANE CONFIGURATION
TRANSPORTATION IMPACT ANALYSIS
3000 Shattuck Avenue
City of Berkeley


1
170 (118)
562 (470)
26 (25)
ASHBY AVE
62 (61)
467 (488)
27 (35)
SHATTUCK AVE
144 (178)
457 (492)
39 (33)
20 (31)
493 (580)
53 (78)
2
FUTURE INTERSECTION
SHATTUCK AVE
PROJECT ENTRANCE
3
12 (9)
1 (2)
7 (6)
EMERSON ST
455 (587)
12 (13)
SHATTUCK AVE
16 (18)
340 (526)
6 (15)
8 (4)
2 (2)
18 (17)
WHEELER STREET
LORINA STREET
SHATTUCK AVE
Enterprise Rent-A-Car
Chevron Gas
PROJECT LOCATION
RUSSELL STREET
ASHBY AVE
EMERSON STREET
ESSEX STREET
PRINCE STREET
TREMONT STREET
ADELINE STREET
OTIS STREET
BART
N
Abrams Associates
TRAFFIC ENGINEERING, INC.
FIGURE 4 | EXISTING AM(PM) PEAK HOUR TRAFFIC VOLUMES
TRANSPORTATION IMPACT ANALYSIS
3000 Shattuck Avenue
City of Berkeley

3.7 Transit Service

The Ashby Avenue Berkeley BART station is located on Adeline Street at Ashby, which is just a little more than a block from the project site. This station is located on the Richmond-Fremont Line which connects to other destinations in the Bay Area, including San Francisco, at the MacArthur Station.

There is also extensive bus transit service provided by Alameda-Contra Costa County (AC) Transit at the BART Station. The following lines operate either adjacent to the site on Ashby Avenue or a block from the project on Adeline Street:

> **18:** Downtown Albany, Downtown Berkeley, Downtown Oakland, and Montclair via Shattuck Avenue, Martin Luther King Blvd, Broadway, and Park Boulevard.
> **49:** Downtown Berkeley BART to Rockridge BART via Dwight Way, Ashby Avenue, College Avenue. Returns via Claremont Avenue and Durant Avenue.
> **800:** (All Nighter) Richmond BART to Market St. and Van Ness Ave, S.F., via Macdonald Ave, San Pablo Ave, University Ave, Telegraph Ave and downtown Oakland. Returns via Market St. and West Oakland BART.
> **F:** (Transbay) UC Campus to Transbay Temporary Terminal, San Francisco via Shattuck Ave, Adeline St and 40th St.

Please note the nearest bus stops for Routes 18, 49, and 800 are directly adjacent to the site. Bus stops with access to the transbay F line are located two blocks away at Ashby Avenue and Adeline Street.

4) REGULATORY CONTEXT

Existing policies, laws and regulations that apply to the proposed project are summarized below.

4.1 State

The California Department of Transportation (Caltrans) has jurisdiction over State highways. Any improvements to these roadways would require Caltrans' approval. This project will not have any effect on State Highways.

4.2 Local

City of Berkeley General Plan **-** The Transportation and Circulation Element the City of Berkeley General Plan addresses the location and extent of existing and planned transportation routes, terminals, and other local public utilities and facilities. The General Plan identifies roadway and transit goals and policies that have been adopted to ensure that the transportation system of the City will have adequate capacity to serve planned growth. These goals and policies are intended to provide a plan and implementation measures for an integrated, multi-modal transportation system that will safely and efficiently meet the transportation needs of all economic and social segments of the City.

4.3 Significance Criteria

The City's level of service standard states that an impact is significant when the criteria are reduced from LOS A, B, C, or D to LOS E (with the addition of two (2) seconds of average delay) for signalized intersections. Intersections that exceed this service level threshold are considered to be impacted and should be considered for mitigation. Exceptions to the LOS D

standard arise when the project is not expected to add more than two seconds at an intersection going from LOS D to LOS E or more than three seconds of delay at an intersection that is already operating at LOS E. In addition, it would also be considered a significant impact if a project would increase the volume to capacity (V/C) ratio by more than 0.01 at an intersection that is already operating at LOS F.

For unsignalized intersections, additional considerations are involved, including the number of vehicles on the critical approach, vehicles contributed by the proposed project, and signal warrant analysis. At an unsignalized intersection, mitigation is required if a movement is LOS F, the peak hour signal warrant is met, and a minimum of 10 vehicles are added to the critical movement.

According to CEQA guidelines, a project would also have a significant impact if it would:

- Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including, but not limited to, intersections, streets, highways and freeways, pedestrian and bicycle paths and mass transit.
- Conflict with an applicable congestion management program, including, but not limited to, level-of-service standards, and travel demand measures, or other standards established by a county congestion management agency for designated roadways.
- Result in inadequate emergency vehicle access.
- Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.
- Result in an internal circulation system design that does not meet City standards.

5) IMPACTS AND MITIGATION MEASURES

5.1 Project Trip Generation

The vehicle trip generation for the project is shown in **Table 4**. The trip generation rates are based on the ITE rates for an office building (Land Use 710) taken from the 9th Edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual. The rates have been adjusted (as described below) to account for traffic conditions in this part of Downtown Berkeley.

Berkeley Residential Trip Generation **-** Since the project is located in an urban area with BART access and numerous bus connections the vehicle trip rate per unit is less than would be generated by a typical apartment building. Please note the project is less than four blocks from the Ashby BART station which is less than a 5 minute walk.

For this project, a trip reduction of 19% has been applied to the unfiltered trip generation rate to account for conditions in the vicinity of the Ashby BART Station. The ITE trip generation rates are based on surveys of primarily suburban locations and this reduction intended to account for walk, bicycle, and transit trips as well as shared trips with the residential component of the project. The 19% reduction was based on data from the Alameda County Transportation Commission's Travel Demand Model, trip generation surveys compiled by ITE and the San Diego Association of Governments (SANDAG), and census data on vehicle ownership and travel patterns in this part of the City of Berkeley.

TABLE 4
TRIP GENERATION CALCULATIONS

Land Use	ITE Code	Size	ADT	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
ITE Apartment Rates - Trips per Unit	220		6.65	0.10	0.41	0.51	0.40	0.22	0.62
Apartment Trip Generation		44 Units	256	3	16	19	15	8	23
Reduction for Non-Auto Trips (19%)			49	1	3	4	3	1	4
Subtotals for the Apartments			*207*	*3*	*13*	*16*	*12*	*7*	*19*
ITE Restaurant Rates - Trips per ksf	932		127.15	5.62	5.19	10.81	5.81	4.04	9.85
Restaurant Trip Generation		4,015 sq. ft.	511	22	21	43	23	16	39
Reduction for Pass-By/Non-Auto Trips (43%)			220	10	9	19	10	7	17
Subtotals for the Restaurant			*291*	*12*	*12*	*24*	*13*	*9*	*22*
Subtotals from the New Land Uses			**498**	**15**	**25**	**40**	**25**	**16**	**41**
Existing Service Station with Smog Inspection and Mini Mart		8 fueling stations	590	29	27	56	41	44	85
Net New Trip Generation for the Project			**-92**	**-14**	**-2**	**-16**	**-16**	**-28**	**-44**

SOURCE: Institute of Transportation Engineers Trip Generation Manual (9th Edition) and the Trip Generation Handbook (2nd Edition)

Based on the trip generation forecasts the project would actually result in a reduction in traffic on the surrounding street system. Traffic counts of the current gas station on the site indicate it generates more than twice the traffic that is forecast to be generated by the proposed project. The traffic associated with the new project is forecast to be about 40 vehicle trips during the AM peak hour and 41 trips during the PM peak hour. The trips generated by this proposed development are estimated for the peak commute hours which represent the peak of adjacent street traffic.

To be conservative no reductions were taken to account for the existing service station in the analysis of traffic operations. This was, in part, because the proposed project would focus its traffic at one driveway versus the existing service station which is served by four separate driveways/curb cuts. Again, once the removal of traffic from the existing service station is accounted for the implementation of the proposed project would result in a net reduction in traffic on the surrounding roadway system. This is estimated to be a reduction of about 16 peak hour trips during the AM peak hour and about 44 trips during the PM peak hour. In general, the traffic generated by the proposed project would be expected to be about half of what is currently generated by the service station it would replace.

5.2 Project Trip Distribution

The trip distribution assumptions have been based on the existing traffic count data including daily directional volume and peak-hour turning movements, the Alameda County travel demand model, and knowledge of the surrounding area such as commute patterns and the overall land use patterns in the area. **Figure 5** shows the project traffic that would be added at the project study intersections.

5.3 Existing Plus Project Intersection Capacity Conditions

This scenario evaluates the existing conditions with the addition of traffic from the proposed project. A comparison of the capacity calculations for the conditions with the addition of traffic from the project is shown in **Table 5**. The corresponding LOS analysis calculation sheets are presented in the Traffic Analysis Appendix. As shown in **Table 5**, all of the study intersections would continue to have acceptable conditions (LOS D or better) during the weekday AM and PM peak hours. Please note that the results of the detailed queuing calculations have been included in the technical appendix to verify there would be no queuing problems expected with addition of traffic from the proposed project.

TABLE 5
EXISTING PLUS PROJECT INTERSECTION LEVEL OF SERVICE CONDITIONS

	INTERSECTION	CONTROL	PEAK HOUR	EXISTING		EXISTING PLUS PROJECT	
				Delay	LOS	Delay	LOS
1	SHATTUCK AVENUE AT ASHBY AVENUE	Signalized	AM	13.3	B	13.8	B
			PM	13.8	B	14.0	B
2	SHATTUCK AVENUE AT THE PROJECT ENTRANCE	Side Street Stop	AM	N/A	N/A	16.6	C
			PM	N/A	N/A	17.8	C
3	SHATTUCK AVENUE AT EMERSON STREET	Side Street Stop	AM	15.4	B	15.6	C
			PM	23.3	C	23.3	C

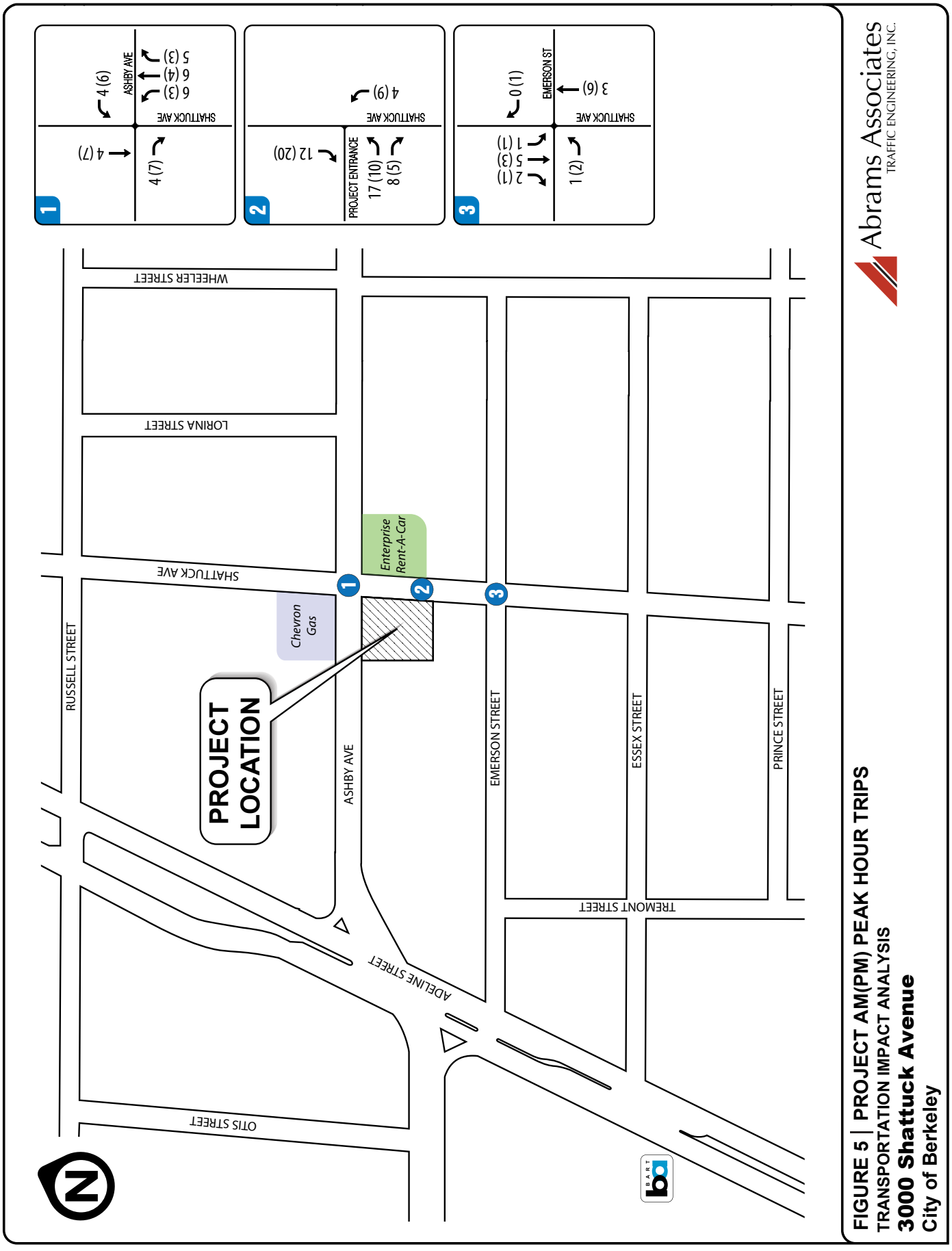
SOURCE: Abrams Associates, 2015

NOTES: HCM LOS results are presented in terms of average intersection delay in seconds per vehicle.

5.4 Baseline Intersection Capacity Conditions

Trip generation and trip assignment assumptions for the approved projects were based on the traffic study reports prepared for each project, where available. Approved projects include developments that are either under construction, built but not fully occupied, or not built but have final development approval from the City. Trips from approved developments that could significantly affect the volumes at the project study intersections were added to the existing intersection turning movement counts.

Approved projects in the area include the Parker Place project at Shattuck Avenue and Parker Street (which is planned to include 155 residential units and 22,905 square feet of ground-floor commercial space), 3132 Martin Luther King Jr. Way Mixed Use Project, 2489 Martin Luther King Jr. Way Mixed Use Project, 2201 Dwight Way Residential Project, 2024 Durant Street Student Housing Project, 2701 Shattuck Avenue Mixed Use Project, and the 2598/2600 Shattuck Avenue Mixed Use Project. The total background traffic growth to existing traffic was forecast to be 5% per year for two years based on the assumption that the project completion


1
SHATTUCK AVE
ASHBY AVE
4 (7)
4 (7)
6 (3)
6 (4)
5 (3)
4 (9)
2
SHATTUCK AVE
PROJECT ENTRANCE
12 (20)
17 (10)
8 (5)
4 (9)
3
SHATTUCK AVE
EMERSON ST
2 (1)
5 (3)
1 (1)
0 (1)
1 (2)
3 (6)
WHEELER STREET
LORINA STREET
SHATTUCK AVE
Enterprise Rent-A-Car
Chevron Gas
PROJECT LOCATION
RUSSELL STREET
ASHBY AVE
EMERSON STREET
ESSEX STREET
PRINCE STREET
TREMONT STREET
ADELINE STREET
OTIS STREET
N
BART
Abrams Associates
TRAFFIC ENGINEERING, INC.
FIGURE 5 | PROJECT AM(PM) PEAK HOUR TRIPS
TRANSPORTATION IMPACT ANALYSIS
3000 Shattuck Avenue
City of Berkeley

date would be 2017. **Figure 6** presents the resulting baseline volumes at each of the project study intersections **Table 5** summarizes the associated LOS computation results for the Baseline and Baseline Plus Project weekday AM and PM peak hour conditions. The corresponding LOS analysis calculation sheets are presented in the *Traffic Analysis Appendix*. As shown in **Table 5**, with the addition of traffic from the proposed project the project study intersection would continue to have acceptable conditions (LOS D or better).

5.5 Baseline *Plus Project* Intersection Capacity Conditions

The Baseline plus proposed project traffic forecasts were developed by adding project-related traffic to the baseline traffic volumes. **Table 6** summarizes the LOS results for the Baseline Plus Project weekday AM and PM peak hour conditions (i.e. the existing roadway network). **Figure 7** presents the resulting baseline plus project volumes at each of the project study intersections. Please note that the corresponding LOS analysis calculation sheets are presented in the appendix. As shown in **Table 6**, all of the study intersections would continue to have acceptable conditions (LOS D or better) during the weekday AM and PM peak. Again, please note that the results of the detailed queuing calculations have been included in the technical appendix to verify there would be no queuing problems with the addition of project traffic.

TABLE 6
BASELINE PLUS PROJECT INTERSECTION LEVEL OF SERVICE CONDITIONS

	INTERSECTION	CONTROL	PEAK HOUR	BASELINE		BASELINE PLUS PROJECT	
				Delay	LOS	Delay	LOS
1	SHATTUCK AVENUE AT ASHBY AVENUE	Signalized	AM	15.6	B	16.2	B
			PM	16.3	B	16.9	B
2	SHATTUCK AVENUE AT THE PROJECT ENTRANCE	Side Street Stop	AM	N/A	N/A	18.2	C
			PM	N/A	N/A	19.8	C
3	SHATTUCK AVENUE AT EMERSON STREET	Side Street Stop	AM	17.1	C	17.3	C
			PM	28.2	D	28.2	D

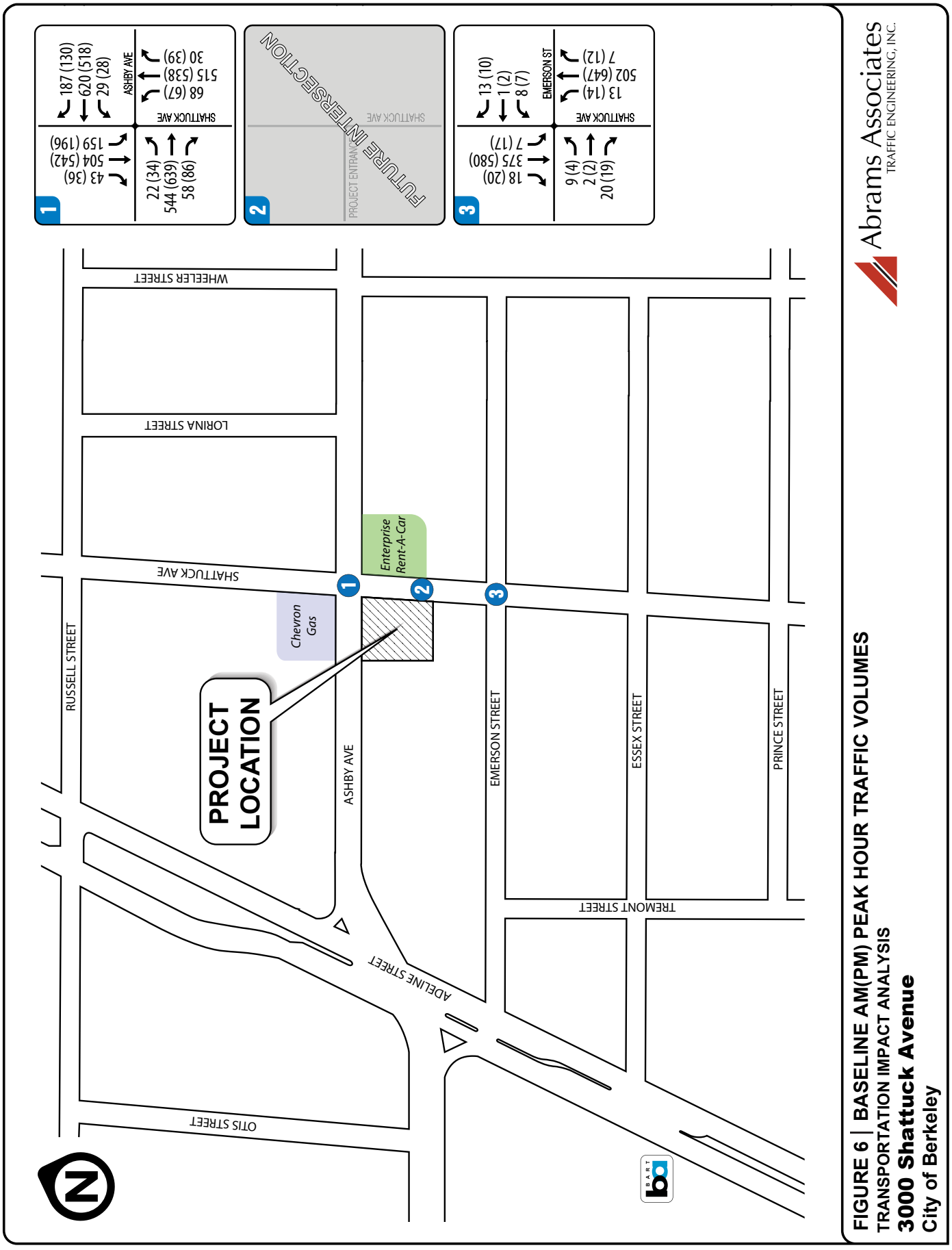
SOURCE: Abrams Associates, 2015
NOTES: HCM LOS results are presented in terms of seconds per vehicle.

5.6 Internal Circulation and Access

No site circulation or access issues have been identified that would cause any traffic safety issues or any unusual traffic congestion or delay. It should be noted that during peak periods there would be occasions where the northbound traffic queue from the Ashby Avenue traffic signal could extend back beyond the proposed driveway entrance. However, based on the LOS analysis the potential for queues near the project driveway is not expected to prevent safe access to the site. Please note that bicycle racks cannot be located at tree wells. Parking stalls will be a minimum of 8' wide and 8.5' wide at the end stalls, as per City requirements. It should also be noted that a clear 5' by 5' sight distance triangle must be provided at the garage exit point.

5.7 Parking

This section discusses the City of Berkeley's zoning and estimated parking demand for the project. As per the City's Municipal Code, the minimum off-street parking requirement for restaurants in this area equates to 1.0 spaces per every 300 square feet of gross floor area and for residential space it requires 1.0 spaces per every 1,000 square feet of gross floor area. For this project this equates to a requirement of 43 spaces.



Abrams Associates
TRAFFIC ENGINEERING, INC.

FIGURE 6 | BASELINE AM(PM) PEAK HOUR TRAFFIC VOLUMES
TRANSPORTATION IMPACT ANALYSIS
3000 Shattuck Avenue
City of Berkeley

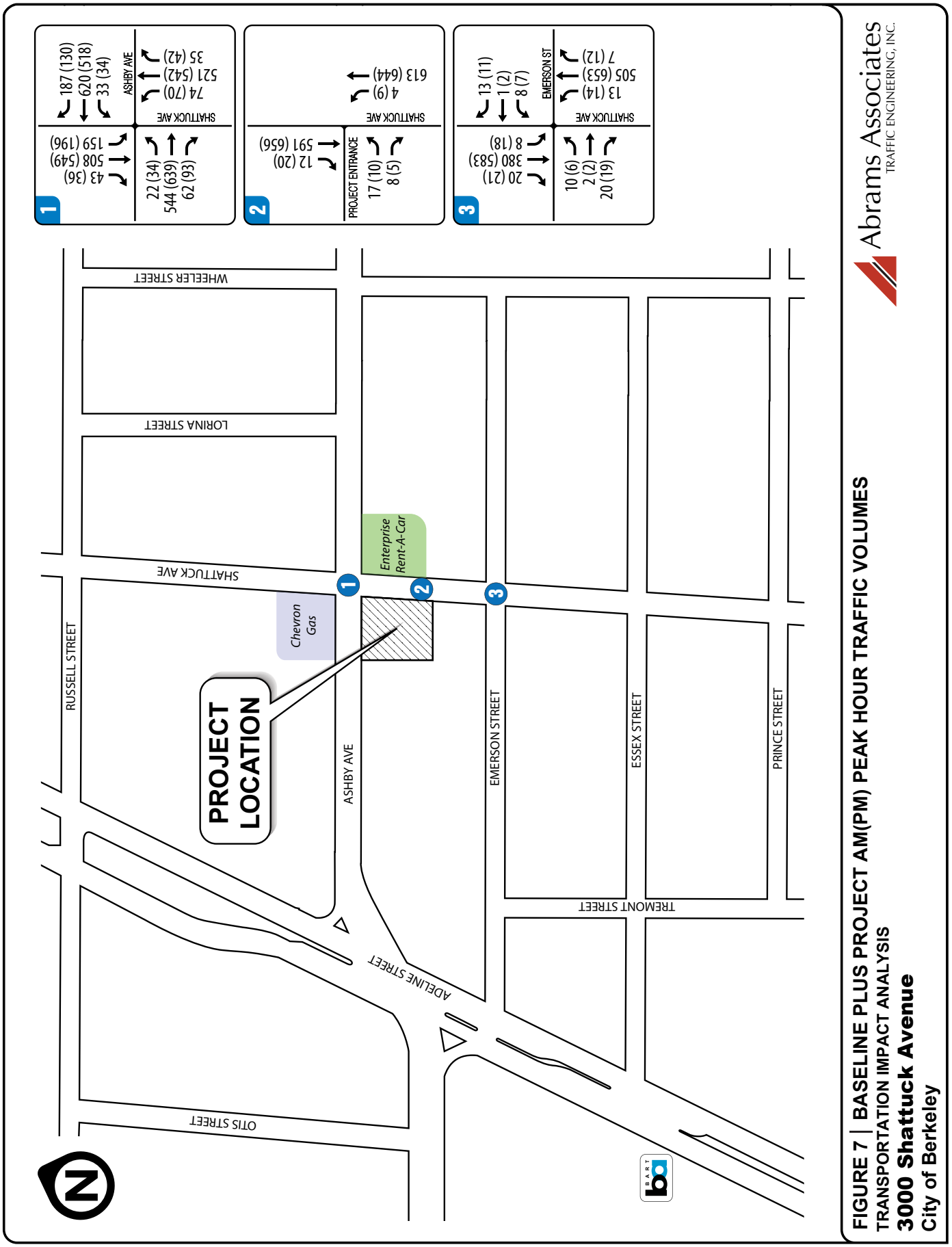


FIGURE 7 | BASELINE PLUS PROJECT AM(PM) PEAK HOUR TRAFFIC VOLUMES
TRANSPORTATION IMPACT ANALYSIS
3000 Shattuck Avenue
City of Berkeley

Abrams Associates
TRAFFIC ENGINEERING, INC.

Parking Demand in Berkeley - For this location near shopping and with excellent transit access (and located within a mile of a major university) the parking demand is less than the typical ITE rate in the Parking Generation Manual. This is based on many of the same characteristics that are discussed in the trip generation section. The availability of transit, the use of bicycles, and the attractiveness of walking in a mixed-use environment clearly results in reduced vehicle trip generation and an associated reduction in the need for parking.

Since Berkeley has numerous opportunities for public transportation and the apartment residents are not all expected to have personal vehicles, it is anticipated that a substantial portion of all travel will occur by walking, bicycling, and through the use of public transit. Please note the project is less than four blocks from the Ashby BART station which is less than a 5 minute walk. There are also bus stops two blocks from the site providing access to an all-nighter (Route 800).

Parking Demand Based on ITE Parking Generation Rates - To provide additional justification for the parking demand analysis, **Table 8** provides a summary of the parking demand results using the average ITE peak parking demand rates for apartments and a high turnover, sit down restaurant from the 4th Edition of the *ITE Parking Generation Manual*. As shown in **Table 8**, the parking demand generated by the project would be forecast to be approximately 75 parking spaces based on the ITE data. However, please note this estimate does not account for the project's location in a walkable area with excellent transit access located less than four blocks from a BART station.

Table 8
Residential Off-Street Parking Calculations Using Parking Data from the Institute of Transportation Engineers

Land Use	Size		Parking Ratio	Required Spaces
Restaurant	4,015	sq. ft.	5.5	22
Apartments	44	units	1.2	53
Total Unadjusted Peak Parking Demand				*75*

Residential Parking Demand Based on U.S. Census Data - To provide additional information on the potential parking demand in the project area U.S. census data was also utilized based on Census Transportation Planning Products summary of data from the American Community Survey (2010). The U.S. census data indicated the parking demand for the census tract where the project was located averaged 0.85 automobiles per dwelling unit. Please note this was calculated for the category of residential properties with greater than five dwelling units. Based on the U.S. census data the residents of the proposed 44-unit apartment building would be forecast to generate a parking demand of approximately 37 vehicles.

Public Parking Surveys - In order to evaluate the local parking situation on-street parking occupancy surveys were conducted based on the standard traffic engineering guidelines for a study area specified by the City of Berkeley. This survey included a detailed inventory of all on-street and public off-street parking within two blocks of the project site. Please note all streets in the project study area are part of the residential parking permit program where all vehicles without permits are restricted to 2 hours between 8:00 AM and 7:00 PM. The study involved a block-by-block survey of the number and types of spaces, and the parking occupancy on a weekday afternoon and also a weekday evening. These surveys were taken for both metered and non-metered spaces. The occupancy of any potentially available public off-street parking in

the area were also inventoried. The results of the study are presented in **Figure 8** which shows the study area and the particular streets in the area that have been studied. **Figure 8** also shows the number of parking spaces on each block-face. There are currently about 695 on-street parking spaces located within about two blocks of the project site. The studies found that during the afternoon, there are about 582 spaces (84%) that are occupied, and about 113 spaces available. During the evening, there are about 474 occupied spaces, which is an occupancy rate of 68%, and about 221 available on-street spaces. The detailed results of the parking occupancy surveys are attached to this report.

Summary of Findings on Parking - Based on these studies, the residential parking provided could be up to 20 spaces short of the estimated demand using U.S. Census data. The project is proposing to provide 11 spaces for residents and 6 spaces for the restaurant. Based on the Berkeley Municipal Code the residential portion would require 30 spaces and the restaurant would require 13 spaces for a total of 43 spaces. Therefore, the overall parking shortfall would be 26 parking spaces. However, the City could still consider making the findings that the proposed 17 space parking garage is reasonable and appropriate for the proposed 44 residential units and 4,015 of restaurant space. The justification would be as follows:

1) The project is proposing to exceed the requirements for bicycle parking by providing 48 bicycle parking spaces including secure parking for 36 bicycles for residents and parking for an additional 12 bicycles for the commercial space.

2) There are numerous shopping, employment, and education centers in the area.

3) There are numerous existing car sharing locations in the area. Please note that within 1/2 mile of the project site there are 6 City Carshare locations and 4 Zipcar locations.

4) There is extensive public transportation available in the project area including a BART station four blocks away which is about a 5 minute walk. There are also bus stops adjacent to the site with access to two intercity routes (Routes 18 and 49) and an all-nighter (Route 800). In addition there are stops less than two blocks from the site that provide access to a transbay route (Route F).

5.8 Pedestrian and Bicycle Conditions

The proposed project would not generate a significant increase in pedestrian traffic in the area (in comparison to the existing volumes) given the size of the proposed project. In addition, the proposed project would not significantly impact or change the design of any existing pedestrian facilities and should not create any new safety problems in the area. The proposed project would also not significantly impact any existing bicycle facilities, including the nearby bicycle boulevard on Russell Street. The project will add some pedestrians and bicyclists who will utilize sidewalks and bicycle facilities in the area. In relation to the existing conditions, the proposed project would not cause substantial changes to the pedestrian or bicycle traffic in the area and would not significantly impact or require changes to the design of any existing bicycle or pedestrian facilities. It should be noted that bicycle racks cannot be located at tree wells.

5.9 Transit

The proposed project would not interfere with any existing bus routes and would not remove or relocate any existing bus stops. The proposed Project also would not conflict with any transit plans or goals of the City of Berkeley. Based on the size of the project, it is not forecast to cause a degradation of the level of service (or a significant increase in delay) on any roadway segments currently being utilized by bus transit in the area and, as such, no significant impacts to transit are expected.

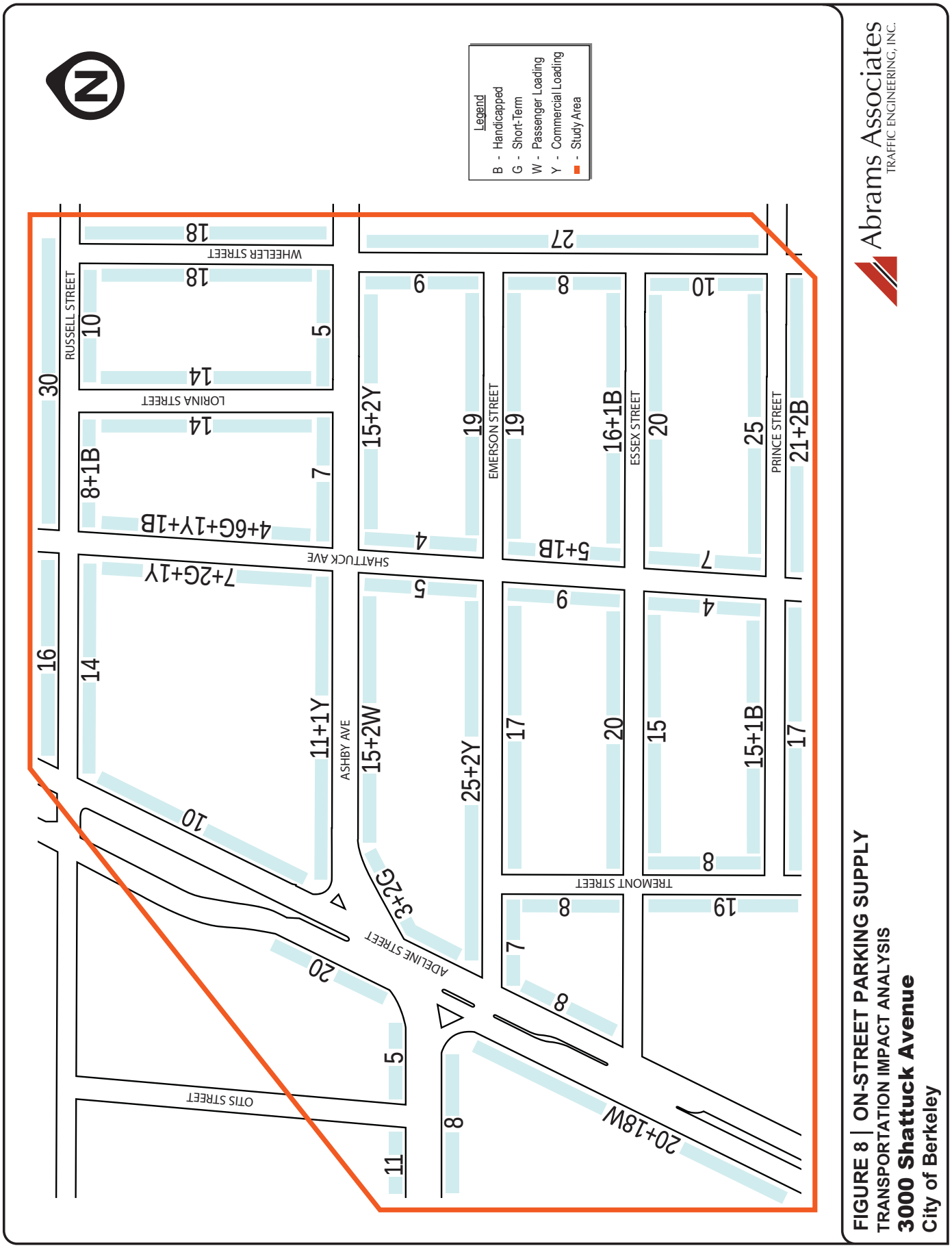


FIGURE 8 | ON-STREET PARKING SUPPLY
TRANSPORTATION IMPACT ANALYSIS
3000 Shattuck Avenue
City of Berkeley

5.10 Summary of Transportation Issues and Potential Improvement Measures

TR-1 Demolition and construction activities associated with the proposed project would result in an increase in traffic to and from the site and would require an appropriate construction management plan developed and approved by the City of Berkeley.

The increase in traffic as a result of demolition and construction activities associated with the proposed project has been quantified assuming single phase construction period of 20 months.

Heavy Equipment

Heavy equipment transport to and from the site could cause traffic impacts in the vicinity of the project site during construction. However, each overweight/oversized load would be required to obtain all necessary permits, which would include conditions. Prior to issuance of grading and building permits, the project applicant would be required to submit a Traffic Control Plan.

The requirements within the Traffic Control Plan include, but are not limited to, the following: truck drivers would be notified of and required to use the most direct route between the site and I-80, as determined by the City Traffic Engineering Department; all site ingress and egress would occur only at the main driveway to the project site and construction activities may require temporary traffic controls as determined by the City Engineer. Please note construction traffic will be directed to use Shattuck Avenue as the City has a goal of minimizing construction traffic on local streets. Specifically designated travel routes for large vehicles would be monitored and controlled by flaggers for large construction vehicle ingress and egress. Any debris and mud caused by trucks would be monitored daily and may require instituting a street cleaning program. In addition, several loads of heavy equipment being hauled to and from the site each month would be short-term and temporary.

Employees

The weekday work is expected to begin around 7:00 AM and end around 4:00 PM. The construction worker arrival peak would occur between 6:30 AM and 7:30 AM, and the departure peak would occur between 4:00 PM and 5:00 PM. These peak hours are slightly before the citywide commute peaks. It should be noted that the number of trips generated during construction would not only be temporary, but would also be substantially less than the proposed project at buildout.

Based on past construction of similar projects, construction workers could require parking for up to 20 vehicles during the peak construction period. Additionally, deliveries, visits, and other activities may generate peak non-worker parking demand of 5 to 10 trucks and automobiles per day. Therefore, up to 30 vehicle parking spaces may be required during the peak construction period for the construction employees. Furthermore the Traffic Control Plan requires construction employee parking be provided on the project site or other provisions will need to be made for off-site parking, subject to approval of the City Traffic Engineering Department.

Construction Material Import

The project would also require the importation of construction material, including raw materials for the building pads, the buildings, the parking area, and landscaping. Based on past construction of similar projects, importing this material is estimated to require substantial amounts of truck traffic. Under the provisions of the Traffic Control Plan, if importation and exportation of material becomes a traffic nuisance, then the City Engineer may limit the hours the activities can take place.

Impacts of Construction on Pedestrians and Bicyclists

The project would most likely require temporary closures of sidewalks adjacent to the site for safety. This would require a detailed plan for detouring pedestrian traffic. This plan will need to be reviewed and approved by the City Engineer. Construction traffic would not be expected to cause significant impacts to bicyclists in the area. The project is not proposing to change the configuration of the existing access driveway during construction or for the proposed project.

The analysis of traffic operations at the driveway indicates there would be no significant changes to the traffic volumes, delay, or safety on Shattuck Avenue with the addition of traffic from the proposed project. It was also verified that during construction the traffic accessing the site would not be expected to exceed the volumes generated by the proposed project. In general, the pedestrian and bicycle operations in the area would not be expected to change significantly during construction beyond the addition of some truck traffic to the area.

Traffic Control Plan

The Traffic Control Plan would indicate how parking for construction workers would be provided during construction and ensure a safe flow of traffic in the project area during construction. This analysis assumed construction of the entire project in one phase to identify the potential worst-case traffic effects.

Each phase will be subject to a Traffic Control Plan and oversight by the City Engineer and construction traffic is not forecast to exceed the post construction traffic conditions created by the proposed project. As a result the potential construction traffic impacts have been adequately addressed through the project impact analysis. Therefore, the demolition and construction activities associated with the proposed project or its individual phases would not be expected to lead to noticeable congestion in the vicinity of the site or the perception of decreased traffic safety resulting in a ***less-than-significant*** impact.

Mitigation Measure(s)
None required.

TR-2 Impacts related to site access and circulation.

Based on a review of the proposed site plan it was determined that the internal garage circulation should function well and should not cause any safety or operational problems. The project site design has been required to conform to City design standards and is not expected to create any significant impacts to pedestrians, bicyclists or traffic operations.

Therefore, impacts related to site access and circulation to the proposed project would be ***less-than-significant***.

Mitigation Measure(s)
None required.

TR-3 Impacts regarding emergency vehicle access on and surrounding the proposed project site.

Sufficient emergency access is determined by factors such as number of access points, roadway width, and proximity to fire stations. The land use plan for the proposed project would be subject to approval of the fire department.

All lane widths adjacent to the project would meet the minimum width that can accommodate an emergency vehicle; therefore, the width of the roadways would be adequate. Therefore, the development of the proposed project is expected to have ***less-than-significant*** impacts regarding emergency vehicle access.

Mitigation Measure(s)
None required.

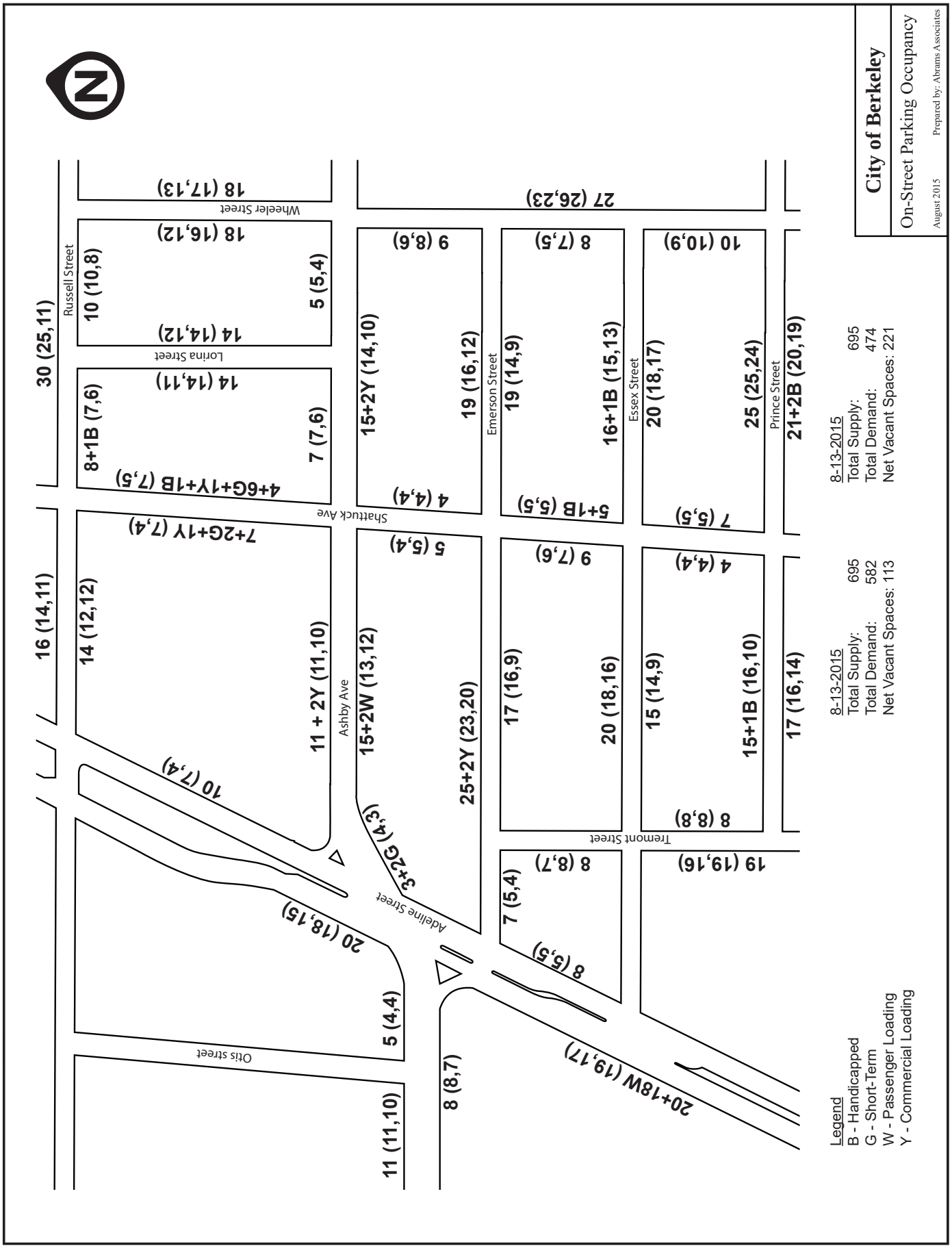
TR-4 Impacts relating to the presence and availability of adequate parking.

The proposed project is expected to provide a sufficient amount of parking to accommodate employees and residents and to ensure consistency with the City requirements. Therefore, the proposed project is not expected to create parking impacts on the surrounding areas, and impacts related to adequate parking would be ***less-than-significant***.

Mitigation Measure(s)
None required.

5.13 Mitigations and Improvement Measures

Based on this analysis there would be no significant transportation impacts according to established standards and no off-site traffic or transportation mitigations would be required.


City of Berkeley
On-Street Parking Occupancy
August 2015
Prepared by: Abrams Associates
Russell Street
Lorina Street
Wheeler Street
Shattuck Ave
Ashby Ave
Otis street
Adeline Street
Emerson Street
Essex Street
Prince Street
Tremont Street
30 (25,11)
16 (14,11)
10 (18,16)
11 (11,10)
8 (8,7)
20+18W (19,17)
19 (19,16)
8 (8,7)
8 (5,5)
7 (5,4)
17 (16,14)
8 (8,8)
15+1B (16,10)
15 (14,9)
4 (4,4)
17 (16,9)
20 (18,16)
9 (7,6)
5+1B (5,5)
7 (5,5)
25+2Y (23,20)
5 (5,4)
3+2G (4,3)
15+2W (13,12)
11 + 2Y (11,10)
10 (7,4)
14 (12,12)
7+2G+1Y (7,4)
4 (4,4)
15+2Y (14,10)
19 (16,12)
9 (8,6)
16+1B (15,13)
19 (14,9)
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10 (10,9)
21+2B (20,19)
27 (26,23)
4+6G+1Y+1B (7,5)
8+1B (7,6)
14 (14,11)
7 (7,6)
14 (14,12)
10 (10,8)
18 (16,12)
5 (5,4)
18 (17,13)
8-13-2015
Total Supply: 695
Total Demand: 582
Net Vacant Spaces: 113
8-13-2015
Total Supply: 695
Total Demand: 474
Net Vacant Spaces: 221
Legend
B - Handicapped
G - Short-Term
W - Passenger Loading
Y - Commercial Loading

Planning and Development Department
Land Use Planning Division

MEMORANDUM

DATE: May 19, 2017

TO: File

FROM: Shannon Allen, Principal Planner

SUBJECT: AB 25 Consultation – Phone Conversation with Andrew Galvan

This morning I spoke with Andrew Galvan, The Ohlone Tribe Inc., regarding the projects list emailed to him by Planning Technician Niloufar Karimzadegan on May 3, 2017, as well as my follow-up email on May 9, 2017. He let me know that he is not interested in consultation under AB52 on any of the projects listed, except 600 Addison.

2120 Milvia Street, Berkeley, CA 94704 Tel: 510.981.7410 TDD: 510.981.7474 Fax: 510.981.7420
E-mail: planning@ci.berkeley.ca.us

From: Allen, Shannon
To: "chochenyo@aol.com"
Cc: Karimzadegan, Niloufar
Subject: RE: AB52 Project List 04-01-17 to 04-15-17 and 2016 catch up list
Date: Tuesday, May 09, 2017 10:34:02 AM
Importance: High

Andy –

Three things:

1) Please recall that you are going to review the project lists sent by the City, mark on the far right of the list if you would like consultation or not, then sign and send back, so that we all have a record of the communication AND can initiate consultation when requested.

2) The City has several Initial Studies that we anticipate publishing soon for the following projects:
   - 1740 San Pablo (4 story mixed-use)
   - 192-28 San Pablo (4 story mixed-use)
   - 2100 San Pablo (5 story mixed-use)
   - 2720 San Pablo (5 story mixed-use)
   - 1050 Parker/2621 Tenth (at San Pablo) (60,000 med office/R&D)
   - 1110 University (5 story mixed-use)
   - 1498 University (5 story mixed-use)
   - 1717 University (4 story mixed-use)
   - 2556 Telegraph (7 story mixed-use)
   - 3000 Shattuck (5 story mixed-use)

   Please let us know ASAP if you would like consultation on any of these. Some of these are on the recent AB52 lists sent to you, but I believe a few of the applications were submitted and/or deem complete prior to Mach 2016.

3) If Fatema Crane and/or LSA have not reached out to you yet regarding 600 Addison (Master Use Permit for approximately 475,000 sq ft R&D) they will be soon. Project information can be found here: http://www.ci.berkeley.ca.us/Planning_and_Development/Zoning_Adjustment_Board/600_Addison.aspx I think they anticipate holding a Scoping Meeting(s) in late summer or early fall.

Hope this note finds you well.

Thank you,
Shannon

Shannon Allen, AICP
Principal Planner, Land Use Planning Division
Planning and Development Department
City of Berkeley
1947 Center Street, Second Floor
Berkeley, CA 94704
(510) 981-7430

As a cost saving measure the City of Berkeley is closed the 2nd Friday of every month. Additional closures may occur. For the latest City Closures and Holidays please check the City of Berkeley Homepage at www.ci.berkeley.ca.us

From: Karimzadegan, Niloufar
Sent: Wednesday, May 03, 2017 5:38 PM
To: 'chochenyo@aol.com' <chochenyo@aol.com>
Cc: Allen, Shannon <ShAllen@cityofberkeley.info>
Subject: AB52 Project List 04-01-17 to 04-15-17 and 2016 catch up list

Dear Mr. Galvin,

Attached you can find two different project lists. The first one is the bi-monthly list for covering the period between 04/01/2017 to 04/15/2017. The second list serves as a catch up list dating back to March 2016 when you requested AB52 consultation from Shannon Allen. Please let me know if you have any questions.

Best Regards,

Nilu Karimzadegan | Land Use Planning
City of Berkeley | Planning and Development
1947 Center Street, 2nd Floor, Berkeley, Ca 94704
Direct: 510.981.7419
NKarimzadegan@cityofberkeley.info



This attachment is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley's Website
http://www.berkeleyca.gov

ATTACHMENT 10

NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL

ZAB APPEAL: 3000 SHATTUCK AVENUE, USE PERMIT #ZP2022-0046

The public may participate in this hearing by remote video or in-person.

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, MARCH 25, 2025** at **6:00 P.M.** a public hearing will be conducted to consider appeals of a decision by the Zoning Adjustments Board to APPROVE **Zoning Permit #ZP2022-0046 to demolish a gas station, and construct a 10-story (114 feet) mixed-use building utilizing a State Density Bonus request, with 166 dwellings, including 17 Very Low-Income units, and 1,000 square-feet of commercial space.**

The hearing will be held on March 25, 2025 at 6:00 p.m. in the School District Board Room, located at 1231 Addison Street, Berkeley CA 94702.

For further information, please contact Allison Riemer, Project Planner at (510) 981-7433 or email ariemer@berkeleyca.gov

A copy of the agenda material for this hearing will be available on the City's website at https://berkeleyca.gov/ as of March 13, 2025. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@berkeleyca.gov in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at (510) 981-6900 or clerk@berkeleyca.gov for further information.

_____

Mark Numainville, City Clerk

Mailed by: March 11, 2025
Noticed Pursuant to: Berkeley Municipal Code Section 23.404.040(B), Public Hearing Notice

NOTICE CONCERNING YOUR LEGAL RIGHTS*: If you object to a decision by the City Council to approve or deny(Code Civ. Proc. 1094.6(b)) or approve (Gov. Code 65009(c)(5) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6,*

ATTACHMENT 10

no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.

10a

Sugar-Sweetened Beverage
Product Panel of Experts Commission

ACTION CALENDAR
March 25, 2025

To: Honorable Mayor and Members of the City Council

From: Sugar-Sweetened Beverage Product Panel of Experts Commission

Submitted by: Kenneth Hecht, Chairperson, SSBPPE Commission

Subject: Allocation of $2,294,774 Million Over 2 Years, FY 2026 and FY 2027, to Reduce Consumption and Health Impacts of Sugar-Sweetened Beverages (SSBs).

RECOMMENDATION

Adopt a Resolution allocating $2,294,774 from the General Fund in Fiscal Year 2026 (July 1, 2025 through June 30, 2026) and Fiscal Year 2027 (July 1, 2026 through June 30, 2027) that shall be invested in a grant program administered and coordinated by the Department of Health, Housing, and Community Services' (HHCS) Public Health Division (HHCS/PHD) consistent with the Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE) Commission's goals to reduce the consumption of sugar sweetened beverages (SSB) in Berkeley and to address the health effects of SSB consumption. The total of $2,294,774 million will be distributed in two installments of $1,147,387 for FY2026 and $1,147,387 for FY2027. In each of these years, the funds will be distributed as follows:

a. Direct the City Manager to award up to 42.5% of the allocated funds to Berkeley Unified School District (BUSD) through a grant to implement and enhance the BUSD cooking and gardening programs which aid in reducing the consumption of sugar-sweetened beverages (SSBs) amongst students. The BUSD funding process is separate from the RFP process for community-based organizations and shall be guided by the SSBPPE Commission's Criteria for the BUSD Funding Proposal (Attachment 2).
b. Direct the City Manager to award at least 42.5% of the allocated funds through an RFP process managed by HHCS/PHD for grants to community- based organizations consistent with the SSBPPE Commission's goals to reduce the consumption of SSBs and to address the effects of SSB consumption. The RFP process for community-based organizations is separate from the BUSD funding process and shall be guided by the SSBPPE Commission's Selection Criteria for Community Agency Grants (Attachment 3).
c. Direct the City Manager to utilize up to 15% of the allocated funds to support HHCS/PHD to coordinate and monitor the grant process, coordinate the

overall program evaluation, and produce an annual report that disseminates process and outcome data from the epidemiologist resulting from the SSBPPE Commission funding program as well as pay certain City of Berkeley Finance Department costs related to the sugary drink tax.

SUMMARY

In November 2014, Berkeley voters passed a measure to require the collection of a 1 cent per ounce tax on the distribution of sugary drinks in the City of Berkeley AND the convening of a Panel of Experts (the Sugar Sweetened Beverage Products Panel of Experts--SSBPPE) to recommend investments to reduce the consumption and health consequences of sugary drinks. Voters renewed this measure in November 2024.

The SSBPPE recommends that Berkeley City Council adopt a resolution allocating a total of $2,294,774 million from the General Fund ($1,147,387 for FY2026 and $1,147,387 for FY2027), to invest in grant programs that serve Berkeley residents most impacted by sugary drink consequences. The resolution should direct the City Manager to:

1. Award up to 42.5% of the allocated funds to BUSD through a grant proposal
2. Award at least 42.5% of the allocated funds through an RFP process managed by the HHCS/PHD for grants to community-based organizations
3. Utilize up to 15% of the allocated funds to support HHCS/PHD.

These two-year grants support comprehensive strategies to: a) reduce access to SSBs, b) improve access to water, c) limit marketing of SSBs to children, and d) implement education and awareness campaigns> These grant awards indicate the City of Berkeley's commitment to reducing the consumption of SSBs and improving the health of Berkeley residents, particularly those most impacted by obesity, diabetes, tooth decay, and heart disease.

FISCAL IMPACTS OF RECOMMENDATION

Measure D, passed in November of 2014, and renewed through the passage of Measure Z in November of 2024, created two provisions, namely: a) a 1 cent per ounce tax on sugary drinks distributed in Berkeley and b) creation of a Panel of Experts Commission. The collection of this tax commenced in May of 2015 and is being deposited into the City's General Fund. The SSBPPE Commission's recommendation to Council for allocation of $2.3 million for FY2026 and FY2027 is independent of the amount of tax collected from the distribution of SSB in Berkeley. his request will create a liability of $2.3 million for the City's General Fund in FY2026 and FY2027.

CURRENT SITUATION AND ITS EFFECTS

On November 21, 2024, the SSBPPE Commission approved the recommendation to the Berkeley City Council for allocation of $2,294,774 million for the period FY2026

and FY2027, to be made available to invest in grants programs to reduce the consumption of sugary drinks and address the health consequences of the consumption of sugary drinks and moved to adopt their recommendation to Council as follows:

Key elements of the resolution include:

1) Direct the City Manager to award up to 42.5% of the allocated funds to BUSD through a grant proposal to reduce the consumption of SSBs.
2) Direct the City Manager to award at least 42.5% of the allocated funds through an RFP process managed by the HHCS/PHD for grants to community-based organizations consistent with the SSBPPE Commission's goals.
3) Direct the City Manager to utilize up to 15% of the allocated funds to support HHCS/PHD to:
    a. Coordinate and monitor the grant process,
    b. coordinate the overall program evaluation, and
    c. produce an annual report that disseminates process and outcome data from the epidemiologist resulting from the SSBPPE Commission funding program as well as,
    d. pay certain City of Berkeley Finance Department costs related to the sugary drink tax.

Action: M/S/C (Morales/ Mashama) to update the SSBPPE Commission City Council recommendation from October 20th, 2022: 1) dates, 2) background as needed, 3) recommendations, and 4) recommending the City Manager utilize up to 15% of the allocated funds to support the COB Public Health Division and Finance Department fees related to the Sugar- Sweetened Beverage Soda Tax.

Votes: Ayes – Morales, Rodriguez, Mashama, Lopez, Crawford, Esonwune, Hecht; Noes – None; Abstain – None; Absent – Kao, Chan.

BACKGROUND

In November of 2014, the Berkeley voters passed Measure D, which requires both the collection of a 1 cent per ounce tax on the distribution of sugary drinks in the City of Berkeley AND the convening of a Panel of Experts (the Sugar Sweetened Beverage Products Panel of Experts--SSBPPE) to recommend investments to both reduce the consumption of sugary drinks as well as to address the health consequences of the consumption of sugary drinks. Voters have since renewed this measure, through the passage of Measure Z in November of 2024.

Our nation, our state, and our community face a major public health crisis. Diabetes, obesity, and tooth decay have been on the rise for decades. Although no group has escaped these epidemics, children, as well as low-income communities and communities of color have been and continue to be disproportionately affected. While

there is no single cause for the rise in diabetes, obesity, and tooth decay, there is overwhelming evidence of the link between the consumption of sugary drinks and the incidence of diabetes, obesity, heart disease, and tooth decay.

Sugary drinks such as soft drinks, energy drinks, sweetened teas, and sport drinks offer little or no nutritional value, but contribute massive quantities of added sugar. A single 20-ounce bottle of soda, for instance, typically contains the equivalent of approximately 16 teaspoons of sugar. Before the 1950s, the standard soft-drink bottle was 6.5 ounces. In the 1950s, larger size containers were introduced, including the 12-ounce can, which became widely available in 1960. By the early 1990s, 20-ounce plastic bottles had become the norm. At the same time, hundreds of millions of dollars have been spent in an ongoing massive marketing campaign, which particularly targets children and people of color. In 2006 alone, nearly $600 million was spent in advertising to children under 18. African American and Latinx children are also aggressively targeted with advertisements to promote sugar-laden drinks.

The resulting impact on consumption should not be surprising. The average American now drinks nearly 40 gallons of sugary drinks a year. In the past 20 years, the prevalence of obesity in adults increased from 30.5% to 42.4%, and the prevalence of severe obesity increased from 4.7% to 9.2%. During this time, the prevalence of obesity among youth (aged 2–19 years) increased from 13.9% to 19.3%, and the prevalence of severe obesity increased from 3.6% to 6.1%. The problem is especially acute with children in California. From 1989 to 2008, the percentage of children consuming sugary drinks increased from 79% to 91% and the percentage of total calories obtained from sugary drinks increased by 60% in children ages 6 to 11. This level of consumption has had tragic impacts on community health. Type 2 Diabetes –previously only seen among adults –is now increasing among children. If the current obesity trends are not reversed, it is predicted that one in three children and nearly one-half of Latinx and African American children born in the year 2000 will develop type 2 diabetes in their lifetimes.

Our community has not been immune to the challenge of unhealthy weight gain and obesity. According to the 2018 City of Berkeley Health Status Report, over a quarter of Berkeley's 5th and 7th grade students (all race/ethnicities) are overweight or obese. Berkeley has a lower proportion of 5th and 7th grade children who are overweight or obese (29.4%) compared to children in Alameda County (35.3%) but has a higher proportion compared to California (26.8%). However, a higher proportion of African-American children are overweight or obese in Berkeley compared to Alameda County or California.

Tooth decay has meaningful impact on health, especially for children. In fact, tooth decay is the most common childhood disease, experienced by over 70% of California's 3rd graders. Children who frequently or excessively consume beverages high in sugar are at increased risk for dental cavities. Dental problems are a major cause of missed

school days and poor school performance as well as pain, infection, and tooth loss in California.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
When sugary drink consumption decreases due to the direct investments in programs and activities, the SSBPPE Commission expects that there will be a reduction to the City's waste stream.

RATIONALE FOR RECOMMENDATION
This two-year grant period supports comprehensive strategies to: a) reduce access to SSBs, b) improve access to water, c) limit marketing of SSBs to children, and d) implement education and awareness campaigns with specific populations. The two-year grant period will also indicate the City of Berkeley's commitment to reducing the consumption of SSBs and improving the health of Berkeley residents, particularly those most impacted by obesity, diabetes, tooth decay, and heart disease. The funding will allow grantees to develop interventions that include education, policy, systems and environmental changes with measurable outcome data and evaluation to show the rise in public awareness about the harmful impacts of SSBs, reduce consumption of SSBs over time, and decrease the health risks among residents of Berkeley.

To have the greatest impact, the SSBPPE Commission recommends that the following populations be prioritized:

a. Children and their families with a particular emphasis on young children who are in the process of forming lifelong habits,
b. Children and young adults living in households with limited resources,
c. Groups exhibiting higher than average population levels of type 2 diabetes, obesity, heart disease, and tooth decay rates,
d. Groups that are disproportionately targeted by the beverage industry marketing,
e. Pregnant women,
f. Berkeley-based organizations that serve any or all of the above populations.

ALTERNATIVE ACTIONS CONSIDERED
The Commission did not identify an alternative action which is consistent with the City's

CITY MANAGER
See City Manager's companion report.

CONTACT PERSON
Roberto Terrones, MPH, Commission Secretary, HHCS, (510) 510-981-5324

Attachments:
1: Resolution
2: SSBPPE Commission's Criteria for BUSD Funding Proposal
3: SSBPPE Commission's Selection Criteria for Community Agency Funding

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

ALLOCATION: $2,294,774 MILLION TOTAL FOR SUGAR-SWEETENED BEVERAGE CONSUMPTION AND REDUCTION GRANT PROGRAM IN FY2026 AND FY2027

WHEREAS, the consumption of sugar-sweetened beverages (“SSB”) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, in FY2024 and FY2025, the City Council awarded a total of $2 million upon the recommendation of the SSBPPE Commission to demonstrate the City’s long-term commitment to decreasing the consumption of SSB and mitigate the harmful impacts of SSB on the population of Berkeley; and

WHEREAS, many studies demonstrate that high intake of SSB is associated with risk of Type 2 Diabetes, obesity, tooth decay, and coronary heart disease; and

WHEREAS, the above conditions are all demonstrated to increase both the severity of COVID19 related illness and risk of death; and

WHEREAS Latinx and Black communities are disproportionately affected by COVID-19; and

WHEREAS, hundreds of millions of dollars have been spent in an ongoing massive marketing campaign, which particularly targets children and people of color; and

WHEREAS, an African American resident of Berkeley is 14 times more likely than a White resident to be hospitalized for diabetes; and

WHEREAS, 40% of 9th graders in Berkeley High School are either overweight or obese; and

WHEREAS, tooth decay is the most common childhood disease, experienced by over 70% of California’s 3rd graders; and

WHEREAS, in 2012, a U.S. national research team estimated levying a penny-per-ounce tax on sweetened beverages would prevent nearly 100,000 cases of heart disease, 8,000 strokes, and 26,000 deaths over the next decade and 240,000 cases of diabetes per year nationwide.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to allocate $2,294,774 million from the General Fund to be disbursed in two (2) installments of $1,147,387 for FY26 and $1,147,387 for FY27 and invested as follows:

Allocate up to 42.5% of the allocated funds to Berkeley Unified School District (BUSD) through a grant proposal to reduce the consumption of sugar-sweetened beverages

(SSBs) through the implementation and enhancement of the BUSD cooking and gardening programs for the period, July 1, 2025 to June 30, 2027; and

Allocate at least 42.5% of the allocated funds through a RFP process managed by the Public Health Division for grants to community-based organizations consistent with the SSBPPE Commission's goals to reduce the consumption of SSB and to address the effects of SSB consumption for the period, July 1, 2025 to June 30, 2027; and

Allocate up to 15% of the allocated funds to support the Berkeley Public Health Division (BPHD) to coordinate and monitor the grant process, coordinate the overall program evaluation, and produce an annual report that disseminates process and outcome data resulting from the SSBPPE Commission funding program as well as City of Berkeley Finance Department fees related to the sugary drink tax.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

Attachment 2

SSBPPE Commission's Criteria for the BUSD Funding Proposal

Required components for BUSD proposal:

List specific activities for how the BUSD proposed project will meet the following:

1) Decrease access to SSBs and/or improve access to drinking water.
2) Increase or strengthen SSB policies in school and outside of school.
3) Support the annual administration of the Berkeley adapted Youth Risk Behavior Survey (YRBS) or California Healthy Kids Survey (CHKS) to evaluate student's SSB knowledge, consumption, access, and policy perceptions.
4) Increase and strengthen the garden program through nutrition education curriculum, the ways the curriculum addresses SSB consumption, and communication of SSB education and policy efforts to parents
5) If there is a plan to work with partners, who are they and how do you anticipate they will collaborate with BUSD staff? Identify which grade levels will be associated with each partnership.

Anticipated obstacles: What obstacles do you anticipate how will you try to address them?

Project Measures: Describe the ways in which you will measure outcomes, including the way you will administer the YRBS or CHKS survey and for which students, measures for the garden and cooking program, and other measures to understand if your program is working.

Sustainability Plan: Please describe how your organization will sustain the proposed project/ program activities beyond the funding period.

Communications Plan: Describe how you will meet communication requirements. Include what type of communication product(s) will be produced and what information will be shared.

Agreement to participate in the three meetings per year (1-2 sentence statement of agreement): Grantees are expected to do a presentation at one commission meeting, host one site visit for commissioners, and will attend one resource sharing meeting with other grantees.

Additional Requirements for BUSD:
Please confirm with a yes to each of the following requirements:

1) Proposal reflects approval from the BUSD School Board: Yes/No
2) BUSD will not sell or serve sugar-sweetened beverages (as defined by the SSB tax) at any BUSD schools or campuses: Yes/No
3) Awarded funding will not supplant BUSD FY26 and FY27 General Fund allocations: Yes/No
4) Funded projects will publicly reflect support from Healthy Berkeley Program: Yes/No
5) Funded projects and programs will include evaluation of their process and outcomes: Yes/No

Attachment 3

SSBPPE Commission's Selection Criteria for Community Agency Funding

Required components of project proposals from community-based organizations:

Proposed Project and Activities:

1) Briefly describe the goal of the program or project you would like to see funded.
2) Identify which strategies you intend to use in your program.
3) Identify the kinds of activities you will use in your program.
4) How many people do you expect to reach with your project?
5) Do you plan to work with partners? If so, who are they?

Applicants who have previously received funding should describe how they will build on past accomplishments, reach new participants, and whether there is deeper engagement with the same community members in new ways that reinforce and build upon previous funding.

Anticipated obstacles: What obstacles do you anticipate and how will you try to address them?

Project Measures: Describe all the things that you will measure to know if your program is working.

Sustainability Plan: Please describe how your organization will sustain the proposed project/program activities beyond the funding period.

Communications Plan: Include what type of communication product(s) will be produced and what information will be shared.

Agreement to participate in the three meetings per year (1-2 sentence statement of agreement): Grantees are expected to do a presentation at one commission meeting, host one site visit for commissioners, and will attend one resource sharing meeting with other grantees. (See Section II.D. above.)

Scoring criteria:

1. The proposed project aims to decrease consumption of sugary drinks, increase access to drinking water, and/or address health effects from consumption of sugary drinks. (25%)
2. The proposed project indicates how people and communities in the priority populations will be reached. (20%)
3. Describes both strategies and activities that will be used to reach their goals (30%)
4. The proposal includes a plan for sustaining their efforts and communicating activities, and successes to the larger Berkeley community. (15%)
5. Proposal budget matches the work plan and is appropriate. (10%)

10b

Office of the City Manager

CONSENT CALENDAR
March 25, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Henry Oyekanmi, Director of Finance
Scott Gilman, Director of Health, Housing and Community Services

Subject: Companion Report: Allocation of $2,294,774 Million Over Two Years, FY2026 and FY2027, to Reduce Consumption and Health Impacts of Sugar-Sweetened Beverages (SSBs).

RECOMMENDATION

Adopt a Resolution allocating $2,294,774 from the General Fund total for Fiscal Year 2026 (July 1, 2025, through June 30, 2026) and Fiscal Year 2027 (July 1, 2026, through June 30, 2027) to be invested in a grant program administered and coordinated by the Department of Health, Housing, and Community Services' (HHCS) Public Health Division (HHCS/PHD). This program will align with the Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE) Commission's goals to reduce sugar-sweetened beverage (SSB) consumption in Berkeley and address the health effects of SSB consumption. The total amount will be distributed in two installments of $1,147,387 annually for FY2026 and FY2027, as follows:

A. Award up to $905,292 of the allocated amount to the Berkeley Unified School District (BUSD) for the period of July 1, 2025, to June 30, 2027, through a grant proposal process. These funds will support the reduction of SSB consumption through the implementation and enhancement of BUSD cooking and gardening programs. The BUSD funding process will be separate from the general community-based organization funding process and guided by the SSBPPE Commission's Criteria for BUSD Funding (Attachment 2).

B. Award up to $905,292 of the allocated amount for the period of July 1, 2025, to June 30, 2027, through a Request for Proposal (RFP) process managed by HHCS/PHD. These grants will be awarded to community-based organizations (CBOs) and will align with the SSBPPE Commission's goals to reduce SSB consumption and address the effects of SSB consumption. The RFP process to determine CBO funding will be separate from the BUSD funding process and guided by the SSBPPE Commission's Criteria for Community Agency Grants (Attachment 3).

C. For the period of July 1, 2025, to June 30, 2027, allocate $128,990 to the Finance Department for staffing costs and Muni-Services fees, and $355,200 to HHCS/PHD for staffing, operating, service delivery and consulting costs. HHCS/PHD will coordinate and monitor the grant process, manage awarded contracts, and provide activities aligned with the sugary beverage tax goals including providing education, outreach, and technical assistance to support local vendors as they work to comply with the Healthy Checkout ordinance and monitoring Berkeley funded hydration stations, and HHCS will provide an annual presentation to the SSBPPE Commission focused on process and outcome data and updates on Finance Department fees related to the sugary drink tax, to inform the Commission's annual report.

D. Carry over any sugary drink tax revenue received in excess of $2,294,774 during FY2026 and FY2027 to be awarded for related services in FY2027–FY2029.

FISCAL IMPACTS OF RECOMMENDATION

Based on recent trends in sugar-sweetened beverage tax revenue (detailed below), projections for FY2026 and FY2027 indicate approximately $1,147,387 in revenue per year. These projections will be revised after the mid-year revenue numbers are analyzed.

The requested amounts for the Finance Department and HHCS/PHD are based on current needs to maintain consistent service levels supporting BUSD, awarded CBO contracts, external consultants, the SSBPPE Commission, and related activities. Current staffing and FTEs remain the same, with the exception of personnel pay rate and Cost-of-Living Adjustment (COLA) increases due to newly negotiated employee contracts. Funding is subject to appropriation in FY2026 and FY2027.

CURRENT SITUATION AND ITS EFFECTS

In November 2014, Berkeley voters passed Measure D, which mandates a 1 cent per ounce tax on the distribution of sugary drinks in Berkeley and the convening of a Panel of Experts (SSBPPE) to recommend investments to reduce sugary drink consumption and address the health consequences of such consumption. In November 2024, Berkeley voters passed Measure Z, removing the January 1, 2027, expiration date and extending the tax until repealed or modified by voters.

The City of Berkeley has enjoyed a successful partnership with the SSBPPE and funded CBOs for over ten years and fully supports the purpose and intent of Measures D and Z. As revenues decrease due to the success of the tax, it is essential to continue strategies that promote healthier behaviors and decrease SSB consumption. Community-based partnerships have positively impacted health education and policy, systems, and environmental changes that support the SSBPPE's goals and mission. City staff are committed to providing administrative support and programmatic activities

that enhance the City's community-based partners' successful implementation of strategies for improved community health.

The associated annual costs for the Finance Department's administration of the tax and HHCS/PHD's coordination and management of the RFP process, resulting contracts, and related policies (such as the Healthy Checkout Ordinance) are outlined below. HHCS will also conduct a time study to ensure appropriate allocation of funding needed to meet the SSBPPE administrative expectations. In FY 24/25 the percent allocation was 28%. Under this proposal the administrative percent drops to 21% for FY 25/26.

Projected Annual Costs for Mandated Activities (Finance and HHCS)	**Amount**
Finance Department Staff (.30 FTE)	$41,547
Muni Services Fees (@ 2%)	$22,948
Finance Department Subtotal	**$64,495**
HHCS: Administrative Staff (estimated salary including benefits)	$93,954
HHCS: Nutritionist @ 20% (estimated salary including benefits)	$42,774
HHCS: Contracted Program Evaluation Consulting Services	$19,000
HHCS: Other Operational Expenses	$21,872
HHCS Costs Subtotal	**$177,600**
Total Annual SSB Tax utilized for administrative expenses	**$242,095**

BACKGROUND

Measure D, the Sugar Sweetened Beverage tax, was passed on July 1, 2014, to support increased water consumption and decreased SSB consumption. Allocations from the City General Fund supported HHCS/PHD in developing and overseeing SSBPPE community agency contracts, providing SSBPPE secretarial support, conducting program evaluations, and supporting programmatic initiatives aligned with Measure D. The tax was extended by voters through Measure Z in November 2024, removing the January 1, 2027, expiration date.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental impacts.

RATIONALE FOR RECOMMENDATION

This recommendation allows the City to continue its commitment to public health, specifically reducing SSB consumption in Berkeley, while aligning program investment with projected funding. Modifying the City's scope of work and calculating funding for City services based on actual costs, rather than an assumed percentage of tax revenue, will allow for program implementation and sustainability.

ALTERNATIVE ACTIONS CONSIDERED

Staff appreciates the SSBPPE's commitment to BUSD programming and the important work of CBOs. Staff did not identify an alternative recommendation consistent with projected sugary beverage tax revenue and current City costs.

CONTACT PERSONS

Henry Oyekanmi, Director of Finance (510) 981-7200
Scott Gilman, Director, Health, Housing, and Community Services (510) 981-5400

Attachments:
1: Resolution
2: SSBPPE Commission's Criteria for BUSD Funding
3: SSBPPE Commission's Criteria for Community Agency Funding

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

ALLOCATION: $2,294,774 TOTAL FOR SUGAR-SWEETENED BEVERAGE CONSUMPTION AND REDUCTION GRANT PROGRAM IN FY2026 AND FY2027

WHEREAS, the consumption of sugar-sweetened beverages ("SSB") in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, in FY2024 and FY2025, the City Council awarded a total of $2 Million by Resolution #70,765,-NS upon the recommendation of the SSBPPE Commission to demonstrate the City's long-term commitment to decreasing the consumption of SSB and mitigate the harmful impacts of SSB on the population of Berkeley; and

WHEREAS, many studies demonstrate that high intake of SSB is associated with risk of Type 2 Diabetes, obesity, tooth decay, and coronary heart disease; and

WHEREAS, the above conditions are all demonstrated to increase both the severity of COVID19 related illness and risk of death; and

WHEREAS, hundreds of millions of dollars have been spent in an ongoing massive marketing campaign, which particularly targets children and people of color; and

WHEREAS, an African American resident of Berkeley is 14 times more likely than a White resident to be hospitalized for diabetes; and

WHEREAS, 40% of 9th graders in Berkeley High School are either overweight or obese; and

WHEREAS, tooth decay is the most common childhood disease, experienced by over 70% of California's 3rd graders; and

WHEREAS, in 2012, a U.S. national research team estimated levying a penny-per-ounce tax on sweetened beverages would prevent nearly 100,000 cases of heart disease, 8,000 strokes, and 26,000 deaths over the next decade and 240,000 cases of diabetes per year nationwide.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to allocate $2,294,774 million from the General Fund to be disbursed in two (2) installments of $1,147,387 million in FY26 and $1,147,387 million in FY27 and invested as follows:

1. For the period, July 1, 2025 to June 30, 2027, direct the City Manager to allocate $128,990 to the Finance Department for staffing costs and Muni-Services fees and $355,200 to HHCS/PHD for staffing, operating and consulting costs. HHCS/PHD will coordinate and monitor the grant process, manage resulting contracts

awarded, support activities aligned with the goal of the sugary beverage tax, including the Healthy Retail Checkout ordinance, and provide an annual presentation to the SSBPPE Commission that includes process and outcome data and updates on Finance Department fees related to the sugary drink tax for the SSBPPE Commission to inform the development of the Commission's annual report.

2. Allocate up to $905,292 of remaining funds to Berkeley Unified School District (BUSD) through a grant proposal to reduce the consumption of sugar-sweetened beverages (SSBs) through the implementation and enhancement of the BUSD cooking and gardening programs for the period, July 1, 2025 to June 30, 2027; and

3. Allocate up to $905,292 of funds through a RFP process managed by the Public Health Division for grants to community-based organizations consistent with the SSBPPE Commission's goals to reduce the consumption of SSB and to address the effects of SSB consumption for the period, July 1, 2025 to June 30, 2027; and

4. Carryover any sugary drink tax revenue received in excess of $2,294,774 million during FY2026 and FY2027 to be awarded for related services in FY2027 – FY2029.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

Attachment 2

SSBPPE Commission's Criteria for the BUSD Funding Proposal

Required components for BUSD proposal:

List specific activities for how the BUSD proposed project will meet the following:

1) Decrease access to SSBs and/or improve access to drinking water.
2) Increase or strengthen SSB policies in school and outside of school.
3) Support the annual administration of the Berkeley adapted Youth Risk Behavior Survey (YRBS) or California Healthy Kids Survey (CHKS) to evaluate student's SSB knowledge, consumption, access, and policy perceptions.
4) Increase and strengthen the garden program through nutrition education curriculum, the ways the curriculum addresses SSB consumption, and communication of SSB education and policy efforts to parents
5) If there is a plan to work with partners, who are they and how do you anticipate they will collaborate with BUSD staff? Identify which grade levels will be associated with each partnership.

Anticipated obstacles: What obstacles do you anticipate how will you try to address them?

Project Measures: Describe the ways in which you will measure outcomes, including the way you will administer the YRBS or CHKS survey and for which students, measures for the garden and cooking program, and other measures to understand if your program is working.

Sustainability Plan: Please describe how your organization will sustain the proposed project/ program activities beyond the funding period.

Communications Plan: Describe how you will meet communication requirements. Include what type of communication product(s) will be produced and what information will be shared.

Agreement to participate in the three meetings per year (1-2 sentence statement of agreement): Grantees are expected to do a presentation at one commission meeting, host one site visit for commissioners, and will attend one resource sharing meeting with other grantees.

Additional Requirements for BUSD:
Please confirm with a yes to each of the following requirements:

1) Proposal reflects approval from the BUSD School Board: Yes/No
2) BUSD will not sell or serve sugar-sweetened beverages (as defined by the SSB tax) at any BUSD schools or campuses: Yes/No
3) Awarded funding will not supplant BUSD FY26 and FY27 General Fund allocations: Yes/No
4) Funded projects will publicly reflect support from Healthy Berkeley Program: Yes/No

Funded projects and programs will include evaluation of their process and outcomes: Yes/No

Attachment 3

SSBPPE Commission's Selection Criteria for Community Agency Funding

Required components of project proposals from community-based organizations:

Proposed Project and Activities:

1) Briefly describe the goal of the program or project you would like to see funded.
2) Identify which strategies you intend to use in your program.
3) Identify the kinds of activities you will use in your program.
4) How many people do you expect to reach with your project?
5) Do you plan to work with partners? If so, who are they?

Applicants who have previously received funding should describe how they will build on past accomplishments, reach new participants, and whether there is deeper engagement with the same community members in new ways that reinforce and build upon previous funding.

Anticipated obstacles: What obstacles do you anticipate and how will you try to address them?

Project Measures: Describe all the things that you will measure to know if your program is working.

Sustainability Plan: Please describe how your organization will sustain the proposed project/program activities beyond the funding period.

Communications Plan: Include what type of communication product(s) will be produced and what information will be shared.

Agreement to participate in the three meetings per year (1-2 sentence statement of agreement): Grantees are expected to do a presentation at one commission meeting, host one site visit for commissioners, and will attend one resource sharing meeting with other grantees. (See Section II.D. above.)

Scoring criteria:

1. The proposed project aims to decrease consumption of sugary drinks, increase access to drinking water, and/or address health effects from consumption of sugary drinks. (25%)
2. The proposed project indicates how people and communities in the priority populations will be reached. (20%)
3. Describes both strategies and activities that will be used to reach their goals (30%)
4. The proposal includes a plan for sustaining their efforts and communicating activities, and successes to the larger Berkeley community. (15%)
5. Proposal budget matches the work plan and is appropriate. (10%)

Office of the City Manager

INFORMATION CALENDAR
March 25, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Sharon Friedrichsen, Budget Manager
Henry Oyekanmi, Finance Director

Subject: Fiscal Year 2025 Mid-Year Budget Update

INTRODUCTION

This report presents the Fiscal Year 2025 ("FY 2025") Mid-Year Budget Update including actual General Fund and Special Fund expenditures incurred from July 1, 2024 to December 31, 2024. It also provides an estimate of anticipated General Fund revenues and expenditures by June 30, 2025 and projected expenditures for All Funds by department for FY 2025.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley is currently in FY 2025, which covers the period of July 1, 2024 to June 30, 2025. On June 25, 2024 the City Council adopted the FY 2025 Budget, authorizing gross appropriations of $793.32 million. The General Fund portion of this appropriation is $285.55 million. On December 3, 2024, Council authorized the use of fund balance (for the General Fund) and a combination of increased revenue and fund balance for other citywide funds to support encumbered rollovers for contractual obligations entered in FY 2024 that had not been paid as of June 30, 2024; carryover of funding for specific projects that had not been completed before the fiscal year-end and new funding requests as part of the first amendment to the Annual Appropriations Ordinance (AAO1). This action increased the gross appropriations to $1.091 billion citywide, which included $333.65 million in the General Fund.

FY 2025 General Fund Mid-Year Summary

As of December 31, 2024, General Fund revenues are $128.15 million, or 46.87% of the Adopted Budget. Revenues received are less than 50% with half of the fiscal year elapsed, although the timing of the receipt of revenues varies through the course of the fiscal year. Revenues for FY 2025 are expected to meet what has been budgeted ($273.40 million).

General Fund expenses are at 40.27% of what has been budgeted, compared to the projected 50%, halfway through the fiscal year. Based on the mid-year trend, expenditures are projected to be approximately $2.24 million less what has been budgeted.

As part of AAO1, Council authorized the use of $48.10 million in fund balance to support increased expenditures. A portion of the fund balance was allocated to reserves, leaving an unassigned fund balance of $4.03 million. The FY 2025 year-end projection reflects the impact of the approved labor agreements on the personnel budget. In addition, the projection assumes: (1) **all** authorized expenditures are spent by June 30, 2025; (2) public safety overtime continues at the projected level and (3) revenues remain unchanged. Based on these factors, the General Fund is likely to use $2.24 million less in fund balance than projected. The resulting unassigned fund balance, or the amount available before needed to use reserves, is therefore likely to be approximately $6.27 million. General Fund reserves are anticipated to be at $58.36 million, or 21.3% of adopted revenues, on June 30, 2025.

General Fund Revenues

The City received a variety of revenues, which largely consist of taxes, that may be used at the discretion of the City Council to fund programs, projects and services. A comparison of the General Fund revenues received to date to last fiscal year is provided below.

General Fund Revenue and Transfer In FY 2025 Mid-Year vs FY 2024 Mid-Year Comparison, below shows FY 2025 General Fund Revenues through the first six months of the current fiscal year and compares the year-to-date revenues received to the first six months of FY 2024. A detailed analysis of the comparison between the fiscal years for the major revenue sources is provided below.

Revenue Categories	FY 2025				FY 2024				Comparision FY25 vs FY24	
	Adopted	Actual	Variance	% Received	Adopted	Actual	Variance	% Received	Amount	%
	(a)	(b)	c=(b) - (a)	(d) = (b)/(a)	(e)	(f)	g=(f) - (e)	(h) = (f)/(g)	(i) = (b) - (f)	(j) = (i)/(f)
Secured Property	$89,887,496	$45,385,988	($44,501,508)	50.49%	$75,664,920	$42,904,620	($32,760,300)	56.70%	2,481,368	5.78%
Redemptions -Regular	1,018,153	567,891	(450,262)	55.78%	831,441	524,404	-307,037	63.07%	43,487	8.29%
Supplemental Taxes	3,400,000	727,555	(2,672,445)	21.40%	2,000,000	1,197,265	-802,735	59.86%	(469,710)	-39.23%
Unsecured Property Taxes	4,648,038	4,165,858	(482,180)	89.63%	3,516,000	3,881,280	365,280	110.39%	284,578	7.33%
Property Transfer Tax	19,000,000	11,917,994	(7,082,006)	62.73%	34,462,172	10,056,934	-24,405,238	29.18%	1,861,060	18.51%
Property Transfer Tax-Measure P (New December 21, 2018)	6,199,580	4,955,306	(1,244,274)	79.93%	14,073,750	2,840,259	-11,233,491	20.18%	2,115,047	74.47%
Sales Taxes	18,884,235	9,364,937	(9,519,298)	49.59%	19,016,546	9,305,556	-9,710,990	48.93%	59,381	0.64%
Soda Taxes	1,147,387	512,817	(634,570)	44.69%	990,210	581,705	-408,505	58.75%	(68,888)	-11.84%
Utility Users Taxes	17,700,000	9,047,804	(8,652,196)	51.12%	13,800,000	7,801,328	-5,998,672	56.53%	1,246,476	15.98%
Transient Occupancy Taxes	7,688,065	4,249,236	(3,438,829)	55.27%	5,000,000	4,393,772	-606,228	87.88%	(144,536)	-3.29%
Less: TOT rebates owed (3)		(665,260)				(642,939)			(22,321)	3.47%
Short-term Rentals	1,400,000	661,730	(738,270)	47.27%	1,000,000	687,271	-312,729	68.73%	(25,541)	-3.72%
Business License Tax	23,664,000	1,338,857	(22,325,143)	5.66%	19,000,000	1,592,902	-17,407,098	8.38%	(254,045)	-15.95%
Recreational Cannabis	18,000	19,017	1,017	105.65%	1,400,000	76,512	-1,323,488	5.47%	(57,495)	-75.15%
U1 Revenues	6,500,000	128,163	(6,371,837)	1.97%	4,900,000	181,607	-4,718,393	3.71%	(53,444)	-29.43%
Other Taxes (excluding Redemptions-Regular)	4,434,906	1,951,624	(2,483,282)	44.01%	1,800,000	1,899,156	99,156	105.51%	52,468	2.76%
Vehicle In-Lieu Taxes	18,851,257	9,500,999	(9,350,258)	50.40%	15,926,168	8,937,911	-6,988,257	56.12%	563,088	6.30%
Parking Fines-Regular Collections	5,800,000	2,932,701	(2,867,299)	50.56%	4,326,450	3,253,087	-1,073,363	75.19%	(320,386)	-9.85%
Parking Fines-Booting Collections			0				0	0.00%	-	0.00%
Moving Violations	132,600	73,119	(59,481)	55.14%	132,600	96,254	-36,346	72.59%	(23,135)	-24.04%
Ambulance Fees	7,734,813	3,768,540	(3,966,273)	48.72%	3,880,779	3,815,272	-65,507	98.31%	(46,732)	-1.22%
Interest Income	13,500,000	8,207,451	(5,292,549)	60.80%	6,000,000	6,619,791	619,791	110.33%	1,587,660	23.98%
Franchise Fees	1,822,528	268,424	(1,554,104)	14.73%	1,613,283	307,634	-1,305,649	19.07%	(39,210)	-12.75%
Other Revenue	8,759,495	3,776,486	(4,983,009)	43.11%	6,729,977	3,018,612	-3,711,365	44.85%	757,874	25.11%
IDC Reimbursement	7,031,624	3,200,593	(3,831,031)	45.52%	5,490,000	3,259,079	-2,230,921	59.36%	(58,486)	-1.79%
Transfers	4,181,923	2,090,961	(2,090,962)	50.00%	17,096,148	4,045,962	-13,050,186	23.67%	(1,955,001)	-48.32%
Total Revenue:	**$273,404,100**	**$128,148,791**	**-$145,255,309**	**46.87%**	**$258,650,444**	**$120,635,234**	**-$138,015,210**	**46.64%**	**$7,513,557**	**6.23%**

Notes: (1) This statement is presented on a budgetary basis (i.e., cash).
(2) Current vendor no longer breaks out Regular and Booting Parking Fines Collections

General Fund revenue and transfers increased $7,513,557 or 6.23%, from $120,635,234 in the first half of FY 2024, to $128,148,791 for the same period in FY 2025.

Notable increases during the first half of FY 2025 in comparison to the first half of FY 2024 are outlined below:

1.	Secured Property Taxes	$ 2,481,368
2.	Property Transfer Taxes	1,861,060
3.	Measure P Property Transfer Taxes	2,115,047
4.	Utility User Taxes	1,246,476
5.	Vehicle In Lieu Taxes	563,088
6.	Interest Income	1,587,660

FY 2025 FIRST HALF GENERAL FUND REVENUE DETAILS:

Supplemental Taxes (-$469,710 less than FY 2024 Actual)
During the first half of FY 2025, Supplemental Taxes totaled $727,555, which was $469,710 or 39.2% less than the $1,197,265 received for the same period in FY 2024

Secured Property Tax (+$2,481,368 more than FY 2024 Actual
During the first half of FY 2025, Secured Property Tax revenues totaled $45,385,988, which was $2,481,368 or 5.78% more than the $40,237,811 received for the same period in FY 2024. This result was consistent with the County's Certification of Assessed Valuation (received from the County in August 2024), which reflects growth of 6.39%. However, the FY 2025 Adopted Budget assumed a 5.937% increase for FY 2025, so actual Secured Property Taxes are expected to be $384,484 or 0.453% more than the Adopted Budget amount of $89,887,496.

Unsecured Property Tax (+$284,578 more than FY 2024 Actual)
During the first half of FY 2025, Unsecured Property Tax revenues totaled $4,165,858, which was $284,578 or 7.33% more than the amount of $3,881,280 received for the same period in FY 2024. This amount is greater than the County's Certification of Assessed Valuation growth of 4.84% for FY 2025. Unsecured property taxes are payable once a year and due on August 31.

Property Transfer Tax ($1,861,060 more than FY 2024 Actual)
During the first half of FY 2025, Property Transfer Tax totaled $11,917,994, which was $1,861,060 or 18.5% more than the $10,056,934 received for the same period in FY 2024.

The primary reasons for the $1,861,060 increase in Property Transfer Tax were the following:
(1) The dollar value of property sales increased by $127.1 million or 19.0%, from $667.5 million in the first half of FY 2024 to $794.6 million during the same period of FY 2025, as illustrated in Table 1 below.
(2) There were four property sales of $10 million or more, with total sales of $131.1 million in the first half of FY 2025 compared to four property sales of $10 million or more, with total sales of $74.9 million in the first half of FY 2024; and,
(3) The number of property sales transactions increased by 8 or 2.0% from 406 in the first half of FY 2024 to 414 during the same period of FY 2025, as illustrated in the Table 2 below.

This increase resulted despite high mortgage rates and a decline in the money supply.

Table 1: Property Sales **In Million $**

	July	Aug	Sept	Oct	Nov	Dec	Total
FY 2025	$163.3	$111.0	$79.3	$167.5	$195.4	$78.1	$794.6
FY 2024	$129.2	$152.5	$99.9	$95.7	$95.8	$94.4	$667.5
Change	34.1	-41.5	-20.6	71.8	99.6	-16.3	127.1
% Change	26.4%	-27.2%	-20.6%	75.0%	104.0%	-17.3%	19.0%

Table 2: **Number of Property Sales Transactions**

	July	Aug	Sept	Oct	Nov	Dec	Total
FY 2025	75	72	55	69	86	57	414
FY 2024	79	73	64	61	67	62	406
Change	-4	-1	-9	+8	+19	-5	+8
% Change	-.5.1%	-1.4%	-14.1%	+13.1%	+28.4%	-8.1%	+2.0%

Measure P-Property Transfer Tax ($2,113,749 more than FY 2024 Actual)

Measure P tax totaling $4,954,008 was collected during the first half of FY 2025, which was $2,113,749 or 74.4% more than the $2,840,259 collected during the same period of FY 2024. This increase resulted primarily from the following:

(1) An increase of $168.9 million or 51.7% in the dollar value of property sales amount in the first half of FY 2025 versus those in the first half of FY 2024 as reflected in Table 3;

(2) The number of property sales transactions increased by 54 or 62.1% during the first half of FY 2025, as illustrated in Table 4 below; and,

(3) There were four property sales of $10 million or more totaling $131.1 million during this six-month period in FY 2025, compared to four transactions with total property sales of $74.9 million for the same period in FY 2024.

Table 3: Property Sales $1.5 million+ **In Million $**

	July	Aug	Sept	Oct	Nov	Dec	Total
FY 2025	$113.9	$55.9	$31.3	$123.5	$137.5	$33.3	$495.4
FY 2024	$62.8	$87.2	$48.5	$51.9	$33.6	$42.5	$326.5
Change	+51.1	-31.3	-17.2	+71.6	+103.9	-9.2	+168.9
% Change	+81.4%	-35.9%	-35.5%	+138.0%	+309.2%	-21.6%	+51.7%

Table 4: Property Transactions $1.5 Million and Above

	July	Aug	Sept	Oct	Nov	Dec	Total
FY 2025	31	25	10	26	34	15	141
FY 2024	18	17	12	15	12	13	87
Change	+13	+8	-2	+11	+22	+2	+54
% Change	+72.2%	+47.1%	-18.2%	+73.3%	+183.3%	+15.4%	+62.1%

Sales Tax ($59,381 more than FY 2024 Actual)

For the first half of FY 2025, Sales Tax revenue totaled $9,364,937, which was $59,381 or 0.6% more than the $9,305,556 received for the same period in FY 2024. The City's Sales Tax Consultant has noticed a softening of sales in several categories since the Adopted Budget was passed and has revised revenue projections in the following categories:

Table 5: Sales Tax Projection by Category

Category	Adopted Budget	Revised Projection	Difference
General Retail	$ 4,238,366	$4,030,688	($207,678)
Food Products	5,560,276	5,735,139	174,863
Transportation	2,502,228	2,212,552	(289,676)
Construction	1,446,252	1,523,947	77,695
Business to Business	1,953,502	1,639,895	(313,607)
Miscellaneous	597,063	747,279	150,216
County Pool	3,728,930	4,014,965	286,035
State Pool	8,320	8,008	(312)
County Sharing	(1,011,769)	(995,624)	16,145
CDTFA Administration	(138,933)	(144,618)	(5,685)
Total	**$18,884,235**	**$ 18,772,231**	**($112,004)**

Utility Users Taxes (+$1,246,476 more than FY 2024 Actual)

Utility Users Tax revenue for the first half of FY 2025 totaled $9,047,804, which was $1,246,476 or 15.98% more than the $7,801,328 received for FY 2024. This increase of $1,246,476 resulted from increases/decreases in the following categories:

Table 6: FY25 Revenues Compared to FY24 Revenues by Utility Type

Utility Type	FY2025	FY 2024	$ Change	% Change
Telephone	$ 443,221	$515,199	$-71,978	-14.0%
Cable	458,076	475,793	- 17,717	-3.72%
Cellular	896,208	881,338	14,870	1.69%
Electric	6,001,290	4,792,052	1,209,239	25.2%
Gas	1,249,009	1,136,947	112,062	9.86%
Total	**$9,047,804**	**$7,801,328**	**$1,246,476**	**15.98%**

On top of significant increases in rates in 2022 and 2023, PG&E rate changes in 2024 were the following:

(1) On January 1, 2024, PG&E rates increased by about 13% across both generation and delivery;
(2) On March 1, 2024, PG&E increased delivery rates by 0.3%;
(3) On April 1, 2024, PG&E rates increased by 1.4%;
(4) Natural gas prices have also increased this year. On September 1, 2024, PG&E implemented an 8.3% increase in natural gas rates.

The primary reasons PG&E has given for the rate increases are as follows:

(1) Inflation, including increases in employee and management salaries;
(2) Wildfire mitigation-investing in undergrounding electric lines to reduce the risk of wildfires;
(3) Aging infrastructure that needs to be maintained and upgraded;
(4) Unprecedented weather events; and,
(5) Pay off debt from the California energy crisis.

Transient Occupancy Tax (-$166,857 less than FY 2024 Actual)

The total net Transient Occupancy Tax (TOT) revenue reported for the first half of FY 2025 totaled $3,583,976 (after deducting $665,260 in TOT rebates owed), which was $166,857 or 4.45% less than the $3,750,833 (after deducting $642,939 in TOT rebates owed) received for the same period in 2024. The decline was primarily attributable to the failure of one of the six largest hotels not paying any TOT taxes in any of the six months of the fiscal year.

Short-Term Rentals (-$25,541 less than FY 2024 Actual)

Short-Term Rentals revenue for the first half of FY 2025 totaled $661,730, which was $25,541 or 3.7% less than the $687,271 received for the same period in FY 2024.

Business License Taxes (-$254,045 less than FY 2024 Actual)

Business license Taxes (BLT) revenue for the first half of FY 2025 totaled $1,338,857, which was $254,045 or 15.9% less than the $1,592,902 received for the same period in FY 2024.

Although it is too soon to determine if this decrease is due to a decline in growth or due to the timing of the processing of the Business License Tax receipts, as these taxes are not delinquent until March 1st. However, the following is an explanation for the $254,045 decline in the first half of FY 2025: This year, Staff made a much bigger push for businesses to renew online. As such, it appears that many businesses who used to renew extremely early in December are now planning to renew online later. In other words, rather than reporting and paying taxes in December 2024, businesses are waiting to file in January 2025 and February 2025 to avoid penalties. In addition, in FY 2025, there have been more overall license renewals but the average business license tax went down from $1,121 in FY 2024 to $775 in FY 2025.

U1 Revenues (-$53*,444 less than FY 2024 Actual)*

U1 revenues for the first half of FY 2025 totaled $128,163, which was $53,444 or 29.4% less than the $181,607 received for the same period in FY 2024.

It is too soon to determine if this decrease is due to a decline in growth or due to the timing of the processing of the U1 receipts, as these taxes are not delinquent until March 1st. However, the push to pay online applied to U1 revenue as well as BLT, and the explanation for the decline in BLT is likely applicable to U1 revenue.

Vehicle In Lieu Taxes (+$563,088 more than FY 2024 Actual)

Vehicle in Lieu Taxes (VLF) for the first half of FY 2025 totaled $9,500,999, which was $563,088 or 6.30% more than the $8,937,911 received for the same period in FY 2024. This result was consistent with the County's Certification of Assessed Valuation (received in August 2024), which reflects growth of 6.39%. Changes in VLF revenues are based on the growth in assessed values. However, the Adopted Budget reflects growth of 5.50%, so actual Vehicle In Lieu Taxes are expected to be $159,030 or .89% more than the Adopted Budget amount of $18,851,257.

Other Taxes (+$52,468 more than FY 2024 Actual)

Other Taxes (excluding Redemptions-Regular) for the first half of FY 2024 totaled $1,951,624 which was $52,468 or 2.76% more than the $1,899,156 received for the same period in FY 2024. The primary reason for the increase was (1) an increase of $128,862 in Parking Lot Taxes; (2) a decline of $153,194 in BLT penalties; (3) an increase of $32,873 in BLT interest; and, (4) an increase of $43,827 in Transportation Network Company User Tax (i.e., a tax on ride sharing companies enacted during the height of the COVID-19 pandemic).

Parking Fines (-$320,386 less than FY 2024 Actual)

Parking Fines revenue for the first half of FY 2025 totaled $2,932,701, which was $320,386 or 9.85% less than the $3,253,087 received for the same period in FY 2024.

For the first half of FY 2025, ticket writing increased by 9,950 or 12.9% from 77,018 in the first half of FY 2024 to 86,968 in the same period in FY 2025, as follows:

Table 7: Parking Fines FY25 Revenues Compared to FY24 Revenues

	July	Aug	Sept	Oct	Nov	Dec	Total
FY 2025	14,221	15,033	14,744	14,872	13,308	14,790	86,968
FY 2024	12,623	14,122	13,099	13,087	12,425	11,662	77,018
Difference	1,598	911	1,645	1,785	883	3,128	9,950
% Difference	12.7%	6.5%	12.6%	13.6%	7.11%	26.8%	12.9%

Despite the 12.9% increase in ticket writing during the first half of FY 2025, revenue declined $320,386 or 9.85%. Staff believes the decline was attributable to changes in how parking fines are allowed to be collected in California. For example, towing and removal of vehicles for non-payment of parking citations is no longer allowed in California. Staff is seeing vehicles that have thousands of dollars in delinquent parking citations that customers are not paying.

Ambulance Fees (-$46,732 less than FY 2024 Actual)

Ambulance Fees revenue for the first half of FY 2025 totaled $3,768,540, which was $46,732 or 1.22% less than the $3,815,272 received for the same period in FY 2024.

Interest Income (+$1,587,660 more than FY 2024 Actual)

For the first half of FY 2025, Interest Income totaled $8,207,451, which was $1,587,660 or 24.0% more than the total of $6,619,791 received for the same period in FY 2024.This increase was primarily attributable to a slight increase in the net interest rate earned by the City in the first half of FY 2025 from a range of 2.84%-3.10% during the first half of FY 2024, to a range of 2.93%-3.32% during the first half of FY 2025, as shown below. The FY 2025 Interest Income projection is being increased from $13.5 million to $14.3 million.

Table 8: Monthly Interest Rate Earned

FY	July	August	Sept	Oct	Nov	Dec
2025	3.32%	3.18%	3.04%	3.05%	2.93%	3.05%
2024	3.10%	3.02%	2.95%	2.95%	2.88%	2.84%

Indirect Cost Reimbursements (-$58,486 less than FY 2024 Actual)

IDC Reimbursement (IDC) decreases result from decreases in the indirect cost allocation base (i.e., total direct salaries and wages in the fund), a decrease in the indirect cost rate or a combination of decreases or increases in both factors. IDC for the first half of FY 2025 totaled $3,200,593, which was $58,486 or 1.79% less than the $3,259,079 received for the same period in FY 2024. The decline was primarily accounted for by a decrease in IDC rates for Zero Waste, Sanitary Sewer, Permit Service Center and Street Lighting funds from 21% in the first half of FY 2024 to 18% for the same period in FY 2025, while the IDC rate for the Marina Fund increased from 17% in the first half of FY 2024 to 23% for the same period in FY 2025.

The net decrease resulting from these changes in rates were partially offset by an increase of $1,277,203 or 8.6% in the indirect cost allocation base (total direct salaries and wages) from $14,846,041 in the first half of FY 2024 to $16,123,244 for the same period in FY 2025, creating a small decline of $58,486 or 1.79% in total IDC.

Transfers (-$1,955,001 less than FY 2024 Actual)

Transfers from other funds for the first half of FY 2025 totaled $2,090,961 which was $1,955,001 or 48.3% less than the $4,045,962 received for the same period in FY 2024. This was primarily attributable to the Transfer of $1,627,872 from the American Rescue Plan Fund (ARPA) to recover from the impact of the COVID-19 pandemic in FY 2024, compared to no ARPA Transfers in FY 2025; in addition, the Parking Meter Fund transfers declined from $871,144 in FY 2024 to $521,144 in FY 2025.

Other Revenues ($757,874 more than FY 2024 Actual)

Other Revenues primarily consists of licenses and permits; grants; preferential parking fees; general government charges for services; public safety charges for services; health charges for services; culture and recreation charges for services; rents and royalties; and other miscellaneous revenues that are not considered major.

Other Revenues for the first half of FY 2025 totaled $3,776,486 which was $757,874 or 25.1% more than the $3,018,612 received for the same period in FY 2024. This increase of $757,874 was primarily attributable to (1) An increase of $145, 725 in the PTP Car Sharing Permit; and, an increase of $386,136 in Mutual Aid Reimbursements in the first half of FY 2025.

General Fund Expenditures

The General Fund pays for public safety and general government functions and supports other programs and services delivered by various City departments. On June 25, 2024 the City Council adopted the FY 2025 Budget, which authorized General Fund expenditures in FY 2025 of $285.55 million. Subsequently, on December 3, 2024, the City Council approved General Fund recommended encumbered rollovers, unencumbered carryovers, and adjustments totaling $48.10 million in the Amendment to the FY 2025 Annual Appropriations Ordinance (AAO1) increasing the revised budget to $333.65 million.

General Fund expenditures incurred by departments as of December 31, 2024 are shown in the following chart along with projections regarding the expenditures likely to be incurred through June 30, 2025. The projected savings/deficit column in the chart below is an estimate of whether the department will be under or over the revised budget and their respective appropriation limit based upon the first six months of the year. Overall, General Fund expenditures are projected to be less than the current revised budget of $332.01 million by $2.24 million at the end of FY 2025 (Revised Budget minus Projected Expenses).

On average approximately 49.6% of the personnel budget has been spent halfway through the fiscal year. However, overall personnel expenditures are projected at $193.92 million, which is $9.26 million greater than the revised budget. The overage reflects increased personnel costs based upon approved labor agreements and public safety overtime offset by salary savings in other departments. Projected expenditures will fluctuate as departments either (1) fill vacant positions; (2) continue to use overtime to provide critical public safety services; (3) redirect personnel savings to cover the costs of consultants and other professional services (“non-

personnel costs") to mitigate vacant staff positions or (4) address vacancies or other factors that will delay the implementation of projects.

FY 2025 Mid-Year General Fund Expenditures (as of December 31, 2024)

DEPARTMENT	FY 2025 ADOPTED BUDGET	FY 2025 REVISED BUDGET*	YEAR TO DATE EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	PERSONNEL PERCENTAGE USED	NON-PERSONNEL PERCENTAGE USED	TOTAL PERCENTAGE USED	FY 2025 PROJECTED EXPENDITURES	FY 2025 PROJECTED ENDING BALANCE/(DEFICIT)
MAYOR AND COUNCIL	5,929,941	7,546,073	2,555,615	41,131	4,949,327	33.9%	41.8%	34.4%	6,715,668	830,405
CITY AUDITOR	3,657,880	3,978,425	1,694,488	196,112	2,087,826	45.5%	59.5%	47.5%	3,820,257	158,168
RENT STABILIZATION BOARD	0	97,372	91,667	5,705	0	0.0%	100.0%	100.0%	97,372	-
POLICE ACCOUNTABILITY	1,484,847	1,934,660	771,517	216,064	947,079	42.9%	65.5%	51.0%	1,809,850	124,810
CITY MANAGER'S OFFICE	14,352,199	20,391,790	9,315,949	3,978,946	7,096,896	50.7%	81.2%	65.2%	20,215,211	176,579
CITY ATTORNEY	5,612,249	7,802,788	2,767,380	662,162	4,373,246	37.7%	57.1%	44.0%	7,174,643	628,145
CITY CLERK	2,867,551	4,137,558	1,794,461	450,925	1,892,172	48.5%	59.0%	53.3%	3,727,662	409,896
FINANCE	9,302,266	10,242,676	3,846,235	861,449	5,534,992	37.1%	75.1%	46.0%	9,070,556	1,172,120
HUMAN RESOURCES	3,928,242	4,611,227	2,048,251	334,223	2,228,753	49.4%	56.7%	51.7%	4,614,256	(3,029)
INFORMATION TECHNOLOGY	1,580,760	2,178,188	740,715	324,193	1,113,279	0.0%	48.9%	48.9%	1,481,431	696,757
HEALTH, HSG & COMMUNITY SVC	31,950,903	42,797,711	15,209,270	11,994,980	15,593,461	43.8%	74.0%	63.6%	41,520,182	1,277,529
PARKS, RECREATION & WATERFRONT	9,625,120	20,936,165	8,830,547	5,025,150	7,080,468	60.5%	68.1%	66.2%	20,737,973	198,192
PLANNING & DEVELOPMENT	3,745,097	6,635,901	1,993,062	1,753,033	2,889,807	41.6%	69.1%	56.5%	6,303,931	331,970
PUBLIC WORKS	7,046,368	12,421,685	3,425,914	1,945,509	7,050,262	27.6%	53.2%	43.2%	10,802,674	1,619,011
POLICE	86,427,222	84,550,453	43,719,975	894,700	39,935,777	51.0%	69.5%	52.8%	90,691,088	(6,140,635)
FIRE & EMERGENCY SERVICES	47,108,481	52,458,169	27,729,260	4,982,301	19,746,608	57.4%	76.5%	62.4%	59,821,156	(7,362,987)
NON DEPARTMENTAL	50,930,926	49,291,556	7,174,583	269,908	41,847,065	0.0%	14.7%	15.1%	41,165,147	8,126,409
GRAND TOTAL	285,550,053	332,012,398	133,708,890	33,936,491	164,367,018	49.6%	51.6%	50.5%	329,769,057	2,243,341

**Due to timing, FY 2025 Revised does not reflect as of December 31, 2024 all Council approved allocations included in the FY 2025 AAO1.*

Explanations for significant projected savings and overages are as follows:

- Mayor and Council: $830,405: Projected savings to the Mayor and Council's budget are due to the initial budget assumption of two full-time equivalents (FTEs) being hired at the top step of the salary range. In practice, staff were hired at various steps, which resulted in personnel cost savings.
- City Auditor's Office: $158,168: The projected savings is primarily the result of salary savings from vacancies.
- Office of the Director of Police Accountability: $124,810: The anticipated savings are the result of a staff vacancy.
- City Manager's Office: $176,579: Projected savings from the release of encumbrances from completed contracts and salary savings from keeping vacant positions unfilled.
- City Attorney's Office: $628,145: The projected savings results from vacancies.
- City Clerk: $409,896: The projected savings are due to lower than expected election costs. However, the County invoice for the November 2024 election has not yet been received and it is feasible the cost will be more than the $1 million budget.

- Finance: $1,172,120: Personnel vacancies significantly impacted the first half expenditures, and will continue to have some impact on the second half of the fiscal year.
- Human Resources: (-$3,029): The projected shortfall is primary attributed to overtime to compensate for staffing shortages.
- Information Technology: $696,757: The projected balance is due to various Cybersecurity projects that will not be completed in FY 2025.
- Health, Housing & Community Services: $1,277,529: Projected savings due to vacancies, including difficulties in hiring specific socialized classifications.
- Parks, Recreation, and Waterfront: $198,192: Projected savings are related to non-personnel expenditures expected to be delayed beyond the end of the fiscal year.
- Planning: $331,970: Projected savings is primarily comprised of salary savings due to vacancies.
- Public Works: $1,619,011: Projected surplus due to salary savings and projects that will not be started by June 30, 2025.
- Police: (-$6,140,635): The main contributing factor to the projected overages in the Police Department is overtime costs.
- Fire: (-$7,362,987): The Fire Department is projected to exceed its budget for FY 2025 due to staffing challenges. The overage is primarily driven by projected overtime costs of approximately $5.39 million (or $2.14 million more than budgeted), worker compensation payment of $1.39 million and higher fringe benefits. In addition, vehicle maintenance and replacements costs are projected to be over budget by approximately $850,000.
- Non-Departmental: $8,126,409: This balance includes savings of $4,739,411 from the “Workers’ Compensation Holiday” and $3,843,784 budgeted for anticipated increased labor costs offset by costs incurred for the School Board Directors stipends and remaining payments related to the COVID Hero Pay approved in FY 2024 AAO1.

FY 2025 All Funds Mid-Year Summary

All Funds Revenues

General Fund revenues make up approximately 40.51% of the FY 2025 Adopted revenues. In addition, the City receives revenues through other sources including, but not limited to, (1) special funds, which largely includes voter approved assessments that are collected for specific purposes, (2) grants that include intergovernmental revenue from the federal, state and county governments; and (3) enterprise funds that collect fees for providing services. Citywide adopted revenues total $674.95 million, which reflects an increase of 3.43% over the FY 2024 Adopted. As of December 31, 2024, $356.83 million has been received, or 51.97%, based on a revised revenue budget of $686.61 million. Similar to the General Fund, high interest rates also negatively impact construction projects, which influences the revenues received by the Permit Service Center for example. Other revenue sources appear to be on track with projections; however, there is a great deal of uncertainty related to the receipt of federal funding.

All Funds Expenditures

In addition to the General Fund, the City has hundreds of other funds that are largely restricted in terms of the services that the funds support. The *FY 2025 Mid-Year All Funds Expenditures by Department* chart on the next page shows both General Fund and Other Funds expenditures as of December 31, 2024. On an All Funds basis, the City is tracking on budget at 47.10 percent at mid-year. The City is projected to close FY 2025 with an underspending of $93.66 million based upon the revised budget as of December 31, 2024.

FY 2025 MID-YEAR ALL FUNDS EXPENDITURES (AS OF DECEMBER 31, 2024)

DEPARTMENT	FY 2025 ADOPTED BUDGET	FY 2025 REVISED BUDGET* (as of 12/31/24)	FY 2025 EXPENDED (as of 12/31/24)	ENCUMBRANCES (as of 12/31/24)	AVAILABLE BUDGET (as of 12/31/24)	TOTAL PERCENTAGE USED	FY 2025 PROJECTED EXPENDITURES	FY 2025 PROJECTED ENDING BALANCE/(DEFICIT)
MAYOR AND COUNCIL	5,929,941	7,546,073	2,555,615	41,131	$4,949,327	34.4%	6,715,668	830,405
CITY AUDITOR	3,759,532	4,080,077	1,713,933	196,112	$2,170,033	46.8%	3,861,039	219,038
RENT STABILIZATION BOARD	8,489,208	11,131,200	3,672,276	981,570	$6,477,354	41.8%	11,131,200	-
POLICE ACCOUNTABILITY	1,484,847	1,934,660	771,517	216,064	$947,079	51.0%	1,809,850	124,810
CITY MANAGER'S OFFICE	18,116,986	29,759,208	11,908,063	5,067,590	$12,783,555	57.0%	29,243,713	515,495
BERKELEY PUBLIC LIBRARY	29,196,379	29,746,783	12,188,078	3,486,140	$14,072,564	52.7%	29,695,930	50,853
CITY ATTORNEY	9,290,707	12,169,189	4,352,659	1,131,452	$6,685,078	45.1%	11,539,517	629,672
CITY CLERK	3,518,483	4,788,490	2,263,043	450,925	$2,074,522	56.7%	3,855,514	932,976
FINANCE	11,823,351	12,838,872	4,820,838	956,316	$7,061,718	45.0%	11,476,285	1,362,587
HUMAN RESOURCES	5,993,013	6,851,787	3,145,460	426,300	$3,280,026	52.1%	6,706,572	145,215
INFORMATION TECHNOLOGY	23,471,574	27,009,191	10,264,181	2,480,085	$14,264,926	47.2%	20,048,420	6,960,771
HEALTH, HSG & COMMUNITY SVC	137,886,423	175,113,677	43,222,468	32,925,897	$98,965,312	43.5%	162,704,251	12,409,426
PARKS, RECREATION & WF	47,477,377	114,231,227	30,790,184	28,409,413	$55,031,629	51.8%	94,857,323	19,373,904
PLANNING & DEVELOPMENT	33,307,718	39,250,353	13,526,593	4,647,303	$21,076,457	46.3%	35,973,150	3,277,203
PUBLIC WORKS	196,515,786	330,970,448	79,965,938	63,814,672	187,189,838	43.4%	272,592,552	58,377,896
POLICE	91,311,451	91,122,096	46,217,269	1,509,166	$43,395,661	52.4%	96,550,571	(5,428,475)
FIRE & EMERGENCY SERVICES	71,480,646	79,914,159	37,163,343	7,987,960	$34,762,857	56.5%	86,750,120	(6,835,961)
NON DEPARTMENTAL	94,266,289	98,193,407	43,102,511	339,811	$54,751,085	44.2%	97,479,644	713,763
GRAND TOTAL	**793,319,711**	**1,076,650,897**	**351,643,971**	**155,067,906**	**569,939,021**	**47.1%**	**982,991,319**	**93,659,579**

*FY 2025 Revised does not reflect as of December 31, 2024 all Council approved allocations included in the FY 2025 AAO #1.

Explanations for significant projected savings and overages are as follows:

- Mayor and Council: $830,405: Mayor and Council are funded by 100% General Fund. Projected savings are from General Fund Salary Savings as noted in the previous section.
- City Auditor: $219,038: The projected savings is primarily the result of salary savings from vacancies for positions funded by General Fund and the Workers' Compensation Fund.
- City Manager's Office: $515,495: In addition to the $176,579 of General Fund in the previous table, additional savings will come from other funds such as the Cultural Trust Fund for the Arts budget and Measure T1 Fund for the Phase 2 project.

- City Attorney: $629,672: The projected savings are a result of General Fund salary savings results due to vacancies. The CAO expects that these savings will be needed for policy priorities and responses to uncertain and rapidly shifting federal guidance.
- City Clerk: $374,282: Savings from the Fair Elections Fund due to no further known election activities for the remainder of FY 2025. The Department is not anticipating any further expenditures from this fund.
- Human Resources: $145,215: While General Fund is projected to have an overage of (-$3,029), the Employee Training Fund is projected to have savings as a result of a vacancy in the Training division.
- The Office of the Director of Police Accountability: $124,810: General Fund savings due to a vacancy in the department.
- Finance: $1,362,587: Personnel vacancies for General Fund and Zero Waste funded positions significantly contributed to the anticipated to savings for the fiscal year.
- Information Technology: $6,960,771: Projected due to staff vacancies in IT Cost Allocation fund. In addition, some projects were either delayed or costs were less than projected, contributing to the increase in savings for the fiscal year.
- Health, Housing, & Community Services: $12,409,426: In addition to General Fund savings of $1.3 million, program expenditures pertaining to Affordable Housing Mitigation Fund, various grants, and special funds contribute to savings for the fiscal year.
- Parks, Recreation & Waterfront: $19,373,904: Personnel savings due to over budgeting for program managers in FY25. Non-personnel budget surplus of $14M is made up of anticipated FY26 AAO1 capital carryover requests for the African American Holistic Resource Center, Cesar Chavez Restroom, Civic Center Plaza, D and E Dock Replacement and Tom Bates Restroom Projects.
- Planning: $3,277,203: Projected savings is primarily comprised of salary savings due to vacancies in positions funded by the General Fund, Rental Housing Safety Program, and the Permit Service Center Fund.
- Police Department: -$5,428,475: The Department projects a deficit in the General Fund of $6.14 million due to high vacancy rates causing an increase in overtime expenses and underfunded fringe benefit costs offset by savings in other funds.
- Fire Department: -$6,835,961: The Department projects a deficit in the General Fund of $7.34 million due to high vacancy rates causing an increase in overtime expenses and underfunded fringe benefit costs offset by minor savings in other funds.

Next Steps:
In preparation for the year-end close, the City Manager's Office and Finance Department will be coordinating with departments to review encumbrances and assess the feasibility of releasing some of the encumbrances before year-end; reviewing planned fourth quarter transfers among funds to determine if the transfers could be reduced and continuing to work with the public safety departments to address overtime. The actual FY 2025 year-end status will be known sometime in late December 2025 after the completion of the financial audit.

The City's annual Mid-Year Budget Update is a Strategic Plan Priority, advancing our goal to provide an efficient and financially-healthy City government.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
There are no impacts associated with receiving this report.

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Attachments:
1. Table: General Fund Revenue and Transfer In FY 2025 Mid-Year vs FY 2024 Mid-Year Comparison
2. Table: FY 2025 Mid-Year General Fund Expenditures (as of December 31, 2024)
3. Table: FY 2025 Mid-Year All Funds Expenditures (as of December 31, 2024)

Attachment 1

General Fund Revenue and Transfer Mid Year FY 2025 vs Mid Year FY 2024 Comparison

Revenue Categories	FY 2025				FY 2024				Comparision FY25 vs FY24	
	Adopted	Actual	Variance	% Received	Adopted	Actual	Variance	% Received	Amount	%
	(a)	(b)	c=(b) - (a)	(d) = (b)/(a)	(e)	(f)	g=(f) - (e)	(f)/(g)	(i) = (b) - (f)	(j) = (i)/(f)
Secured Property	$89,887,496	$45,385,988	($44,501,508)	50.49%	$75,664,920	$42,904,620	($32,760,300)	56.70%	2,481,368	5.78%
Redemptions -Regular	1,018,153	567,891	(450,262)	55.78%	831,441	524,404	-307,037	63.07%	43,487	8.29%
Supplemental Taxes	3,400,000	727,555	(2,672,445)	21.40%	2,000,000	1,197,265	-802,735	59.86%	(469,710)	-39.23%
Unsecured Property Taxes	4,648,038	4,165,858	(482,180)	89.63%	3,516,000	3,881,280	365,280	110.39%	284,578	7.33%
Property Transfer Tax	19,000,000	11,917,994	(7,082,006)	62.73%	34,462,172	10,056,934	-24,405,238	29.18%	1,861,060	18.51%
Property Transfer Tax-Measure P (New December 21, 2018)	6,199,580	4,955,306	(1,244,274)	79.93%	14,073,750	2,840,259	-11,233,491	20.18%	2,115,047	74.47%
Sales Taxes	18,884,235	9,364,937	(9,519,298)	49.59%	19,016,546	9,305,556	-9,710,990	48.93%	59,381	0.64%
Soda Taxes	1,147,387	512,817	(634,570)	44.69%	990,210	581,705	-408,505	58.75%	(68,888)	-11.84%
Utility Users Taxes	17,700,000	9,047,804	(8,652,196)	51.12%	13,800,000	7,801,328	-5,998,672	56.53%	1,246,476	15.98%
Transient Occupancy Taxes	7,688,065	4,249,236	(3,438,829)	55.27%	5,000,000	4,393,772	-606,228	87.88%	(144,536)	-3.29%
Less: TOT rebates owed (3)		(665,260)				(642,939)			(22,321)	3.47%
Short-term Rentals	1,400,000	661,730	(738,270)	47.27%	1,000,000	687,271	-312,729	68.73%	(25,541)	-3.72%
Business License Tax	23,664,000	1,338,857	(22,325,143)	5.66%	19,000,000	1,592,902	-17,407,098	8.38%	(254,045)	-15.95%
Recreational Cannabis	18,000	19,017	1,017	105.65%	1,400,000	76,512	-1,323,488	5.47%	(57,495)	-75.15%
U1 Revenues	6,500,000	128,163	(6,371,837)	1.97%	4,900,000	181,607	-4,718,393	3.71%	(53,444)	-29.43%
Other Taxes (excluding Redemptions-Regular)	4,434,906	1,951,624	(2,483,282)	44.01%	1,800,000	1,899,156	99,156	105.51%	52,468	2.76%
Vehicle In-Lieu Taxes	18,851,257	9,500,999	(9,350,258)	50.40%	15,926,168	8,937,911	-6,988,257	56.12%	563,088	6.30%
Parking Fines-Regular Collections	5,800,000	2,932,701	(2,867,299)	50.56%	4,326,450	3,253,087	-1,073,363	75.19%	(320,386)	-9.85%
Parking Fines-Booting Collections			0				0	0.00%	-	0.00%
Moving Violations	132,600	73,119	(59,481)	55.14%	132,600	96,254	-36,346	72.59%	(23,135)	-24.04%
Ambulance Fees	7,734,813	3,768,540	(3,966,273)	48.72%	3,880,779	3,815,272	-65,507	98.31%	(46,732)	-1.22%
Interest Income	13,500,000	8,207,451	(5,292,549)	60.80%	6,000,000	6,619,791	619,791	110.33%	1,587,660	23.98%
Franchise Fees	1,822,528	268,424	(1,554,104)	14.73%	1,613,283	307,634	-1,305,649	19.07%	(39,210)	-12.75%
Other Revenue	8,759,495	3,776,486	(4,983,009)	43.11%	6,729,977	3,018,612	-3,711,365	44.85%	757,874	25.11%
IDC Reimbursement	7,031,624	3,200,593	(3,831,031)	45.52%	5,490,000	3,259,079	-2,230,921	59.36%	(58,486)	-1.79%
Transfers	4,181,923	2,090,961	(2,090,962)	50.00%	17,096,148	4,045,962	-13,050,186	23.67%	(1,955,001)	-48.32%
Total Revenue:	**$273,404,100**	**$128,148,791**	**-$145,255,309**	**46.87%**	**$258,650,444**	**$120,635,234**	**-$138,015,210**	**46.64%**	**$7,513,557**	**6.23%**

Notes: (1) This statement is presented on a budgetary basis (i.e., cash).

(2) Current vendor no longer breaks out Regular and Booting Parking Fines Collections

(3) Includes the amount of TOT rebates paid during the period

(4) Total Other Taxes includes Redemptions-Regular

Attachment 2

FY 2025 MID-YEAR GENERAL FUND EXPENDITURES (AS OF DECEMBER 31, 2024)

DEPARTMENT	FY 2025 ADOPTED BUDGET	FY 2025 REVISED BUDGET*	YEAR TO DATE EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	PERSONNEL PERCENTAGE USED	NON-PERSONNEL PERCENTAGE USED	TOTAL PERCENTAGE USED	FY 2025 PROJECTED EXPENDITURES	FY 2025 PROJECTED ENDING BALANCE/(DEFICIT)
MAYOR AND COUNCIL	5,929,941	7,546,073	2,555,615	41,131	4,949,327	33.9%	41.8%	34.4%	6,715,668	830,405
CITY AUDITOR	3,657,880	3,978,425	1,694,488	196,112	2,087,826	45.5%	59.5%	47.5%	3,820,257	158,168
RENT STABILIZATION BOARD	0	97,372	91,667	5,705	0	0.0%	100.0%	100.0%	97,372	-
POLICE ACCOUNTABILITY	1,484,847	1,934,660	771,517	216,064	947,079	42.9%	65.5%	51.0%	1,809,850	124,810
CITY MANAGER'S OFFICE	14,352,199	20,391,790	9,315,949	3,978,946	7,096,896	50.7%	81.2%	65.2%	20,215,211	176,579
CITY ATTORNEY	5,612,249	7,802,788	2,767,380	662,162	4,373,246	37.7%	57.1%	44.0%	7,174,643	628,145
CITY CLERK	2,867,551	4,137,558	1,794,461	450,925	1,892,172	48.5%	59.0%	53.3%	3,727,662	409,896
FINANCE	9,302,266	10,242,676	3,846,235	861,449	5,534,992	37.1%	75.1%	46.0%	9,070,556	1,172,120
HUMAN RESOURCES	3,928,242	4,611,227	2,048,251	334,223	2,228,753	49.4%	56.7%	51.7%	4,614,256	(3,029)
INFORMATION TECHNOLOGY	1,580,760	2,178,188	740,715	324,193	1,113,279	0.0%	48.9%	48.9%	1,481,431	696,757
HEALTH, HSG & COMMUNITY SVC	31,950,903	42,797,711	15,209,270	11,994,980	15,593,461	43.8%	74.0%	63.6%	41,520,182	1,277,529
PARKS, RECREATION & WATERFRONT	9,625,120	20,936,165	8,830,547	5,025,150	7,080,468	60.5%	68.1%	66.2%	20,737,973	198,192
PLANNING & DEVELOPMENT	3,745,097	6,635,901	1,993,062	1,753,033	2,889,807	41.6%	69.1%	56.5%	6,303,931	331,970
PUBLIC WORKS	7,046,368	12,421,685	3,425,914	1,945,509	7,050,262	27.6%	53.2%	43.2%	10,802,674	1,619,011
POLICE	86,427,222	84,550,453	43,719,975	894,700	39,935,777	51.0%	69.5%	52.8%	90,691,088	(6,140,635)
FIRE & EMERGENCY SERVICES	47,108,481	52,458,169	27,729,260	4,982,301	19,746,608	57.4%	76.5%	62.4%	59,821,156	(7,362,987)
NON DEPARTMENTAL	50,930,926	49,291,556	7,174,583	269,908	41,847,065	0.0%	14.7%	15.1%	41,165,147	8,126,409
GRAND TOTAL	**285,550,053**	**332,012,398**	**133,708,890**	**33,936,491**	**164,367,018**	**49.6%**	**51.6%**	**50.5%**	**329,769,057**	**2,243,341**

**FY 2025 Revised does not reflect as of December 31, 2024 all Council approved allocations included in the FY 2025 AAO #1.*

Attachment 3

FY 2025 MID-YEAR ALL FUNDS EXPENDITURES (AS OF DECEMBER 31, 2024)

DEPARTMENT	FY 2025 ADOPTED BUDGET	FY 2025 REVISED BUDGET* (as of 12/31/24)	FY 2025 EXPENDED (as of 12/31/24)	ENCUMBRANCES (as of 12/31/24)	AVAILABLE BUDGET (as of 12/31/24)	TOTAL PERCENTAGE USED	FY 2025 PROJECTED EXPENDITURES	FY 2025 PROJECTED ENDING BALANCE/(DEFICIT)
MAYOR AND COUNCIL	5,929,941	7,546,073	2,555,615	41,131	$4,949,327	34.4%	6,715,668	830,405
CITY AUDITOR	3,759,532	4,080,077	1,713,933	196,112	$2,170,033	46.8%	3,861,039	219,038
RENT STABILIZATION BOARD	8,489,208	11,131,200	3,672,276	981,570	$6,477,354	41.8%	11,131,200	-
POLICE ACCOUNTABILITY	1,484,847	1,934,660	771,517	216,064	$947,079	51.0%	1,809,850	124,810
CITY MANAGER'S OFFICE	18,116,986	29,759,208	11,908,063	5,067,590	$12,783,555	57.0%	29,243,713	515,495
BERKELEY PUBLIC LIBRARY	29,196,379	29,746,783	12,188,078	3,486,140	$14,072,564	52.7%	29,695,930	50,853
CITY ATTORNEY	9,290,707	12,169,189	4,352,659	1,131,452	$6,685,078	45.1%	11,539,517	629,672
CITY CLERK	3,518,483	4,788,490	2,263,043	450,925	$2,074,522	56.7%	3,855,514	932,976
FINANCE	11,823,351	12,838,872	4,820,838	956,316	$7,061,718	45.0%	11,476,285	1,362,587
HUMAN RESOURCES	5,993,013	6,851,787	3,145,460	426,300	$3,280,026	52.1%	6,706,572	145,215
INFORMATION TECHNOLOGY	23,471,574	27,009,191	10,264,181	2,480,085	$14,264,926	47.2%	20,048,420	6,960,771
HEALTH, HSG & COMMUNITY SVC	137,886,423	175,113,677	43,222,468	32,925,897	$98,965,312	43.5%	162,704,251	12,409,426
PARKS, RECREATION & WF	47,477,377	114,231,227	30,790,184	28,409,413	$55,031,629	51.8%	94,857,323	19,373,904
PLANNING & DEVELOPMENT	33,307,718	39,250,353	13,526,593	4,647,303	$21,076,457	46.3%	35,973,150	3,277,203
PUBLIC WORKS	196,515,786	330,970,448	79,965,938	63,814,672	187,189,838	43.4%	272,592,552	58,377,896
POLICE	91,311,451	91,122,096	46,217,269	1,509,166	$43,395,661	52.4%	96,550,571	(5,428,475)
FIRE & EMERGENCY SERVICES	71,480,646	79,914,159	37,163,343	7,987,960	$34,762,857	56.5%	86,750,120	(6,835,961)
NON DEPARTMENTAL	94,266,289	98,193,407	43,102,511	339,811	$54,751,085	44.2%	97,479,644	713,763
GRAND TOTAL	**793,319,711**	**1,076,650,897**	**351,643,971**	**155,067,906**	**569,939,021**	**47.1%**	**982,991,319**	**93,659,579**

**FY 2025 Revised does not reflect as of December 31, 2024, all Council approved allocations included in the FY 2025 AAO #1.*

Office of the City Manager

INFORMATION CALENDAR
March 25, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

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

Subject: Landmarks Preservation Ordinance Notice of Decision (LPO NOD): 2138 Kittredge Street/#LMIN2024-0006

INTRODUCTION

The attached Notice of Decision (NOD) for the Landmarks Designation 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 (LPO/Commission) has designated the subject property as a City Landmark. Pursuant to Government Code section 65913.10, because there is a vested preliminary application for a housing development project on the subject property, the landmark designation will apply only to the property, not to the housing project.

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. In order for Council to review the decision on its merits, Council must appeal the NOD. To do so, a Councilmember must move this Information Item to Action and then move to "certify" the decision. Such action must be taken within 15 days from the mailing of the NOD or by March 25, 2025. 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 within 25 days pursuant to BMC/LPO Section 3.24.300. The Council must then rule on the designation within 30 days from the date that the public hearing is opened or 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 certify or appeal the decision to grant designation status, setting the matter for public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION
There are no known fiscal impacts associated with this designation action.

CONTACT PERSON
Fatema Crane, Principal Planner, Planning and Development, 510-981-7410

Attachments:
1: Notice of Decision – #LMIN2024-0006/2138 Kittredge Street

LANDMARKS PRESERVATION COMMISSION

Notice of Decision

DATE OF BOARD DECISION: February 6, 2025
DATE NOTICE MAILED: March 10, 2025
APPEAL PERIOD EXPIRATION: March 25, 2025
EFFECTIVE DATE (Barring Appeal or Certification): March 26, 2025[1]

2138 Kittredge Street – The Fitzpatrick House and Pepper Tree Tea Room

Landmark application #LMIN2024-0006 for the consideration of City Landmark or Structure of Merit designation status for a property originally constructed in 1904 and expanded in 1935 (APN 057-2029-015-00)

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the subject City Landmark designation application.

- **Applicant:** 64 Berkeley Resident Petitioners
  Anthony Bruce, Application Author
  Berkeley Architectural Heritage Association
  P.O. Box 1137
  Berkeley, CA

- **Property Owner:** Susan Carlson
  2138 Kittredge Street
  Berkeley, CA

ZONING DISTRICT: Commercial Downtown Outer Core (C-DMU)

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
#LMIN2024-0006
2138 Kittredge Street
March 10, 2025

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

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FINDINGS AND CONDITIONS OF APPROVAL AND APPLICATION MATERIALS ARE ATTACHED TO THIS NOTICE

COMMISSION VOTE: 8-0-0-0 (*Note: one vacancy*)

YES: CRANDALL, ENCHILL, FINACOM, LEUSCHNER, MONTGOMERY, ORBUCH, PLESE, SCHWARTZ

NO: NONE

ABSTAIN: NONE

ABSENT: NONE

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, Fatema Crane, at (510) 981-7410 or fcrane@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
Anthony Bruce, Berkeley Architectural Heritage Association**,** P.O. Box 1137**,** Berkeley, CA
Susan Carlson, 2138 Kittredge Street, Berkeley, CA

FINDINGS FOR DESIGNATION

FEBRUARY 6, 2025

2138 Kittredge Street – The Fitzpatrick House and Pepper Tree Tea Room

Landmark application #LMIN2024-0006 for the consideration of City Landmark or Structure of Merit designation status for a residential property constructed circa 1904 (APN: 057-2029-015-00)

PROJECT DESCRIPTION

City Landmark designation of the property at 2138 Kittredge Street

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

1. Pursuant to Berkeley Municipal Code (BMC) Section 3.24.110.A.1.(b) of the Landmarks Preservation Ordinance (LPO), the Landmarks Preservation Commission of the City of Berkeley (Commission) finds that the property at 2138 Kittredge Street meets the architectural merit criterion for City Landmark designation as an example of a Colonial Revival residence representing the work of locally prominent architect, William H. Wharff, combined with an individually distinctive example of the application of Moderne-influenced Georgian Revival styling to form its front addition. Together, the building's original and added masses provide a strong example of a hybridized building typology that is representative of the mixed-use architecture that developed in Berkeley's downtown during the early twentieth century. Its Colonial Revival characteristics include shiplap siding, molded wood water table and beltcourses, projecting bay with chamfered corners and molded overhang details, hipped roof with moderate overhangs and a hip dormer, as well as its retention of several wood-sash windows, and a stained-glass window. Its Georgian Revival style is expressed through its front addition, which incorporates unpainted, reddish brown brick cladding and brick detailing, arched openings with keystone details, arched windows with tripartite casements, fanlights, paneled-wood bulkheads, and a balanced composition overall. Through the retention of its essential form and historic materials, it conveys design, materials, and workmanship aspects of integrity.

2. Pursuant to BMC Section 3.24.110.A.2, the Commission further finds that the subject property warrants designation for its association with original owner, John Fitzgerald as well as Pepper Tree Tea Room proprietors, William and Alma Taylor. The property

contributed to the City's economic development, including development of expanded commercial uses in what was a largely residential area to a commercial district along the Shattuck Avenue corridor. This pattern of twentieth century development in downtown Berkeley included the modification of low-density residences to accommodate commercial uses, such as occurred with the subject building's 1935 addition. The property continues to exhibit characteristics that lend it a strong association to this aspect of Berkeley's cultural history.

3. Pursuant to BMC Section 3.24.110.A.4, the Commission finds that the property meets the criterion for historical value for its association with a pattern of residential to residential-commercial development that emerged in Berkeley in the early twentieth century. Its residential to residential-commercial development is conveyed through its blended styles and forms that resulted from its adaptation including its distinctive 1935 Georgian Revival with Moderne styling front addition and Colonial Revival residence portion. Its residential-commercial use is conveyed though its two-part massing with reddish-brown brick cladding, arched and rectangular openings, and balanced Georgian Revival composition at the primary elevation and its shiplap exterior, dormers, and one-over-one, double-hung wood-sash windows at the building's residential rear.

FEATURES TO BE PRESERVED

This designation shall apply to the subject property and the following distinguishing features of the shall be preserved, and missing features shall be restored to the extent possible:

Property

- Location at the south side of Kittredge Street
- Setting in the Shattuck Avenue Commercial Corridor Historic District.

Main Building

- Two-part massing comprised of Colonial Revival residential rear and Georgian Revival commercial addition at primary, street-facing facade
- Colonial Revival characteristics, including:
    - Shiplap siding
    - Molded-wood water table at the first floor
    - Projecting bay with chamfered corners and molded overhang details at the first floor
    - Hipped roof with moderate overhang and dormer window on east eave
    - One-over-one, double-hung wood-sash windows
- Georgian Revival characteristics, including:
    - Unpainted reddish-brown brick cladding and brick detailing
    - Arched openings with keystone details
    - Arched windows with tripartite casements
    - Fanlights above tripartite casements
    - Paneled-wood bulkheads
    - Angled brick beltcourse that continues around the addition’s first floor
- Stained-glass window at west elevation of Colonial Revival portion of building
- Circular with four keystones detail at second story of primary façade

Received
OCT 3 0 2024
Land Use Planning

CITY OF BERKELEY
Ordinance #4694 N.S.
LANDMARK APPLICATION

Fitzpatrick House & Pepper Tree Tea Room
2138 Kittredge Street
Berkeley, California

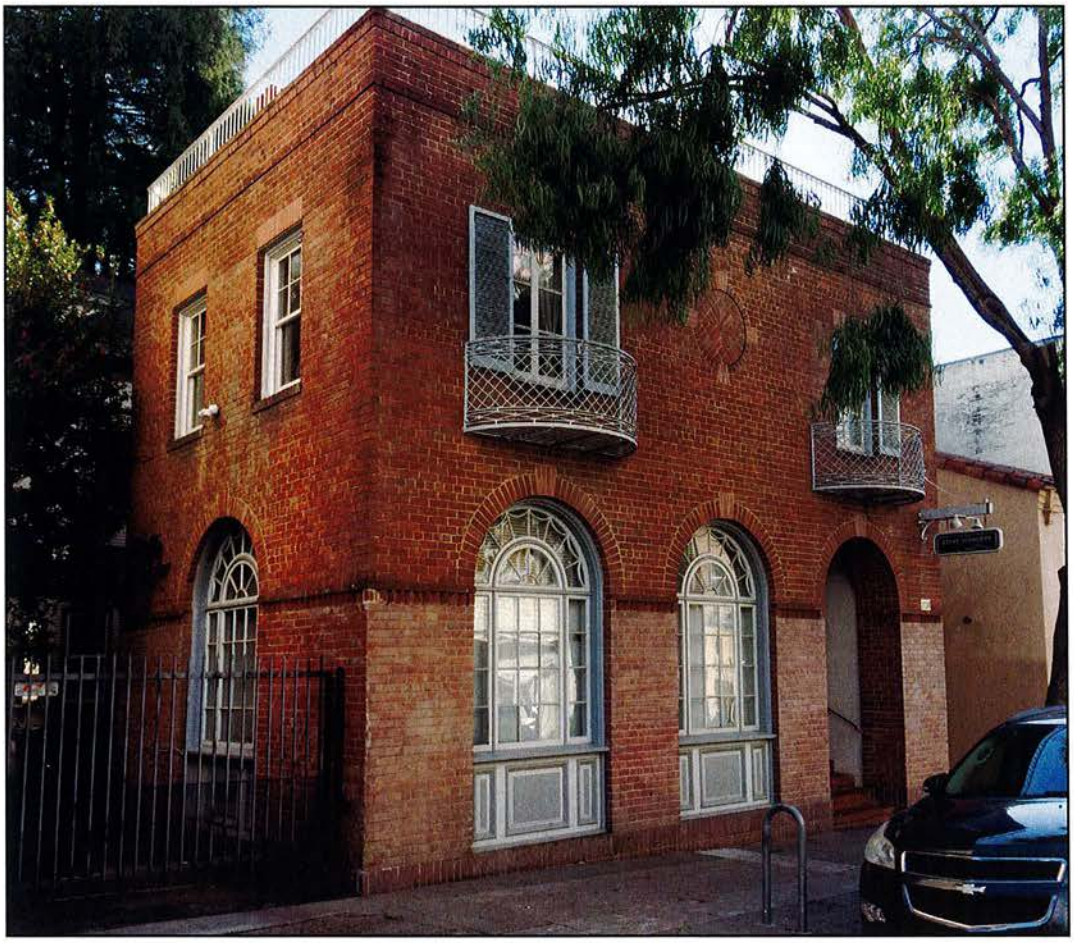


Figure 1. The Pepper Tree Tea Room addition to the front of the Fitzpatrick House. Anthony Bruce, 2021

1. **Street Address:** 2138 Kittredge Street (formerly 2112 Kittredge Street)
   County: Alameda **City**: Berkeley **ZIP**: 94704

2. **Assessor's Parcel Number**: 057-2029-01500 (Blake Tract No. 3, Lot 17)
   Dimensions: 50 feet x 135 feet
   Cross Streets: Shattuck Avenue and Fulton Street

3. **Is property on the State Historic Resource Inventory?** Yes, 1979
   Is property on the Berkeley Urban Conservation Survey? Yes
   Form #: 21280

4. **Application for Landmark Includes**:
   a. Building(s): Yes **Garden:** No **Other Feature(s)**: No
   b. Landscape or Open Space: No
   c. Historic Site: No
   d. District: No
   e. Other: Entire property

5. **Historic Names:** Fitzpatrick House; Pepper Tree Tea Room
   Commonly Known Name: not known

6. **Date of Construction:** 1904; 1935 **Factual**: Yes
   Source of Information: *Berkeley Gazette*, January 4, 1904; City of Berkeley Building Permit Application #39423, June 13, 1935

7. **Architect:** William H. Wharff (1904); unknown (1935)

8. **Builder:** Ben Pearson and Nels Olsen (1904); Victor Carlson (1935)

9. **Style:** Late Colonial Revival (the house); Georgian Revival (storefront)

10. **Original Owners:** John C. Fitzpatrick (from 1903 to 1942)
    Original Use: family residence; restaurant

11. **Present Owner:** Carlson Susan Trust
    Present Occupant: unknown

12. **Present Use:** Residential
    Current Zoning: C-DMU Outer Core **Adjacent Property Zoning:** C-DMU Outer Core

13. **Present Condition of Property:**
    Exterior: Excellent (except for recent grafitti) **Interior:** unknown **Grounds:** fine
    Has the property's exterior been altered? Minimally

14. Description

The structure at 2138 Kittredge Street consists of a 1904 house with a major 1935 brick commercial addition (now residential) at the front. The earlier structure is a two-story, clapboard Colonial Revival house topped by a hip roof with dormers. Originally the front façade consisted of a front porch at the right topped by a Classical balustrade, and a two-story gable-roofed bay to the left, which set it apart from most of the other Colonial Revival houses of the time. The front façade was obliterated when the brick addition was built.



Fig. 2 The Fitzpatrick House, showing the rear and the east elevation. Betty Marvin, 1978.

There is a two-story square bay on the east side (*Fig. 2*). The bay is slanted on the first floor with the corners of the second floor supported by elaborate consoles. The eaves are supported by smaller consoles. An extension of the main roof of the house covers the bay.

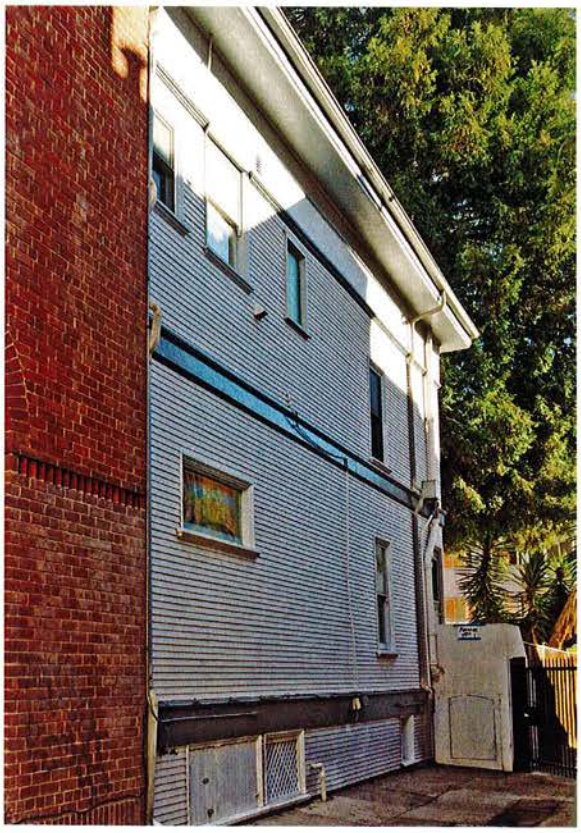
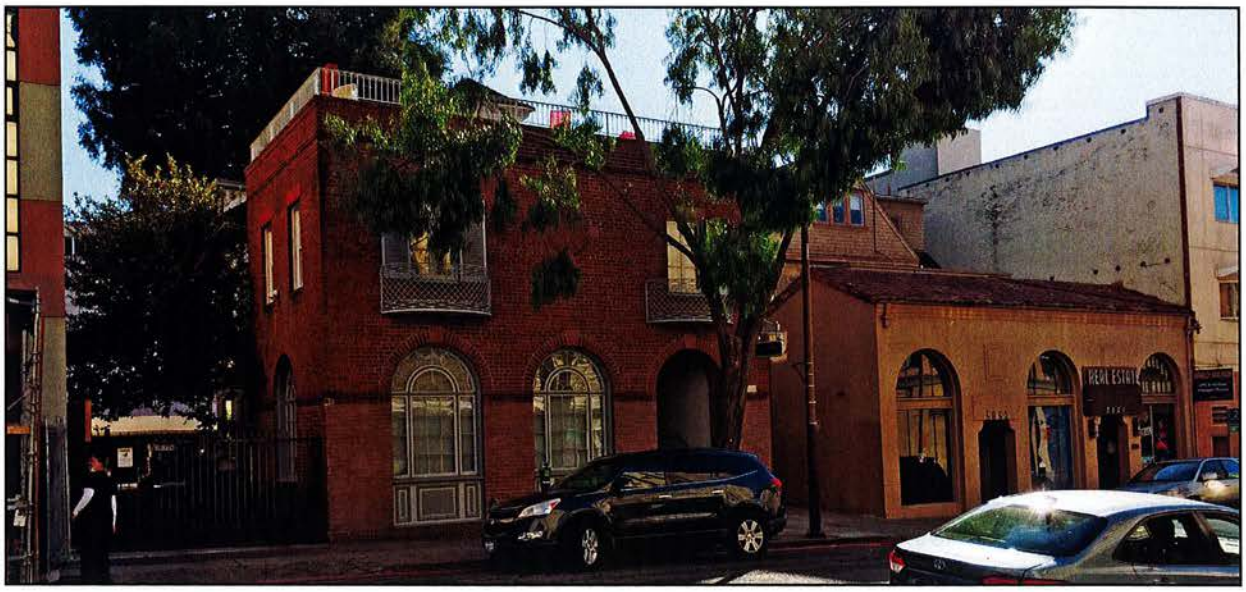


Fig. 3 The west elevation of the Fitzpatrick House with stained glass window. Anthony Bruce, 2021

There have been several alterations to the rear of the house. A large dormer was added at the rear in 1915 to serve as an attic-level sleeping porch. An original one-story section that extended across the rear was altered at an unknown date after 1950 (probably 1953) with the addition of a flat-roofed second story at the east end.

The west façade (*Fig. 3*) is fairly intact, except for the possible addition of one or two windows on the second floor. An important feature of the original structure is on the west side: a stained glass window depicting an ornate flour-de-lis in amethyst glass. It lights the entrance hall. There are two brick chimneys.

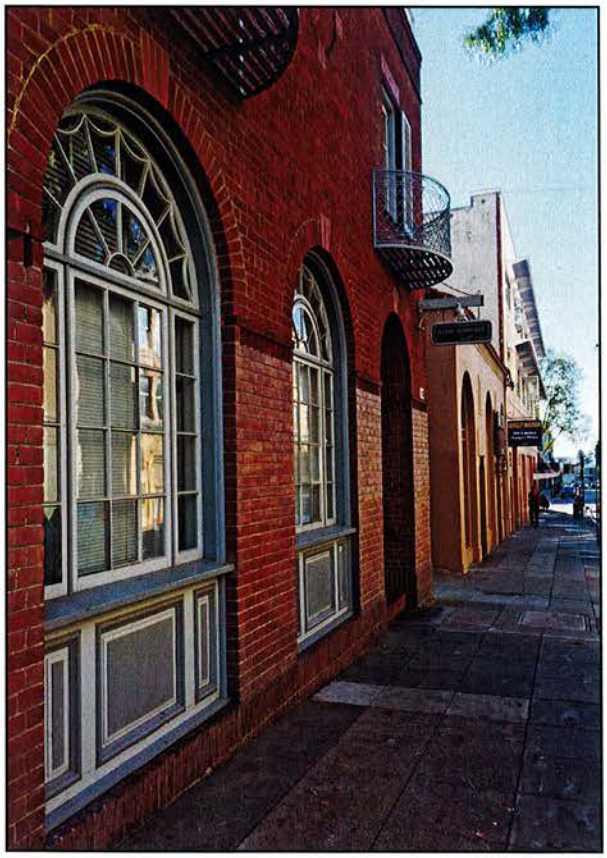
The brick addition (*Fig. 1*) from 1935 wraps around the front of the original house and is U-shaped. It extends to the sidewalk with no setback. It was built to add eight feet of space to the tea room that already existed in the house at that time, and to give the commercial establishment a more sophisticated appearance.This crisply geometric Moderne version of brick Georgian begs for the name of a designer or architect. Unfortunately, the alteration permit application forms of



Fig, 4 Pepper Tree Tea Room street façade. Anthony Bruce, 2021.

1935 did not include a line for the name of the architect.

The first floor consists of five arched openings (*Figs. 4, 5*). The one on the west is a niche with a planter box. The one on the east and the two easternmost on the front façade are filled in with paneling topped by small-paned casement windows. Within the curved arched tops are fan windows with intricately worked muntins. The fifth arch, at the western end of the front façade is open and serves as the entrance. Brick steps lead to a porch at the level of the first floor of the original house. A Moderne door is topped by a horizontal leaded-glass window. Vertical bricks and a keystone outline each arch and may or may not give physical support. At the point where the curve of the arches becomes vertical there is a beltcourse made up of a row of jagged brick edges. (*Figs. 6, 7, 8*)



The two second-floor windows on the front are vertical casements with shutters (one of the four shutters is missing). The two windows open onto wrought iron or galvanized simulated balconies of intricate pattern. A row of vertically laid bricks tops the two windows. A brick design in the center of the second floor suggests a circular opening with four keystones. Second-floor windows on the east and west ends are double-hung sash with the upper sash consisting of six lights.

Fig. 5 The three arched openings on the street façade. Anthony Bruce, 2021.



Fig. 6 East side of the tea room addition. Anthony Bruce, 2021.



Fig. 7 Entrance of the tea room addition. Anthony Bruce, 2021.



Fig. 8 Niche on west side of the tea room addition. Anthony Bruce, 2021.

There is a subtle cornice formed by rows of slightly projecting bricks. This is topped by a delicate balustrade seemingly crafted from the same type of metal as the balconies. The original projecting sign holder is still on the front wall attached to the right of the righthand balcony. The sign itself, discreetly announcing the Pepper Tree Tea Room, has been replaced with the present smaller sign that reads, "Steve Schneider."

In 1942 architect Paul Hammarberg designed alterations, most likely to the interior of either the house or the tea room addition. A carport was added in the rear in 1955. A large cedar (?) tree stands behind the house.

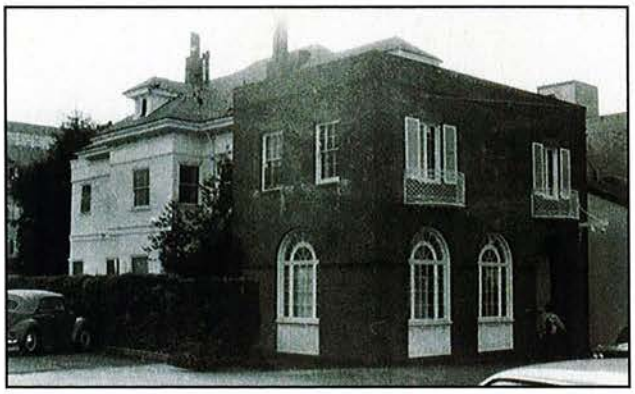


Fig. 9. The Fitzpatrick House and 1935 addition. Betty Marvin, 1978.

Features to Be Preserved

The Fitzpatrick House and Pepper Tree Tea Room addition have been maintained in fine condition over the last eighty-five years, and the building retains most of its original features, which are each essential to its whole. Therefore, most of the features of the Fitzpatrick House and Pepper Tree Tea Room are significant (except for the rear additions to the house), including, but not limited to:

- the original windows
- the window framing and sills
- the narrow-gauge clapboard siding
- the hip roof
- the dormers
- the two-story bay window
- the consoles at the bay and under the eaves
- the stained glass and leaded-glass windows
- the simulated balconies on the front façade
- the metal balustrade on the parapet wall of the addition
- the sign-holder on the front façade
- the patterned brickwork
- the brick niche

15. History

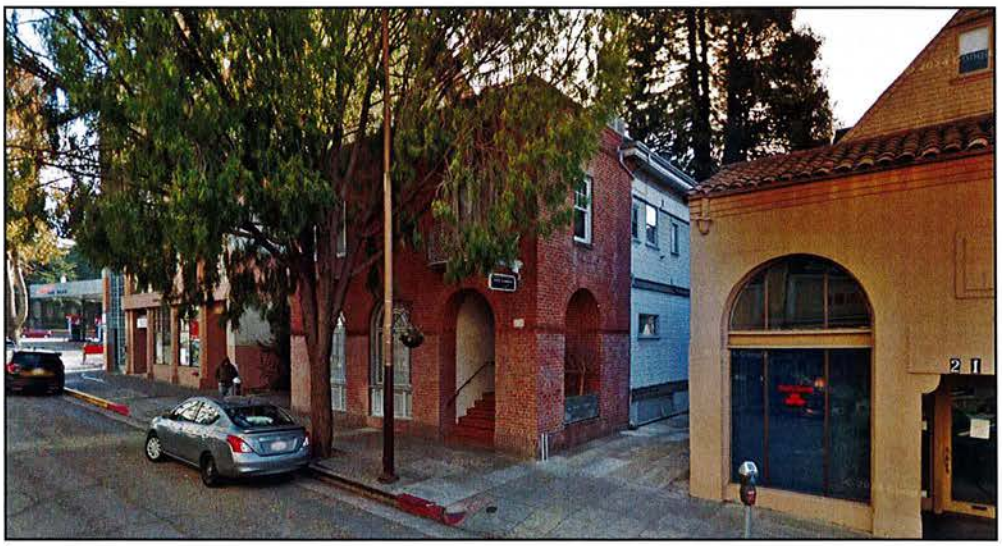


Fig. 10 The Pepper Tree Tea Room and Fitzpatrick House. To the right is the shopfront of the Elder House. Google Streetview photo, January 2015.

When Berkeley was still a town, downtown was as much a residential neighborhood as other areas. Before there was efficient public transportation, and before every family owned an automobile, it was convenient to live close to the center of the town's activities. For someone whose business was downtown, the location was ideal for a residence. John Fitzpatrick lived and worked in downtown Berkeley.

John Charles Fitzpatrick was born in Benicia in 1865. He began managing a ranch there and later had his own ranch, which he maintained for the rest of his life. In 1887, he and Caroline Isabel Preston were married in Benicia. And their first two children, Albert Reginald and Caroline Gladys, were born in Benicia. Mary Eldred, John Preston, and Marie Antoinette were born after the family's move to Berkeley in 1890. Soon after the move to Berkeley, Mr. Fitzpatrick was hired as superintendent of the Claremont, University & Ferries Street Railway (he also served as secretary, manager, and, at times, motorman). This was the first horsecar in downtown Berkeley and its route provided the only public transportation connecting West Berkeley and central Berkeley. The company had been incorporated in 1888 and new ownership had taken over in 1891. Mr. Fitzpatrick served until 1900 (the line ceased operation the following year) when, according to *Berkeley Gazette* columnist Hal Johnson, who interviewed Fitzpatrick in 1940 for an article, ". . . he had a hunch that horsecars were doomed, so he got out of the business and started the first railroad station horse and hack taxi service."

John Fitzpatrick's first location for his new livery business was in a brand-new brick stable constructed by John Hinkel on Allston Way behind the building that later housed Edy's Character Candies. Fitzpatrick advertised, "Coupes, hacks, and carriages at all hours; passengers transported to any part of Berkeley." During this time he moved the family from a house on Addison Street to a house on the north side of Kittredge Street. The block at that time was entirely residential and it may have seemed like a pleasant place to build a new home, as well as being centrally located for his business.

In late December 1903, John Fitzpatrick signed a contract to build a two-story and basement $4,000 Colonial Revival style house on the south side of Kittredge. The house was designed by William H. Wharff (1836–1936), an architect who was helping to transform Downtown from a frontier "Main Street," with buildings that sport-



Fig. 11 The Thomas Block (William Wharff, 1904), Center Street between Shattuck and Oxford. Anthony Bruce Collection (all four on this page).



Fig. 12 The Wanger Block (William Wharff, 1903), southeast corner of Shattuck at Kittredge.

ed wooden awnings over boardwalks, into a modern city of substantial brick buildings with Classical ornamentation. Fitzpatrick would have been aware of Wharff and perhaps even knew him. The architect's three-story Wanger Block (Kittredge Apartments) was under construction in 1903 at the corner of Kittredge and Shattuck (still standing after three major remodelings). Architect Wharff also designed in downtown the Chase Building (1909), the Masonic Temple (1905), and the soon-to-be-demolished Thomas Block (1904) on Center Street (*Figs. 11, 12, 13, 14*).

John Fitzpatrick also purchased the adjoining lot to the east of his new house. There he built a split-level livery stable that covered the entire lot. He also built a smaller stable at the rear of his residential lot which was used for overflow. Although the business began in the horse-and-buggy days, by 1916 the livery stable had become an automobile garage, with space rented to Downtown automobile owners and with "limousines for hire at all hours." Hal Johnson, in his colorful prose, spoke of this in his 1940 article: "When 'horseless' carriages came in, Mr. Fitzpatrick figured station hacks



Fig. 13 The Masonic Temple (William Wharff, 1905), City of Berkeley Landmark #52, 2105 Bancroft Way (northeast corner of Shattuck and Bancroft).

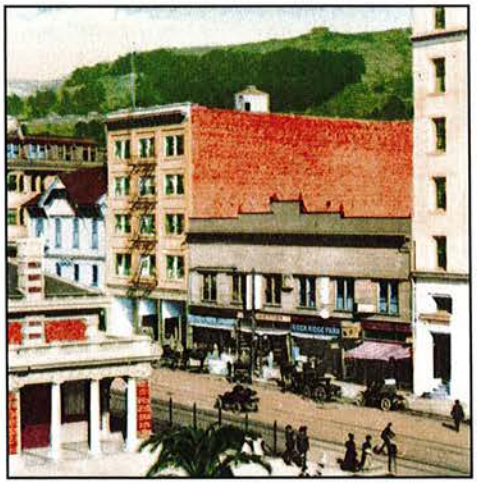


Fig. 14 The Chase Building (William Wharff, 1909), City of Berkeley Landmark-Structure of Merit #226. 2107 Shattuck Avenue. (building with red brick side wall)

would go the way of all horseflesh. He brought to Berkeley the first gas chariots for passenger hire: two Pope-Hartfords and a Knox. One of the old-time undertaking establishments had purchased a motorized hearse and, with Mr. Fitzpatrick's three cars, was able to provide an elite funeral procession. In those days he was in great demand delivering telegrams and telephone messages. He made his headquarters at his stable, opposite the Fox-California Theater. The stable he subsequently turned into one of the first local public garages. He still owns the property."

As was customary at the time, the Fitzpatrick children lived at home as adults. Newlyweds Caroline Gladys and her husband George Brown lived there too. Mrs. Fitzpatrick died in 1911 and John retired from the livery/garage business about 1920. In 1924 Mr. Fitzpatrick moved to a house at 1936 Delaware Street that happened to be a half-block away from the long-time home of William Wharff. John Fitzpatrick died in 1945 at age eighty. At the time, his widowed daughter Caroline Brown and her two children were making their home with him.

After the Fitzpatricks moved out, Alma and William Taylor, a couple of the same generation as the Fitzpatrick children, used the Fitzpatrick House on Kittredge as their home. The Taylors may have intended to purchase the property from the start; perhaps they made monthly payments to Fitzpatrick. The sale was not completed until March 1942. William Harrison Taylor, a native of Tennessee, married Alma Thompson Prentice, who grew up in Oakland, in 1914. He was a self-employed real estate agent. Alma immediately opened the Pepper Tree Tea Room in the house, which she managed for the next seventeen years. For a time, Alma's elderly father lived with them, as did her college-graduate niece, Helga, who waited tables in the tea room.

In 1935, following the lead of the owners of the Elder House next door and the A.H. Broad House across the street (*Figs. 15, 16*), the Taylors added a commercial front to the house (*Figs. 1, 17*). The brick structure was a sophisticated addition to the block, and, with its "Colonial Dining Room," an elegant setting for the genteel Pepper Tree Tea Room. (Frances Swain, who later lived in the building, remembered a pepper tree next door as late as the 1940s.) Weekly display ads in the *Berkeley Gazette* whetted the public's appetite for the reopening on August 17, 1935. Ads throughout the fall mentioned the "new Colonial Dining Room" and stated that, "we are confidant our

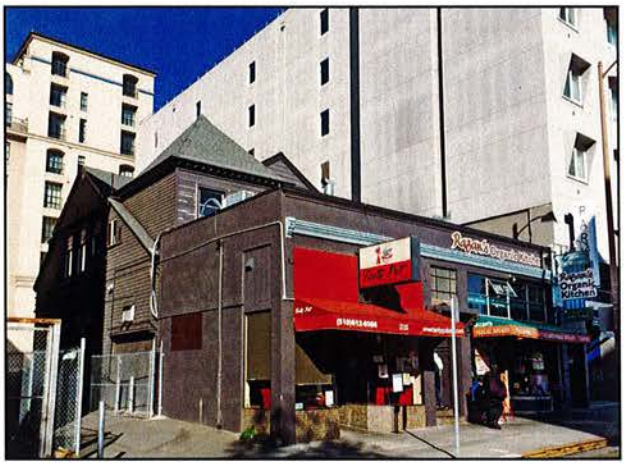


Fig. 15 A. H. Broad House (A. H. Broad, 1894), 2119 Kittredge Street. City of Berkeley Landmark-Structure of Merit #242, 2119 Kittredge Street. Anthony Bruce, 2021.

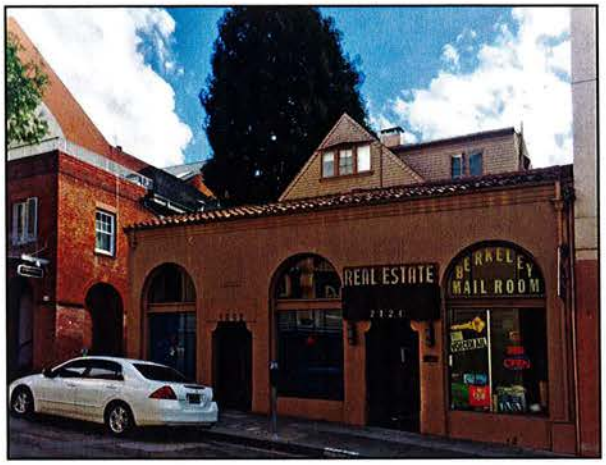


Fig. 16 Elder House (F. E. Armstrong, 1895), 2124 Kittredge Street. Shopfront built in 1926. Anthony Bruce, 2021.

redecorated and enlarged dining rooms will add much to your comfort and enjoyment."

The Taylors had expressed confidance in the viability of Berkeley's downtown during the Depression, and the restaurant prospered. It was World War II that brought an end to the establishment. In May 1942, two months after the Taylors had officially become the owners of the property, the *Berkeley Gazette* advertised a sale of all the furnishings of the Pepper Tree Tea Room, including the stove and dishwashing machine. Then, in August, the Taylors took out a permit for alterations to add a "unit." The architect they commissioned was Paul Hammarberg, the architect of much of the wartime housing that was being built in Berkeley.

In 1943, the Taylors purchased the property next door from John Fitzpatrick: the site of the livery stable/garage. In 1953 the Taylors made alterations to the apartments while continuing to live there. Alma died at home in 1960 and rated an obituary in the newspaper as the long-time proprietress of a popular Berkeley restaurant. William remarried in 1963 (Helen Ingham), and was survived by her when he died at age ninety in 1974, still living at 2138 Kittredge. Helen and William had sold the property next door in 1964 to Herbert and Annabelle Cradduck. Herb Cradduck had already installed his hamburger stand, Herb's Hamburgers, on the empty lot in 1955.

The same year, 1955, Helen and William Taylor demolished the last remaining piece of the livery stable that was behind the Fitzpatrick House. While foundations were being dug for the construction of a carport, a workman discovered a human skeleton. Francis A. Riddell, an assistant archaeologist with the University's Archaeology Survey, determined that the skeleton was that of a forty-year-old Indian woman who had died more than 100 years before.

As downtown Berkeley grew, commercial buildings gradually replaced the many residences. Today, the Fitzpatrick House is part of a surviving cluster of three former single-family residences grouped together on Kittredge Street. The other two are the A.H. Broad House (1894) at 2119 Kittredge (City of Berkeley Landmark) and the Elder House (1895) at 2124 Kittredge (*Figs. 15, 16*). The three have survived apparently because of their shopfront additions, which allowed them to become part of the urban streetscape.



Fig. 17 The front façade of the tea room addition in 1939. Donogh Real Estate File, Berkeley Architectural Heritage Association.

As was the 1900 block of Walnut Street, the 2100 block of Kittredge is a charming remnant of Downtown Berkeley's residential neighborhood that pressed close to the main business streets of Shattuck and University avenues. After the recent loss of all that made Walnut Street so special, the group of houses on Kittredge Street have taken on even greater significance than when all three were included in the State Historic Resources Inventory in 1979.



Fig. 18 The Pepper Tree Tea Room addition. Betty Marvin, 1979.

16. Significance

The Fitzpatrick House and the Tea Room addition each have their own significance for Downtown Berkeley. Together, the two have added significance for the development history of Berkeley's downtown.

The Fitzpatrick House embodies the history of downtown transportation trends through its owner John C. Fitzpatrick, who in his various capacities over a period of close to ten years made a success of Downtown's first local public conveyance, the Claremont, University & Ferries Street Railway. He went on to owning his own livery stable, where he served as chauffeur and expressman, and where he provided storage facilities as well as horse-and-buggy rentals. When automobiles became more than a fad, Fitzpatrick was quick to convert his facilities to automotive care, leasing, and storage. In keeping with other Downtown entrepreneurs who lived near their work, Fitzpatrick built his house a half-block from Shattuck avenue and built his new livery stable/garage next door. (According to historian Louis L. Stein, Jr., John Fitzpatrick had one of the horsecars from the then-defunct Claremont, University & Ferries Street Railway stored in his stable.)

The Colonial Revival-style Fitzpatrick House was appropriately designed by a downtown architect: William H. Wharff, who, at the time he designed the house, was instrumental in transforming Downtown from a wooden "frontier" Main Street into a thriving downtown with imposing brick buildings. His Wanger Block, Thomas Block, Masonic Temple, and Chase Building gave new stature to Downtown during the time that Berkeley went from being a town to a city. Wharff lived a few blocks from Downtown, but was nevertheless, through his club and lodge affiliations, a well-known member of the downtown community.

The Pepper Tree Tea Room's commercial addition is one of the small architectural gems in Downtown Berkeley. The designer's name may never be known, but it was someone with the skill to create a stately, formal structure, that—through its pedestrian scale, use of warm-colored bricks, and whimsical touches such as the balconies—is welcoming and especially pleasing to the eye. Further, the design, with its arched windows, classical fanlights, belt course and cornice, reflects an expert knowledge of the neo-Georgian style, a style that is quite rare in Berkeley. The structure is unaltered and fully retains the architectural integrity of its period. Although the tea room belongs to a group of downtown studio-like buildings (*e.g.* the g. Paul Bishop Studio on Durant, the Mike Roberts Studio at 2138 Allston Way, the Morse-Brock Building at 2122 Shattuck), the Pepper Tree Tea Room's design is unique in Downtown. The Berkeley Architectural Heritage Association asserts that the property at 2138 Kittredge could be designated a City of Berkeley Landmark solely for the architectural distinction of the Pepper Tree Tea Room.

The Fitzpatrick House together with the tea room addition is significant in the way it clearly shows the changing character of Downtown Berkeley in the early 20th Century. As Downtown grew, it became less desirable to live in a single-family residence surrounded by commercial structures. A renovation that made sense was the addition of commercial space in what had been a front yard, and the conversion of the house—now tucked behind an urban façade—to apartments. In this way, such remnants of an earlier way of life in Downtown Berkeley were able to remain. The 2100 block of Kittredge Street is fortunate to have three of this type of conversion, and together, these three houses-with-storefronts form a *de facto* historic district. These are buildings that give interest and historical texture to an urban streetscape, and are very much worthy of preservation.

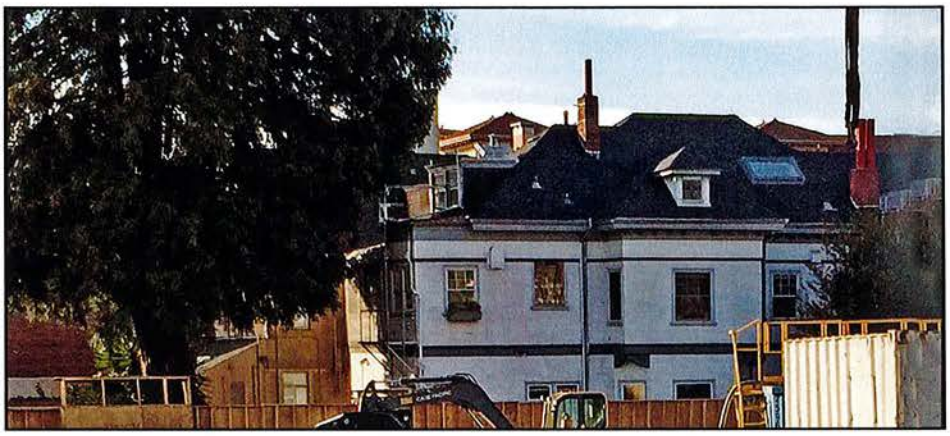


Fig. 19 The Fitzpatrick House after the neighboring Oxford Court had been demolished and a view from the east was temporarily re-established. Anthony Bruce, 2021

17. Historic Value— **City:** Yes **Neighborhood:** Yes

Architectural Value— **City:** Yes **Neighborhood:** Yes

18. Is the property endangered? Yes! There was a proposal to demolish the Fitzpatrick House & Pepper Tree Tea Room published in the August 14, 2024 edition of *SF YIMBY.*

19. Bibliography:

Berkeley assessment records. The Bancroft Library.

Berkeley and Oakland directories. Berkeley Architectural Heritage Association, Ancestry.com.

Berkeley Gazette, "The Pepper Tree to Re-Open on Saturday," August 16, 1935.

Berkeley Gazette, "Horsecar Man" by Hal Johnson, February 28, 1940.

Berkeley Gazette, "The Downtown as Residential Area" by Anthony Bruce, May 28, 1981.

Block (plat) books. Berkeley Architectural Heritage Association.

Block Files. Berkeley Architectural Heritage Association.

City of Berkeley Building Permit Applications.

Edwards Transcript of Records for Alameda County, December 30, 1903, contract notice.

Ormsby Donogh Real Estate File. Berkeley Architectural Heritage Association.

Sanborn Fire Insurance Maps. Berkeley Architectural Heritage Association.

SF YIMBY, "Preliminary Permits For 2138 Kittredge Street, Downtown Berkeley" by Andrew Nelson, August 14, 2024.

Tracts maps. Alameda County Assessor's Office.

U.S. Census and California Voter Registration records. Ancestry.com.

20. Recorder: Anthony Bruce for the the Berkeley Architectural Heritage Association, P.O. Box 1137, Berkeley, California 94701 c: (510) 847 1379

BAHA@BerkeleyHeritage.com

21. Date: September 2024

22. Addenda:

461

State of California -- The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

HISTORIC RESOURCES INVENTORY

(State use only) Ser ____ Site ____ Mo. ____ Yr. ____
UTM ____ Q ____ NR 3 SHL ____
Lat ____ Lon ____ Era ____ Sig ____
Adm ____ T2 ____ T3 ____ Cat ____ HABS ____ HAER ____ Fed ____

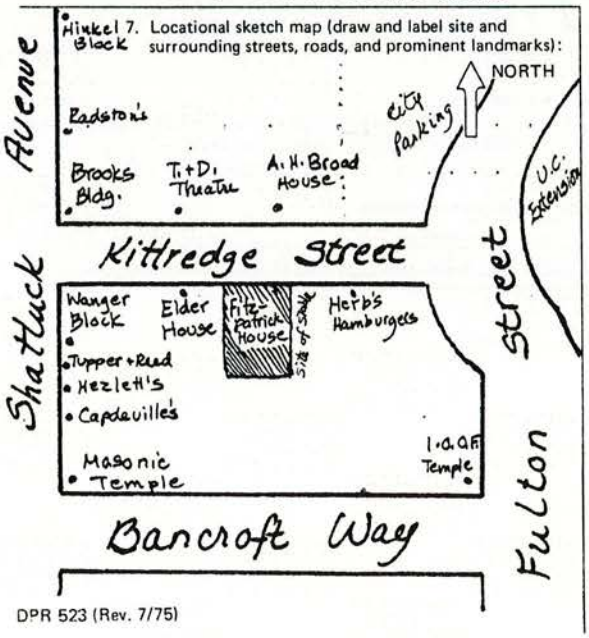
IDENTIFICATION

1. Common name: ____
2. Historic name, if known: Fitzpatrick, (John C.) House
3. Street or rural address 2138 Kittredge Street
   City: Berkeley ZIP: 94704 County: Alameda
4. Present owner, if known: ____ Address: ____
   City: ____ ZIP: ____ Ownership is: Public ☐ Private ☒
5. Present Use: apartments Original Use: residence
   Other past uses: tea room

DESCRIPTION

6. Briefly describe the present physical appearance of the site or structure and describe any major alterations from its original condition: The original structure is a two-storey clapboard Colonial Revival house topped by a hip roof with dormers. There is a two-story bay on the east side; slanted on the first floor with corners of second floor supported by elaborate consoles. The eaves are supported by smaller consoles. Additions at the rear date from 1915. The structure is painted white. In 1935 a two-storey, crisply geometric addition in a Moderne version of brick Georgian was added to the front, leaving no set-back. The first floor consists of arched openings: one completely open and leading to steps to the entrance. The others are filled in with paneling and casements topped by fan lights. The 2nd floor window openings are square: the two at the front have shutters and wrought iron "balconies"; all have small-paned windows. A brick pattern between the front windows suggests a circular opening with four keystones. There is a row of vertically-laid bricks above all windows, and rows of slightly raised bricks to create a beltcourse and cornice. The trim is painted white. An important feature of the original structure is a stained glass window on the west side in an ornate fleur-de-lis pattern in amethyst glass.

7. Locational sketch map (draw and label site and surrounding streets, roads, and prominent landmarks):



8. Approximate property size:
   Lot size (in feet) Frontage 50 ';
   Depth 135.54 ';
   or approx. acreage ____.
9. Condition: (check one)
   a. Excellent ☒ b. Good ☐ c. Fair ☐
   d. Deteriorated ☐ e. No longer in existence ☐
10. Is the feature a. Altered? ☒ b. Unaltered? ☐
11. Surroundings: (Check more than one if necessary)
   a. Open land ☐ b. Scattered buildings ☒
   c. Densely built-up ☐ d. Residential ☒
   e. Commercial ☒ f. Industrial ☐
   g. Other ☐ ____
12. Threats to site:
   a. None known ☒ b. Private development ☐
   c. Zoning ☐ d. Public Works project ☐
   e. Vandalism ☐ f. Other ☐ ____
13. Date(s) of enclosed photograph(s): 1978 (2)

DPR 523 (Rev. 7/75)

Fig. 19 State of California Historic Resources Inventory form, page 1.

NOTE: The following (Items 14-19) are for structures only.

14. Primary exterior building material: a. Stone ☐ b. Brick [x] c. Stucco ☐ d. Adobe ☐ e. Wood [x]
f. Other ☐ _____

15. Is the structure: a. On its original site? [x] b. Moved? ☐ c. Unknown? ☐

16. Year of initial construction 1904 This date is: a. Factual [x] b. Estimated ☐

17. Architect (if known): William H. Wharff

18. Builder (if known): Ben Pearson and Nels Olsen

19. Related features: a. Barn ☐ b. Carriage house ☐ c. Outhouse ☐ d. Shed(s) ☐ e. Formal garden(s) ☐
f. Windmill ☐ g. Watertower/tankhouse ☐ h. Other ☐ _____ i. None ☐

SIGNIFICANCE

20. Briefly state historical and/or architectural importance (include dates, events, and persons associated with the site when known):

In 1904 John C. Fitzpatrick built a handsome Colonial dwelling for his family in the heart of the Downtown, and appropriately enough commissioned William Wharff, one of the architects who was reshaping Downtown Berkeley to design it (the year before Wharff designed the Wanger Bldg. in the same block and subsequently designed 3 other major bldgs.). Fitzpatrick had been superintendent of the Claremont, University & Ferries Street Railway, which connected central and west Berkeley, from its inception in 1891 until 1900 when he opened his own livery stable: "hacks, coupes & carriages at all hours; passengers transported to any part of Berkeley". After several years on Allston he permanently established his stables on the lot adjoining his new house to the east. In the 1920's the house seems to have been sold to Alma and Wm. Taylor from Tennessee, who converted it to commercial use as the Pepper Tree Tea Room (perhaps there was a pepper tree on the property). In 1935 the building took on a more commercial character with a 2-story stately brick Georgian addition to house the tea room. In 1953 the whole structure went back to residential use, as apartments. When the last section of the Fitzpatrick stables, behind the house, was demolished in 1955 and excavations were begun, Indian remains were discovered on the site. Other Indian remains were found one block north during additional 1950's demolitions, indicating that the Downtown may have been an Indian burial center. THe Fitzpatrick house is one of three remaining Downtown residences grouped together on Kittredge Street, all with storefront additions.

21. Main theme of the historic resource: (Check only one): a. Architecture [1] b. Arts & Leisure ☐
c. Economic/Industrial [3] d. Exploration/Settlement [2] e. Government ☐ f. Military ☐
g. Religion ☐ h. Social/Education ☐

22. Sources: List books, documents, surveys, personal interviews, and their dates:

Berkeley Gazette, Jan. 4, 1904, p. 6; Jan. 9, 1904, p. 3; Chronicle, Sept. 26, 1955 "Bkly. Digger Shovels Up Some Indian Bones".
City Directories 1893-1909.
Taped Oral History with Louis L. Stein Jr., 1977 in B.A.H.A. Files and at Bancroft Library.
Tourist & Business Survey, 1924.

23. Date form prepared: 3/8/1979 By (name): Anthony Buffington Bruce
Address: 6 Encina Place City Berkeley ZIP: 94705
Phone: (415) OLympic 2-0975 Organization: Berkeley Architectural Heritage Association

(State Use Only)

Fig. 20 State of California Historic Resources Inventory form, page 2.



Fig. 21 Various display ads for the enlarged Pepper Tree Tea Room that appeared in the Berkeley Gazette. *The top two are from August 14 and 16, 1935. The others are from the fall of 1935.*

APPLICATION FOR BUILDING PERMIT

ALTERATION AND REPAIRS

Application is hereby made to the Bureau of Buildings and inspections of the City of Berkeley for permission to

Build, Alter or Add to a Three story nine room. Type Flat rooms. Building

Located 2138 Hillridge Rd

All provisions of the Building Law will be complied with in the erection, alteration or repairing of said building whether specified herein or not.

Value $3500.00

Building to be occupied as Flat rooms & dwelling by (No.) Two families

WRITE PLAINLY FULL DESCRIPTION OF WORK TO BE DONE

Kitchen and dining portion To be remodeled and front to extend 8 ft 6 in.

Name of Owner Mr. & Mrs. Taylor Residence Address 2138 Hillridge Rd.

Name of Builder Victor Carlson Residence Address 3021 Grant St.

State License No. 18778

We
I hereby agree to save harmless and keep harmless the City of Berkeley against all liabilities, judgements, costs and expenses which may in any manner accrue against said City in consequence of the granting of this permit, or from the use or occupancy of any portion of street or sub-sidewalk space by virtue thereof, and will in all things strictly comply with the conditions of the permit and Ordinances of the City of Berkeley

Use District Class 4 Ordinance No. 668 Victor Carlson
Signature of Owner, Architect or Builder

Fire Zone No. Address

FOR DEPARTMENT USE ONLY

Permit No. 39423

Number Street Page

Filed Read Checked by Date Issued JUN 13 1935

Fig. 22 City of Berkeley Building Permit Application No. 39423, June 13, 1935.

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

Received
OCT 30 2024
Land Use Planning

LANDMARK PRESERVATION COMMISSION

Landmark, Structure of Merit or Historic District Petition Form

Name of Property:	Fitzpatrick House – Pepper Tree Tea Room
Street Address(es) of Property:	2138 Kittredge Street

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 B. Bruce (Please Print)
Address: 6 Encina Place City: Berkeley Zip: 94705
Signature: Anthony B. Bruce Date: 9-20-2024

2
Name: Ruth Phillips (Please Print)
Address: 656 Santa Barbara City: Berkeley Zip: 94707
Signature: Ruth Phillips Date: 9/21/24

3
Name: LEE BEVIS (Please Print)
Address: 1349 Arch St. City: B Zip: 94708
Signature: Lee K Bevis Date: 9/22/24

4
Name: Carol Buckles (Please Print)
Address: 917 Contra Costa Ave City: Berkeley Zip: 94707
Signature: C Date: 9/22/24

5
Name: Jacqueline Beth (Please Print)
Address: 1517 Grant St City: Berkeley Zip: 94703
Signature: Jacqueline Beth

Date: _____

Name of Property:	Fitzpatrick House — Pepper Tree Tea Room
Street Address(es) of Property:	2138 Kittredge St.

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6
Name: Hillary Metz (Please Print)
Address: 1152 Amador Ave City: Berkeley Zip: 94707
Signature: [signature] Date: 9/22/24

7
Name: Virginia Warhaft (Please Print)
Address: 2918 Sacramento Street City: Berkeley Zip: 94702
Signature: Virginia Warhaft Date: 9/22/24

8
Name: Liz Giacoratora (Please Print)
Address: 1814-A 7th St. City: Berkeley Zip: 94710
Signature: Elizabeth Giacoratora Date: 9/22/24

9
Name: JON PRITTKIN (Please Print)
Address: 185 MACEE City: MILL VALLEY Zip: 94941
Signature: [signature] Date: 9-22-2024

X

10
Name: EUGENE ERICKSON (Please Print)
Address: 323 COLUSA AV City: EL CERRITO Zip: 94530
Signature: Eugene E [signature] Date: 9/22/24

Y

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:	Fitzpatrick House - Pepper Tree Tea Room
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11 Name: DAN JOHNSON (Please Print)
Address: 92 SAN MATEO City: BERKELEY Zip: 94707
Signature: Daniel Johnson Date: 9/22/24

12 Name: STEPHANIE MANNING (Please Print)
Address: 2339 OREGON, #C City: Berkeley Zip: 94705
Signature: Stephanie Manning Date: 9/22/24

13 Name: MARGARETTA M. LOVELL (Please Print)
Address: 1160 Amada Ave City: Berkeley Zip: 94707
Signature: Margaretta M Lovell Date: Sept 22, 2024

14 Name: ELISABETH BIGELOW-TELLER (Please Print)
Address: 1124 FRESNO AVE City: BERKELEY Zip: 94707
Signature: EBT Date: 9/22/2024

15 Name: PAUL Terrell (Please Print)
Address: 1812 Capistrano City: Berk Zip: 94707
Signature: Paul Terrell Date: 9/18/24 22

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:	Fitzpatrick House – Pepper Tree Tea Room
Street Address(es) of Property:	2138 Kittredge St.

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.

16 Name: Jean Mudge (Please Print)
Address: 2444 Hillside Ave City: Berkeley Zip: 94704
Signature: Jean M. Mudge Date: 9/22/24

17 Name: Richard Thomason (Please Print)
Address: 843 Marlowe City: Berkely Zip: 94707
Signature: Richard Thomason Date: 9/22/24

18 Name: Richard Ross-Collins (Please Print)
Address: 2104 Eunice City: Berkely Zip: 94705
Signature: me Date: 9/22/24

19 Name: Kevin Kaatz (Please Print)
Address: 2304 Parker City: Berkeley Zip: 94704
Signature: Kevin M Kaatz Date: 9/22/24

20 Name: J. F. Frederick (Please Print)
Address: 1770 Oxford City: Berkeley Zip: 94704
Signature: JF Frederick Date: 9/22/24

Name of Property:	Fitzpatrick House — Pepper Tree Tea Room
Street Address(es) of Property:	2138 - Kittredge St.

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	Name: Timothy HANSEN (Please Print)			
21	Address: 2633 BENVENUE	City: BERKELEY	Zip: 94704	
	Signature:		Date: 22/9/24	
	Name: Lindsay Rule (Please Print)			
22	Address: 2830 Derby St	City: Berkeley	Zip: 94705	
	Signature: Lindsay Rule		Date: 9/22/24	
	Name: John Bender (Please Print)			
23	Address: 50 San Mateo	City: Berkeley	Zip: 9470	
	Signature:		Date: 9/22/24	
	Name: JEAN BOX (Please Print)			
24	Address: 50 San Mateo	City: Berkeley	Zip: 9470	
	Signature:		Date: Sept 22	
	Name: DIANNE AYRES (Please Print)			
25	Address: 2639 BENVENUE	City: BERKELEY	Zip: 94704	
	Signature:		Date: 22 Sept 24	

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Name: ~~STEPHANIE MANNING~~ Mary Staats
Please Print

26 Address: 42 Bret Harte Rd. City: Berkeley Zip: 94708

Signature: Mary Staats Date: 9/22/2024

Name: ~~BARBARA~~ LUNDBURG
Please Print

27 Address: 2080 HILGARD AVE City: BERKELEY Zip: 94709

Signature: Barbara Lundburg Date: 9/22/24

Name: Melissa McFarlands
Please Print

28 Address: 1385 Shattuck City: BERKLEY Zip: 94706

Signature: Melissa McFarlands Date: 9-22-24

Name: Deborah Kropp
Please Print

29 Address: 1231 Bonita Ave City: Berkeley Zip: 94709

Signature: Deborah Kropp Date: 9-22-24

Name: ARLENE SICK
Please Print

30 Address: 31 Del Mar Ave City: Berkeley Zip: 94708

Signature: Arlene Sick Date: 9/22/24

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

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31	Name: Judith Ziajka (Please Print)			
	Address: 721 Contra Costa Ave	City: Berkeley	Zip: 94707	
	Signature: [signature]		Date: 9/22/24	
	Name: Alan Ziajka (Please Print)			
32	Address: 721 Contra Costa	City: Berkeley	Zip: 94707	
	Signature: [signature]		Date: 9/22/24	
	Name: John De Leon (Please Print)			
33	Address: 2309 Howe ST	City: Berkeley	Zip: 94705	
	Signature: [signature]		Date: 9/22/24	
	Name: Elizabeth Bernstein (Please Print)			
34	Address: 50 San Mateo	City: Berkeley	Zip: 94707	
	Signature: EABernstein		Date: 9/24/24	
	Name: DAVID BERNSTEIN (Please Print)			
35	Address: 50 SAN MATEO RD	City: BERKELEY	Zip: 94707	
	Signature: David Bernstein		Date: 09/24/2024	

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	Name: JUAN PINEDA (Please Print)			
36	Address: 49 San Mateo RD	City: BERKELEY	Zip: 94707	
	Signature:		Date: 9/25/24	
	Name: Glendine Pineda (Please Print)			
37	Address: 49 San Mateo R	City: Berkeley	Zip: 94707	
	Signature:		Date: 9-25-2024	
	Name: ~~BETHS~~ DENNIS MCINTYRE (Please Print)			
38	Address: 40 SAN MATEO RD.	City: BERKELEY	Zip: 94707	
	Signature: Dennis McIntyre		Date: 9/25/2024	
	Name: Christine McIntyre (Please Print)	BERKELEY		
39	Address: 40 SAN MATEO RD	City: ✓	Zip: 94707	
	Signature: Christine McIntyre		Date: 9/25/24	
	Name: THOMAS ACKERMANS (Please Print)			
40	Address: 37 SAN MATEO RD	City: BERKELEY	Zip: 94707	
	Signature:		Date: 9-25-24	

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41 Name: Marilee J. Allan (Please Print)
Address: 77 San Mateo Rd. City: Berkeley Zip: 94707
Signature: Marilee J. Allan Date: 9-25-24

42 Name: Anne Smith (Please Print)
Address: 37 San Mateo Road City: Berkeley Zip: 94707
Signature: Anne R Smith Date: 9-25-24

43 Name: TREW H. BENNETT (Please Print)
Address: 21 SAN MATEO RD City: BERKELEY Zip: 94707
Signature: Trew H. Bennett Date: 9/25/24

44 Name: Robert A. Bennett (Please Print)
Address: 21 San Mateo Rd City: Berkeley Zip: 94707
Signature: Robert A. Bennett Date: 9/25/24

45 Name: PAMELA E. SIHVOLA (Please Print)
Address: 1476 SUMMIT ROAD City: BERKELEY Zip: 94708
Signature: Pamela E. Sihvola Date: 10/19-24

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

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Name: Bertram Jones (Please Print)

46 Address: 195 The Uplands City: Berkeley Zip: 94705

Signature: Bertram Jones Date: 10/10/24

Name: Lesley Emmington Jones (Please Print)

47 Address: 195 The Uplands City: Berkeley Zip: 94705

Signature: Lesley Emmington Jones Date: October 10, 2024

Name: Laurie Brown Sanchez (Please Print)

48 Address: 1000 Rispin Drive City: Berkeley Zip: 94705

Signature: Laurie Brown Date: 10/18/2024

Name: Laurent Colvin (Please Print)

49 Address: 2539 MLK Jr. Way Apt D City: Berkeley Zip: 94704

Signature: Laurent Colvin Date: 10/21/24

Name: Chris Green (Please Print)

50 Address: 1145 Shattuck Apt. B City: Berkeley Zip: 94709

Signature: Chris Green Date: 10/21/24

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

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:	Fitzpatrick House – Pepper Tree Tea Room
Street Address(es) of Property:	2138 Kittredge Street

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: TW Edwards (Please Print)
Address: 47 Alamo Av City: Berkeley Zip: CA
Signature: TW Edwards Date: 9-28-24

2
Name: Rebecca Parlette-Edwards (Please Print)
Address: 47 Alamo Ave City: Berkeley Zip: 94708
Signature: Rebecca Parlette-Edwards Date: 9/28/24

3
Name: DONALD BROOK (Please Print)
Address: 650 Spruce St City: Berkeley Zip: 94707
Signature: Donald Brook Date: 10/2/24

4
Name: Bruce Stangeland (Please Print)
Address: 691 Cragmont Ave City: Berkeley Zip: 94708
Signature: Bruce G. Stangeland Date: 10/2/24

5
Name: MARGOT SMITH (Please Print)
Address: 1300 A Shattuck Ave City: Berkeley Zip: 94709
Signature: Margot Smith

Date: 2024

Name of Property:	Fitzpatrick House - Pepper Tree Tea Room
Street Address(es) of Property:	2138 Kittredge St.

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6
Name: MITCHELL FLEISCHER (Please Print)
Address: 1919 OXFORD APT A City: Berkeley CA Zip: 94709
Signature: Mitchell Fleischer Date: 10/6/24

7
Name: Carol Fleischer (Please Print)
Address: 1519 Oxford St City: Berkeley CA Zip: 94709
Signature: Carol E. Fleischer Date: 10/6/24

8
Name: CANDICE L. SCHOTT (Please Print)
Address: 1420 KAINS AVE City: BERKELEY Zip: 94702
Signature: Date: 10/6/24

9
Name: Linda S. Keilch (Please Print)
Address: 2229 Jefferson Ave. City: Berkeley CA Zip: 94708
Signature: Linda S. Keilch Date: 10/6/24

10
Name: GEORGE O. PETTY (Please Print)
Address: 843 ARLINGTON AVE. City: BERKELEY Zip: 94707
Signature: George Petty Date: 10/6/24

Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
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11	Name: KAREN CHAPMAN (Please Print)			
	Address: 1858 SAN LORENZO AVE	City: BERKELEY	Zip: 94707	
	Signature: Karen Chapman		Date: 10/6/24	
12	Name: Michael Severas (Please Print)			
	Address: 1906 Stuart	City: Berkeley	Zip: 94703	
	Signature: Michael Severas		Date: 10/13/24	
13	Name: Lihui Tsai (Please Print)			
	Address: 2610 Etna St. #10	City: Berkeley	Zip: 94702	
	Signature: Lihui Tsai		Date: 10/13/24	
14	Name: Robert Dering (Please Print)			
	Address: 525 Woodmont Ave	City: Berkeley	Zip: 94708	
	Signature: Robert Dering		Date: 10/13/24	
15	Name: Mary Gilligan (Please Print)			
	Address: 1841 Berryman St	City: Berkeley	Zip: 94703	
	Signature: MKGilligan		Date: 10-13-24	

Land Use Planning 2120 Milvia Street, Berkeley, CA 94704
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Name: _____
Please Print

16

Address: _____ City: _____ Zip: _____

Signature: _____ Date: _____

Name: _____
Please Print

17

Address: _____ City: _____ Zip: _____

Signature: _____ Date: _____

Name: _____
Please Print

18

Address: _____ City: _____ Zip: _____

Signature: _____ Date: _____

Name: _____
Please Print

19

Address: _____ City: _____ Zip: _____

Signature: _____ Date: _____

Name: _____
Please Print

20

Address: _____ City: _____ Zip: _____

Signature: _____ Date: _____

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PLANNING & DEVELOPMENT
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LANDMARK PRESERVATION COMMISSION

Landmark, Structure of Merit or Historic District Petition Form

Name of Property:	Fitzpatrick House—Pepper Tree Tea Room
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1
Name: Jesse Sheehan (Please Print)
Address: 1650 6th st. City: Berkeley Zip: 94710
Signature: J. Sh Date: 10/21

2
Name: PAGE NELSON (Please Print)
Address: 199 THE UPLANDS City: BERKELEY Zip: 94705
Signature: Date: 10/23/24

3
Name: Gale Garcia (Please Print)
Address: 2538 Fulton St City: Berkeley Zip: 94704
Signature: Date: 10/24/24

4
Name: (Please Print)
Address: City: Zip:
Signature: Date:

5
Name: (Please Print)
Address: City: Zip:
Signature:

13

Office of the City Manager

INFORMATION CALENDAR
March 25, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

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

Subject: Landmarks Preservation Ordinance Notice of Decision (LPO NOD): 3332 Adeline Street/#LMSAP2025-0001

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, which began on March 11, 2025.

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 March 25, 2025. 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 staff and LPC 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

Attachments:
1: Notice of Decision – #LMSAP2025-0001/3332 Adeline Street

LANDMARKS PRESERVATION COMMISSION

Notice of Decision

DATE OF BOARD DECISION: February 6, 2025
DATE NOTICE MAILED: March 10, 2025
APPEAL PERIOD EXPIRATION: March 25, 2025
EFFECTIVE DATE (Barring Appeal or Certification): March 26, 2025[1]

3332 Adeline Street – The Lorin Theater/ Phillips Temple Building

Structural Alteration Permit #LMSAP2025-0001 to modify the leasing area of an existing wireless telecommunication facility for the installation of an emergency generator at the rear of the Lorin Theater site

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the Structural Alteration Permit request.

- **Applicant** Shannon Morrelli, Galt Wireless
  9120 Doc Bar Ct.
  Elk Grove, CA 95624

- **Property Owner** Phillips Temple Christian Methodist Episcopal Church
  3332 Adeline Street
  Berkeley, CA 94703

ZONING DISTRICT: Adeline Corridor Commercial District (C-AC)

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 Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
#LMSAP2025-001
3332 Adeline Street
Mailed: March 10, 2025
Page 2 of 4

ENVIRONMENTAL REVIEW STATUS: The project is categorically exempt from further environmental review in accordance with CEQA Guidelines Section 15331 for *Historical Resource Restoration/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

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FINDINGS AND CONDITIONS OF APPROVAL AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

COMMISSION VOTE: 8-0-0-0

YES: CRANDALL, ENCHILL, FINACOM, LEUSCHNER, MONTGOMERY, ORBUCH, PLESE, SCHWARTZ

NO: NONE

ABSTAIN: NONE

ABSENT: NONE

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

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
#LMSAP2025-001
3332 Adeline Street
Mailed: March 10, 2025
Page 3 of 4

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 Structural Alteration 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) 981-7410 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 and Conditions
2. Project Plans



ATTEST: _____
Fatema Crane, Secretary
Landmarks Preservation Commission

cc: City Clerk
Shannon Morrelli, Galt Wireless, 9120 Doc Bar Ct., Elk Grove, CA 95624
Phillips Temple Christian Methodist Episcopal Church, 3332 Adeline Street, Berkeley, CA 94703

ATTACHMENT 1, PART 2

FINDINGS AND CONDITIONS

3332 Adeline Street – The Lorin Theater/ Phillips Temple Building

Structural Alteration Permit #LMSAP2025-0001 to modify the leasing area of an existing wireless telecommunication facility for the installation of an emergency generator at the rear of the Lorin Theater site.

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 the existing use as a wireless telecommunications facility.

2. The historic character of the property will be retained and preserved. No distinctive materials will be removed or altered to accommodate the alterations.

3. The new equipment will not resemble or replicate designs from the property's historic period.

4. The subject property does not feature changes that have acquired significance in their own right.

5. Distinctive materials, features, finishes, and construction techniques, or examples of craftsmanship that characterize this property will be substantially retained and preserved with this limited-scope 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 substantial excavation.

9. The proposed scope will not destroy historic materials, features, or have lasting impact to the spatial characteristics of the property. The new generator would not be readily visible from vantage points within the public right way.

10. If the proposed equipment were removed in the future, they would not permanently impair the integrity or essential form of the Lorin Theater site.

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 the City Landmark, the Lorin Theater. The proposed generator and fence enclosure are located in the rear of the parcel and would be not be attached to or alter any part of the historic structure.

    B. The special historic character of the subject property would not be adversely affected by the scope of this project as the new generator would not be is visual from the public right of way.

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. No changes can be made to these approved plans without prior approval.

11. ADDITIONAL PERMIT REQUIREMENTS. This Structural Alteration Permit (SAP) approval is contingent upon approval of the requisite Administrative Use Permit and any Public Works Permit for the project scope as well as all other conditional use permits, and state and federal requirements for operation of the wireless telecommunication facility.

12. PLANS COMPLIANCE. Construction and building permit plans shall substantially conform to the Structural Alteration Permit (SAP) project plans dated/received March 12, 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. DETAILS. Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit fence details for review and approval by the Landmarks plan checker.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

MARTIN LUTHER KING W
FA#: 10087892

GENERATOR INSTALLATION PROJECT
50KW GENERAC DIESEL GENERATOR

3332 ADELINE STREET
BERKELEY, CA 94703

SITE INFORMATION:

SITE ADDRESS:	3332 ADELINE STREET BERKELEY, CA 94703
COUNTY:	ALAMEDA
COORDINATES:	37.8479167° / -122.2723861° (FOR NAVIGATION ONLY)
PROPERTY LANDLORD OR OWNER:	PHILLIPS TEMPLE CHRISTIAN METHODIST EPISCOPAL CHURCH
TAX ID #:	52-1532-4-3
ZONING:	C-SA
OCCUPANCY GROUP:	U - UNMANNED
CONSTRUCTION TYPE:	II-B
POWER COMPANY:	PG&E
FLOOD ZONE:	X
A.D.A. COMPLIANCE:	FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION

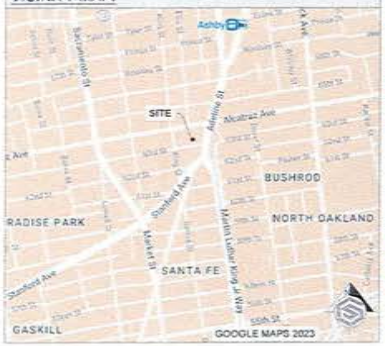
DO NOT SCALE DRAWINGS:

CONTRACTOR SHALL VERIFY ALL PLANS, EXISTING DIMENSIONS, CONDITIONS ON THE JOB SITE AND SHALL IMMEDIATELY NOTIFY THE ENGINEER IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR BE RESPONSIBLE FOR THE SAME.

CONTACT INFORMATION:

APPLICANT:	AT&T MOBILITY 1375 CAMINO REAL STE 120 SAN BERNARDINO, CA 92408 PHONE: 951.534.8967
PROJECT MANAGER:	GENERAL DYNAMICS WIRELESS SERVICES, LLC. 19240 DES MOINES DR. S. BLDG C STE 300 SEA TAC, WA 98048 PHONE: 425.606.8785 CONTACT: CHRISTOPHER HERMAN
LEASING / PERMITTING:	GALT WIRELESS 9120 DOC BAR CT. ELK GROVE, CA 95624 PHONE: 206.715.0059 CONTACT: SARAH NEACE
ARCHITECTURE & ENGINEERING:	GEOSTRUCTURAL, LLC. PO BOX 2621 BOISE, ID 83701 PHONE: 530.539.4787 CONTACT: DON GEORGE

VICINITY MAP:



AREA MAP:



APPROVALS :

AT&T MANAGER _____ _____

CONSTRUCTION MANAGER _____ _____

SITE ACQ. MANAGER _____ _____

PROPERTY OWNER _____ _____

LANDLORD _____ _____

SCOPE OF WORK:

INSTALL (1) ARTICLE 702 OPTIONAL STANDBY DIESEL GENERATOR (GENERAC SD050) WITH UL-142 BASE FUEL TANK ON CONCRETE PAD WITHIN PROPOSED CHAIN-LINK FENCE COMPOUND w/ ACOUSTIFENCE WRAP AND 200A ATS / CAMLOCK (GENERAC TAS200) WITHIN COMPOUND NEAR EXISTING AT&T EQUIPMENT SHELTER.

INTEGRATE NEW GENERATOR WITH EXISTING SERVICE.

NOTE: NO CHANGES OR ALTERATIONS TO THE TOWER, MOUNTS, ANTENNAS, FEEDLINES, ETC. IS PROPOSED AS A PART OF THIS SCOPE OF WORK.

DIG LINE:

THE PLANS SHOW SOME KNOWN SUBSURFACE STRUCTURES, ABOVE GROUND STRUCTURES, AND/OR EXISTING UTILITIES BELIEVED TO BE IN THE WORKING AREA. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY ALL UTILITIES, PIPELINES AND OTHER STRUCTURES SHOWN OR NOT SHOWN ON THESE PLANS.

ANY DAMAGE TO EXISTING UTILITIES SHALL BE REPAIRED TO THE SATISFACTION OF THE OWNER AND ENGINEER AT THE CONTRACTOR'S EXPENSE.

811 Know what's below. CALL before you dig.

CODE COMPLIANCE:

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF ALL GOVERNING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS ARE TO BE CONSTRUCTED TO PERMIT WORK NOT CONFORMING TO THESE CODES:

CALIFORNIA BUILDING CODE (CBC) 2022
CALIFORNIA ELECTRICAL CODE 2022
CALIFORNIA MECHANICAL CODE 2022
CALIFORNIA FIRE CODE (CFC) 2022
INTERNATIONAL BUILDING CODE (IBC) 2021
NATIONAL ELECTRICAL CODE (NEC) 2020
NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 13,30,37,58,70,72,110,111
AMERICAN CONCRETE INSTITUTE (ACI) 318
AMERICAN INSTITUTE OF STEEL CONSTRUCTION (AISC)
TELECOMMUNICATIONS INDUSTRY ASSOCIATION (TIA) 222
TELECOMMUNICATIONS INDUSTRY ASSOCIATION (TIA) 607

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CITY USE

at&t

GENERAL DYNAMICS
Information Technology

GEOSTRUCTURAL
PO BOX 2621, BOISE, ID 83701
530.539.4787
CONTACT@GEOSTRUCTURAL.COM
WWW.GEOSTRUCTURAL.COM

DATE SIGNED: 12/20/23

SITE INFORMATION:
MARTIN LUTHER KING W
10087892
GENERATOR INSTALLATION PROJECT
3332 ADELINE STREET
BERKELEY, CA 94703

REVISIONS

REV	DATE	DESCRIPTION	INT
1	11/2/23	REVISED FOR ACOUSTIFENCE	JKD
0	23/09/23	ISSUED FOR CONSTRUCTION	JDN

THE INFORMATION CONTAINED IN THIS SET OF DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATED TO THE CLIENT NAMED IS STRICTLY PROHIBITED.

CHECKED BY: GGD

SHEET TITLE:
TITLE SHEET

SHEET NUMBER:
T-1

G 230817

NOTES TO SUBCONTRACTOR:

1. THE GENERAL SUBCONTRACTOR MUST VERIFY ALL DIMENSIONS, CONDITIONS AND ELEVATIONS BEFORE PROCEEDING WITH THE WORK. ALL DISCREPANCIES SHALL BE RESOLVED BEFORE PROCEEDING WITH THE WORK. ALL WORK SHALL BE PERFORMED IN A WORKMANLIKE MANNER IN ACCORDANCE WITH ACCEPTED CONSTRUCTION PRACTICES.

2. IT IS THE INTENTION OF THESE DRAWINGS TO SHOW THE COMPLETED INSTALLATION. THE SUBCONTRACTOR SHALL BE RESPONSIBLE FOR ALL TEMPORARY BRACING, SHORING, TIES, FORM WORK, ETC. IN ACCORDANCE WITH ALL NATIONAL, STATE, AND LOCAL ORDINANCES, TO SAFELY EXECUTE ALL WORK AND SHALL BE RESPONSIBLE FOR SAME. ALL WORK SHALL BE IN ACCORDANCE WITH LOCAL CODES.

3. THE SUBCONTRACTOR SHALL USE ADEQUATE NUMBER OF SKILLED WORKMAN WHO ARE THOROUGHLY TRAINED AND EXPERIENCED IN THE NECESSARY CRAFTS AND WHO ARE COMPLETELY FAMILIAR WITH THE SPECIFIED REQUIREMENTS AND METHOD NEEDED FOR PROPER PERFORMANCE OF THE WORK.

4. SUBCONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION SUBCONTRACTOR WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING THE SAFETY OF ALL PERSONS AND PROPERTY. THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS AND SUBCONTRACTOR FURTHER AGREES TO INDEMNIFY AND HOLD DESIGN ENGINEER HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH PERFORMANCE OF WORK ON THIS PROJECT.

5. SITE GROUNDING SHALL COMPLY WITH AT&T WIRELESS SERVICES TECHNICAL SPECIFICATIONS FOR FACILITY GROUNDING FOR CELL SITE STANDARDS, LATEST EDITION, AND COMPLY WITH AT&T TOWERS GROUNDING CHECKLIST, LATEST VERSION, WHEN NATIONAL AND LOCAL GROUNDING CODES ARE MORE STRINGENT THEY SHALL GOVERN.

6. ALL WORK SHALL COMPLY WITH OSHA AND STATE SAFETY REQUIREMENTS. PROCEDURES FOR THE PROTECTION OF EXCAVATIONS, EXISTING CONSTRUCTION AND UTILITIES SHALL BE ESTABLISHED PRIOR TO FOUNDATION INSTALLATION.

7. ALL WORK SHALL BE ACCOMPLISHED IN ACCORDANCE WITH ALL LOCAL, STATE, AND FEDERAL CODES OR ORDINANCES. THE MOST STRINGENT CODE WILL APPLY IN THE CASE OF DISCREPANCIES OR DIFFERENCES IN THE CODE REQUIREMENTS.

8. ANY DAMAGE TO THE ADJACENT PROPERTIES WILL BE CORRECTED AT THE SUBCONTRACTOR'S EXPENSE TO THE SATISFACTION OF THE LANDOWNER AND THE CONSTRUCTION MANAGER.

9. THE COMPLETE BID PACKAGE INCLUDES THESE CONSTRUCTION DRAWINGS ALONG WITH THE SPECIFICATIONS. SUBCONTRACTOR IS RESPONSIBLE FOR REVIEW OF TOTAL BID PACKAGE PRIOR TO BID SUBMITTAL.

10. SUBCONTRACTOR SHALL VERIFY LOCATION OF ALL EXISTING UTILITIES WITHIN CONSTRUCTION LIMITS PRIOR TO CONSTRUCTION.

11. THE SUBCONTRACTOR IS RESPONSIBLE FOR MAINTAINING POSITIVE DRAINAGE ON THE SITE AT ALL TIMES. SILT AND EROSION CONTROL SHALL BE MAINTAINED ON THE DOWNSTREAM SIDE OF THE SITE AT ALL TIMES. ANY DAMAGE TO ADJACENT PROPERTIES WILL BE CORRECTED AT THE SUBCONTRACTOR'S EXPENSE.

12. CLEARING OF TREES AND VEGETATION ON THE SITE SHOULD BE HELD TO A MINIMUM, ONLY THE TREES NECESSARY FOR CONSTRUCTION OF THE FACILITIES SHALL BE REMOVED. ANY DAMAGE TO THE PROPERTY OUTSIDE THE LEASED PROPERTY SHALL BE REPAIRED BY THE SUBCONTRACTOR.

13. ALL SUITABLE BORROW MATERIAL FOR BACK FILL OF THE SITE SHALL BE INCLUDED IN THE BID. EXCESS TOPSOIL AND UNSUITABLE MATERIAL SHALL BE DISPOSED OF OFF SITE AT LOCATIONS APPROVED BY GOVERNING AGENCIES PRIOR TO DISPOSAL.

14. PERMITS: THE SUBCONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING AND INCURRING THE COST OF ALL REQUIRED PERMITS, INSPECTIONS, CERTIFICATES, ETC.

15. RECORD DRAWINGS: MAINTAIN A RECORD OF ALL CHANGES, SUBSTITUTIONS BETWEEN WORK AS SPECIFIED AND INSTALLED. RECORD CHANGES ON A CLEAN SET OF CONTRACT DRAWINGS WHICH SHALL BE TURNED OVER TO THE CONSTRUCTION MANAGER UPON COMPLETION OF THE PROJECT.

16. THE PLANS SHOW SOME KNOWN SUBSURFACE STRUCTURES, ABOVE GROUND STRUCTURES AND/OR EXISTING UTILITIES BELIEVED TO BE IN THE WORKING AREA. IT IS THE RESPONSIBILITY OF THE SUBCONTRACTOR TO VERIFY ALL UTILITIES, PIPELINES AND OTHER STRUCTURES SHOWN OR NOT SHOWN ON THESE PLANS. THE SUBCONTRACTOR SHALL CONTACT THE LOCAL LOCATE SERVICE BEFORE DIGGING OR DRILLING. ANY DAMAGE TO EXISTING UTILITIES SHALL BE REPAIRED TO THE SATISFACTION OF THE OWNER AND ENGINEER AT THE SUBCONTRACTOR'S EXPENSE.

REQUIRED SPECIAL INSPECTIONS:

1. PER CBC 1705.4 SPECIAL INSPECTION OF MASONRY. (IF REQUIRED)

GENERAL PROJECT NOTES:

1. THIS PROPOSAL IS FOR THE ADDITION OF A NEW GENERATOR ON A NEW CONCRETE PAD TO AN EXISTING UNMANNED TELECOMMUNICATIONS FACILITY CONSISTING OF AN EQUIPMENT SHELTER/PLATFORM AND TOWER.

2. THE PROPOSED FACILITY WILL BE UNMANNED AND DOES NOT REQUIRE POTABLE WATER OR SEWER SERVICE.

3. THE PROPOSED FACILITY IS UNMANNED AND IS NOT FOR HUMAN HABITAT. (NO HANDICAP ACCESS IS REQUIRED)

4. OCCUPANCY IS LIMITED TO PERIODIC MAINTENANCE AND INSPECTION, APPROXIMATELY 2 TIMES PER MONTH BY AT&T TECHNICIANS.

5. OUTDOOR STORAGE AND SOLID WASTE CONTAINERS ARE NOT PROPOSED.

6. ALL MATERIAL SHALL BE FURNISHED AND WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE PROJECT SPECIFICATIONS.

7. SUBCONTRACTOR SHALL BE RESPONSIBLE FOR REPAIRING ANY DAMAGE CAUSED BY THE CONSTRUCTION OPERATION.

8. SUBCONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS AND INSPECTION REQUIRED FOR CONSTRUCTION.

9. SUBCONTRACTOR SHALL REMOVE ALL TRASH AND DEBRIS FROM THE SITE ON A DAILY BASIS.

ELECTRICAL NOTES:

A. GENERAL

1. COORDINATE LOCATION AND POWER REQUIREMENTS OF ALL EQUIPMENT WITH AT&T AND EQUIPMENT SUPPLIER PRIOR TO INSTALLATION.

2. COORDINATE LOCATION AND REQUIREMENTS FOR ELECTRICAL AND TELEPHONE SERVICES WITH THE PROPERTY REPRESENTATIVE, AT&T AND UTILITY COMPANIES. ROUTING OF CONDUITS MAY BE MODIFIED TO MEET SITE REQUIREMENTS, EXACT CONDUIT ROUTING TO BE DETERMINED IN THE FIELD.

3. ALL WIRING AND EQUIPMENT SHOWN ON ELECTRICAL SHEETS SHALL BE FURNISHED AND INSTALLED UNDER ELECTRICAL PORTION OF CONTRACT UNLESS OTHERWISE NOTED

4. UNINTERRUPTED ELECTRICAL SERVICE FOR EXISTING EQUIPMENT SHALL BE MAINTAINED DURING THE INSTALLATION OF THE WORK DESCRIBED UNDER THESE DOCUMENTS. TEMPORARY EQUIPMENT, CABLES AND WHATEVER ELSE IS NECESSARY SHALL BE PROVIDED AS REQUIRED TO MAINTAIN ELECTRICAL SERVICE. TEMPORARY SERVICE FACILITIES, IF REQUIRED AT ANY TIME, SHALL NOT BE DISCONNECTED OR REMOVED UNTIL NEW SERVICE EQUIPMENT IS IN PROPER OPERATION. IF ANY SERVICE OR SYSTEM MUST BE INTERRUPTED, THE CONTRACTOR SHALL REQUEST PERMISSION IN WRITING STATING THE DATE, TIME, ETC. THE SERVICE WILL BE INTERRUPTED AND THE AREAS AFFECTED. THIS REQUEST SHALL BE MADE IN SUFFICIENT TIME FOR PROPER ARRANGEMENTS TO BE MADE. WRITTEN PERMISSION SHALL BE OBTAINED FROM THE OWNER BEFORE INTERRUPTING ELECTRICAL SERVICE.

5. COORDINATE NEW WORK WITH OTHER TRADES AND VERIFY EXISTING CONDITIONS TO AVOID INTERFERENCE. IN CASE OF INTERFERENCE, AT&T'S REPRESENTATIVE WILL DECIDE WHICH WORK IS TO BE RELOCATED, REGARDLESS OF WHICH WAS FIRST INSTALLED.

6. THE INSTALLATION MUST COMPLY WITH CEC AND ALL FEDERAL, STATE AND LOCAL RULES AND REGULATIONS.

7. THE DRAWINGS ARE DIAGRAMMATIC AND INDICATE THE GENERAL ARRANGEMENT OF SYSTEMS AND EQUIPMENT UNLESS OTHERWISE DEFINED BY DIMENSIONS OR DETAILS. EXACT EQUIPMENT LOCATIONS AND RACEWAY ROUTING SHALL BE GOVERNED BY ACTUAL FIELD CONDITIONS AND/OR DIRECTIONS FROM AT&T'S REPRESENTATIVE.

8. CONTRACTOR SHALL PAY ALL PERMITS AND FEES REQUIRED.

9. ALL MATERIALS SHALL BE FURNISHED AND WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE APPLICABLE SECTIONS OF THE STANDARDS REFERENCED BELOW:
   a. ANSI (AMERICAN NATIONAL STANDARDS INSTITUTE)
   b. ASTIM (AMERICAN SOCIETY FOR TESTING MATERIALS)
   c. ETL (ELECTRICAL TESTING LABORATORY)
   d. ICEA (INSULATED CABLE ENGINEERS ASSOCIATION)
   e. IEEE (INSTITUTE OF ELECTRICAL AND ELECTRONIC ENGINEERS)
   f. MBFU (NATIONAL BOARD OF FIRE UNDERWRITERS)
   g. NESC (NATIONAL ELECTRICAL SAFETY CODE)
   h. NEMA (NATIONAL ELECTRICAL MANUFACTURER'S ASSOCIATION)
   i. NFPA (NATIONAL FIRE PROTECTION ASSOCIATION)
   j. UL (UNDERWRITER'S LABORATORY)
   k. NEC (NATIONAL ELECTRICAL CODE)
   l. CEC (CALIFORNIA ELECTRICAL CODE)

10. CONTRACTOR SHALL REVIEW PLANS, DETAILS AND SPECIFICATIONS IN DETAIL AND ADJUST WORK TO CONFORM WITH ACTUAL SITE CONDITIONS SO THAT ELECTRICAL DEVICES AND EQUIPMENT WILL BE LOCATED AND READILY ACCESSIBLE. QUANTITIES LISTED IN MATERIAL LISTS ON THE DRAWINGS ARE FOR INFORMATION ONLY. THE CONTRACTOR SHALL PROVIDE HIS OWN TAKEOFF FOR MATERIAL QUANTITY AND TYPES BASED ON ACTUAL SITE CONDITIONS. IN ADDITION, CONTRACTOR SHALL PROVIDE ALL NECESSARY MATERIALS TO INSTALL EQUIPMENT FURNISHED BY AT&T OR ITS SUPPLIERS. ALL ITEMS NOT SPECIFICALLY MENTIONED HEREIN OR SHOWN ON THE DRAWINGS, BUT WHICH ARE OBVIOUSLY NECESSARY TO MAKE A COMPLETE WORKING INSTALLATION, SHALL BE INCLUDED.

11. THE CONTRACTOR OR BIDDER SHALL BEAR THE RESPONSIBILITY OF NOTIFYING (IN WRITING) AT&T'S REPRESENTATIVE OF ANY CONFLICTS PRIOR TO THE SUBMISSION OF CONTRACTOR'S PROPOSAL OR PERFORMANCE OF WORK. IN THE EVENT OF DISCREPANCIES THE CONTRACTOR SHALL PRICE THE MORE COSTLY OR EXTENSIVE WORK, UNLESS DIRECTED IN WRITING OTHERWISE.

ELECTRICAL NOTES:

12. ALL FLOORS WHERE PENETRATIONS ARE REQUIRED IN BUILDING ARE TO BE CORE DRILLED AND THEN FIREPROOFED.

B. WIRING/CONDUIT

1. PROVIDE PULL BOXES AND JUNCTION BOXES WHERE SHOWN OR AS REQUIRED BY CODE SUCH THAT NO MORE THAN THE EQUIVALENT OF FOUR QUARTER BENDS (360 DEGREES TOTAL) EXIST IN A CONDUIT RUN.

2. ALL POWER AND CONTROL/INDICATION WIRING SHALL BE TYPE THHN/THWN 600V RATED 75 DEGREES CELSIUS, UNLESS NOTED OTHERWISE.

3. CONDUIT BENDS SHALL BE MADE IN ACCORDANCE WITH NEC TABLE 346-10. NO RIGHT ANGLE DEVICE OTHER THAN STANDARD CONDUIT ELBOWS WITH 12" MINIMUM INSIDE SWEEPS FOR ALL CONDUITS 2" OR LARGER.

4. POWER WIRING SIZE SHALL NOT BE SMALLER THAN #12 AWG.

5. ALL WIRING SHALL BE COPPER. ALUMINUM WILL NOT BE ACCEPTABLE ALL POWER CIRCUITS SHALL CONTAIN A GROUND WIRE.

6. PHASE MARKINGS TO BE USED AT POWER CONDUCTOR TERMINATIONS.

7. CONTRACTOR SHALL ENSURE INTEGRITY IS MAINTAINED WHEN INSTALLING CONDUIT AND WIRING.

8. INSTALL PULL STRING IN ALL CONDUIT.

9. FOR ROOFTOP INSTALLS AND BUILD-OUTS, CONDUITS INSIDE BUILDING AND ON ROOF SHALL BE RGS, UNLESS OTHERWISE NOTED. FOR RAW LAND SITES AND CO-LOCATES, PVC SCHEDULE 80 SHALL BE UTILIZED UNLESS NOTED OTHERWISE.

10. MAINTAIN MINIMUM 1'-0" VERTICAL AND 1'-0" HORIZONTAL SEPARATIONS FROM ANY MECHANICAL GAS PIPING.

11. ALL WIRING ROUTED IN PLENUM TO BE RATED OR IN METALLIC FLEX (LIQUIDTITE) CONDUIT.

C. EQUIPMENT

1. EQUIPMENT/PARTS CONNECTED TO EXISTING PANELS, DUCTS, ETC, SHALL MATCH THE CHARACTERISTICS (AIC, V, A) OF THAT EQUIPMENT.

2. ALL ELECTRICAL EQUIPMENT OUTSIDE SHALL BE NEMA 3R RATED.

D. GROUNDING

1. ALL GROUND CONNECTIONS TO BUILDING SHALL BE MADE USING TWO-HOLE CONNECTORS. PROVIDE STAINLESS STEEL BOLTS AND LOCK WASHERS ON ALL MECHANICAL GROUND CONNECTIONS.

2. ALL EQUIPMENT SURFACES TO BE BONDED TO GROUNDING SYSTEM SHALL BE STRIPPED OF ALL PAINT AND DIRT AT ANY POINT OF CONNECTION. CONNECTIONS TO VARIOUS METALS SHALL BE OF A TYPE AS TO PREVENT A GALVANIC OR CORROSIVE REACTION. AREA SHALL BE REPAINTED FOLLOWING BONDING.

3. ANY METALLIC ITEM WITHIN 6' OF ANY EQUIPMENT OR METALLIC INFRASTRUCTURE (RACKS, CABLE TRAY,, ETC.) OR GROUND CONDUCTORS MUST BE CONNECTED TO THE GROUNDING SYSTEM PER AT&T STANDARDS.

4. EXTERIOR, ABOVE GRADE GROUND CONNECTIONS SHALL BE FURNISHED WITH A LIBERAL PROTECTIVE COATING OF ANTI-OXIDATION COMPOUND.

5. ALL MATERIALS AND LABOR REQUIRED FOR THE GROUNDING SYSTEM AS INDICATED ON THE PLANS AND DETAILS, AND AS DESCRIBED HEREIN SHALL BE FURNISHED BY THE CONTRACTOR UNLESS OTHERWISE NOTED.

6. EXACT LOCATION OF GROUND CONNECTION POINTS SHALL BE DETERMINED IN FIELD. ADJUST LOCATIONS INDICATED ON PLANS ACCORDING TO ACTUAL EQUIPMENT LOCATIONS TO KEEP THE GROUND CONNECTION CABLES AS SHORT AND STRAIGHT AS PRACTICAL.

7. PROVIDE ALL ELECTRICAL SYSTEM AND EQUIPMENT GROUNDS AS REQUIRED BY THE CURRENT EDITION OF THE NATIONAL ELECTRIC CODE, THE CURRENT EDITION OF THE NATIONAL ELECTRICAL SAFETY CODE AND AT&T STANDARDS. BONDING JUMPERS WITH APPROVED GROUND FITTINGS SHALL BE INSTALLED AT ALL RACEWAYS, EQUIPMENT ENCLOSURES, PULL BOXES, ETC. TO MAINTAIN GROUND CONTINUITY WHERE REQUIRED BY CODE.

8. ALL BURIED EQUIPMENT GROUND CONDUCTORS SHALL BE #2 AWG BARE, TINNED, SOLID COPPER UNLESS NOTED OTHERWISE ON THE DRAWINGS.

E. INSPECTION/DOCUMENTATION

1. THE CONTRACTOR, UPON COMPLETION OF HIS WORK, SHALL PROVIDE AS-BUILT DRAWINGS. INFORMATION SHOULD BE GIVEN TO THE GENERAL CONTRACTOR FOR INCLUSION IN FINAL AS-BUILT SURVEY DOCUMENTS TO BE GIVEN TO THE OWNER.

2. CONTRACTOR SHALL SUPPLY DOCUMENTATION ATTESTING TO THE COMPLETE GROUND SYSTEM'S RESISTANCE TO GROUND (MAX. 5 OHMS).

3. AN ELECTRICAL INSPECTION SHALL BE MADE BY AN INSPECTING AGENCY APPROVED BY AT&T'S REPRESENTATIVE. CONTRACTOR SHALL COORDINATE ALL INSPECTIONS AND OBTAIN POWER COMPANY APPROVAL.

4. CONTRACTOR SHALL HAVE ATS AND GENERATOR RELAY INSTALLATION AND CONNECTIONS INSPECTED BY OTHERS TO ENSURE THAT UL LISTING FOR THAT EQUIPMENT IS NOT VOIDED.

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EXP. 09/2023

DATE SIGNED: 11/20/23

SITE INFORMATION:
MARTIN LUTHER KING W
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GENERATOR INSTALLATION PROJECT
3332 ADELINE STREET
BERKELEY, CA 94703

REVISIONS

REV	DATE	DESCRIPTION	INT
1	11/20/23	REVISED FOR ACCOUNTFENCE	JAD
0	23/09/23	ISSUED FOR CONSTRUCTION	JCM

THE INFORMATION CONTAINED IN THIS SET OF DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO THE CLIENT NAMED IS STRICTLY PROHIBITED.

CHECKED BY: GGD

SHEET TITLE:
GENERAL NOTES

SHEET NUMBER:
N-1

GENSET USE AND INFORMATION:

THE PROPOSED GENERAC SD050 GENSET:
* IS RATED AT 86 HP AT MAXIMUM RATED kW OUTPUT,
* IS INSTALLED WITH AN ABOVE-GROUND DOUBLE-WALL SECONDARY CONTAINMENT BASE FUEL TANK WITH 190 USABLE (200 MAX) GALLONS OF FUEL.
* USES ULTRA LOW SULFUR DIESEL FUEL (15 ppm SULFUR),
* IS LIMITED TO 100 HOURS PER YEAR OF NON-EMERGENCY USE (TESTING & MAINTENANCE),
* IS INSTALLED WITH A LEVEL 2 ACOUSTIC ENCLOSURE, WHICH BUFFERS SOUND OUTPUT TO A MAXIMUM OF 73 dB AT 7 METERS (~23 FEET),
* IS COMPLIANT WITH APPLICABLE AIR QUALITY REGULATIONS.

CUMULATIVE VOLUME CALCULATIONS:

THE PHYSICAL DIMENSIONS OF THE PROPOSED GENERATOR w/ ENCLOSURE AND BASE FUEL TANK ARE LESS THAN 250 CU. FT. IN VOLUME,

BASE FUEL TANK = 106.1"x38"x29" = 67.7 CU. FT.
GENERATOR BODY w/ ENCLOSURE = 94.8"x61.8"x38" = 129.1 CU. FT.

TOTAL CUMULATIVE VOLUME OF GENSET = 67.7 + 129.1 = 196.8 CU. FT.

AT&T LEASE AREAS

EXISTING APPROXIMATE (540 SQ.FT.) LEASE AREA

PROPOSED 9'-0"x14'-6" (130.5 SQ.FT.) GENERATOR LEASE AREA

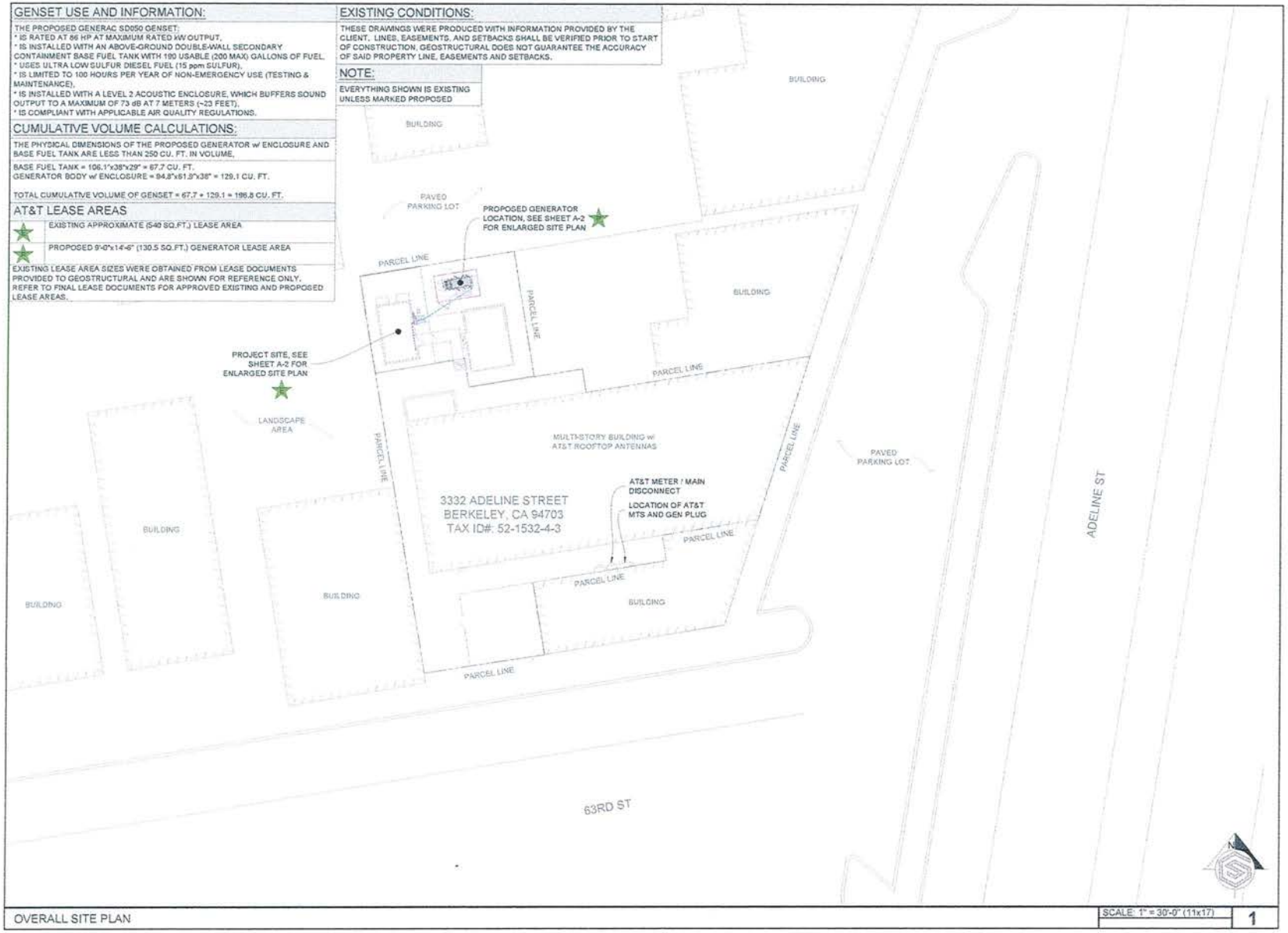
EXISTING LEASE AREA SIZES WERE OBTAINED FROM LEASE DOCUMENTS PROVIDED TO GEOSTRUCTURAL AND ARE SHOWN FOR REFERENCE ONLY. REFER TO FINAL LEASE DOCUMENTS FOR APPROVED EXISTING AND PROPOSED LEASE AREAS.

EXISTING CONDITIONS:

THESE DRAWINGS WERE PRODUCED WITH INFORMATION PROVIDED BY THE CLIENT. LINES, EASEMENTS, AND SETBACKS SHALL BE VERIFIED PRIOR TO START OF CONSTRUCTION. GEOSTRUCTURAL DOES NOT GUARANTEE THE ACCURACY OF SAID PROPERTY LINE, EASEMENTS AND SETBACKS.

NOTE:

EVERYTHING SHOWN IS EXISTING UNLESS MARKED PROPOSED



OVERALL SITE PLAN

SCALE: 1" = 30'-0" (11x17)

1

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CHECKED BY: GDD

SHEET TITLE:
OVERALL SITE PLAN

SHEET NUMBER:
A-1

UTILITY NOTE:

THE UTILITIES AS SHOWN ON THIS SET OF DRAWINGS WERE DEVELOPED FROM RECORD INFORMATION. THE INFORMATION PROVIDED IS IMPLIED NOT INTENDED TO BE A COMPLETE INVENTORY OF THE UTILITIES IN THIS AREA. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION OF ALL UTILITIES (WHETHER SHOWN OR NOT) AND PROTECT SAID UTILITIES FROM ANY DAMAGE CAUSED BY CONTRACTOR'S ACTIVITIES.

EXISTING CONDITIONS:

THESE DRAWINGS WERE PRODUCED WITH INFORMATION PROVIDED BY THE CLIENT. LINES, EASEMENTS, AND SETBACKS SHALL BE VERIFIED PRIOR TO START OF CONSTRUCTION. GEOSTRUCTURAL DOES NOT GUARANTEE THE ACCURACY OF SAID PROPERTY LINE, EASEMENTS AND SETBACKS.

SCOPE OF WORK DETAILS:

GENERAL:

- NEW GENERAC DIESEL GENERATOR PROVIDED BY GENERAL DYNAMICS & INSTALLED BY GENERAL CONTRACTOR. SEE SHEETS E-4.0, E-4.1, E-4.2.
- NEW CONCRETE PAD PROVIDED & INSTALLED BY GENERAL CONTRACTOR. SEE SHEET S-1.
- NEW GENERAC AUTOMATIC TRANSFER SWITCH PROVIDED BY GENERAL DYNAMICS & INSTALLED BY CONTRACTOR. SEE SHEETS S-2, E-5.0, E-5.1.
- NEW COMPOUND FENCE & COMPOUND EXPANSION PROVIDED & INSTALLED BY GENERAL CONTRACTOR. SEE SHEETS S-3, S-3.1, S-4.
- CONTRACTOR TO VERIFY ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION.
- CONTRACTOR SHALL RESTORE & REPAIR ANY DAMAGED AREAS CAUSED BY CONSTRUCTION TO ORIGINAL OR BETTER CONDITION.
- INNER AND OUTER TANK TESTING DOCUMENTATION SHALL BE PROVIDED ONCE TANK IS IN PLACE ON SITE IN ACCORDANCE WITH NFPA 30.
- A CALIBRATION CHART OF PERMANENT AND DURABLE CONSTRUCTION SHALL BE LOCATED AT THE FILL BOX.

CONDUITS:

- INSTALL PULL STRING IN EACH CONDUIT.
- (2) NEW ELECTRICAL CONDUITS WITH CONDUCTORS TO BE INSTALLED FROM NEW GENERATOR TO NEW ATS. CONDUIT PROVIDED AND INSTALLED BY GENERAL CONTRACTOR. SEE SHEETS E-1, E-2.
- (2) NEW ELECTRICAL CONDUITS WITH CONDUCTORS TO BE INSTALLED FROM NEW GENERATOR TO AC PANEL. CONDUIT PROVIDED & INSTALLED BY GENERAL CONTRACTOR. SEE SHEETS E-1, E-2.
- (1) NEW ALARM CONDUIT & CABLING PROVIDED & INSTALLED BY GENERAL CONTRACTOR. SEE SHEETS E-1, E-2.

GROUNDING:

- NEW EXOTHERMIC CONNECTION FROM EXISTING GROUND RING TO NEW MECHANICAL CONNECTION AT GENERATOR CHASSIS. GENERAL CONTRACTOR TO VERIFY LOCATION IN FIELD. LOCATE GROUND RODS NO MORE THAN 8'-0" APART. SEE SHEET E-3.

POWER ROUTING KEYED NOTES:

ILC	EXISTING INTEGRATED LOAD CENTER (ILC)
INT	INTERCEPT EXISTING CONDUIT AND CONDUCTORS PRIOR TO ILC AND RE-ROUTE THROUGH PROPOSED ATS (~20'). COORDINATE PATH WITH CONSTRUCTION MANAGER
CON	PROPOSED AT&T UNDERGROUND GENERATOR CONDUIT ROUTE (~30'). CONTRACTOR TO LOCATE EXISTING UTILITIES PRIOR TO EXCAVATION. SEE SHEETS E-1, E-2.

SEE SHEET E-1 FOR SINGLE LINE DIAGRAM.

GENERATOR KEYED NOTES:

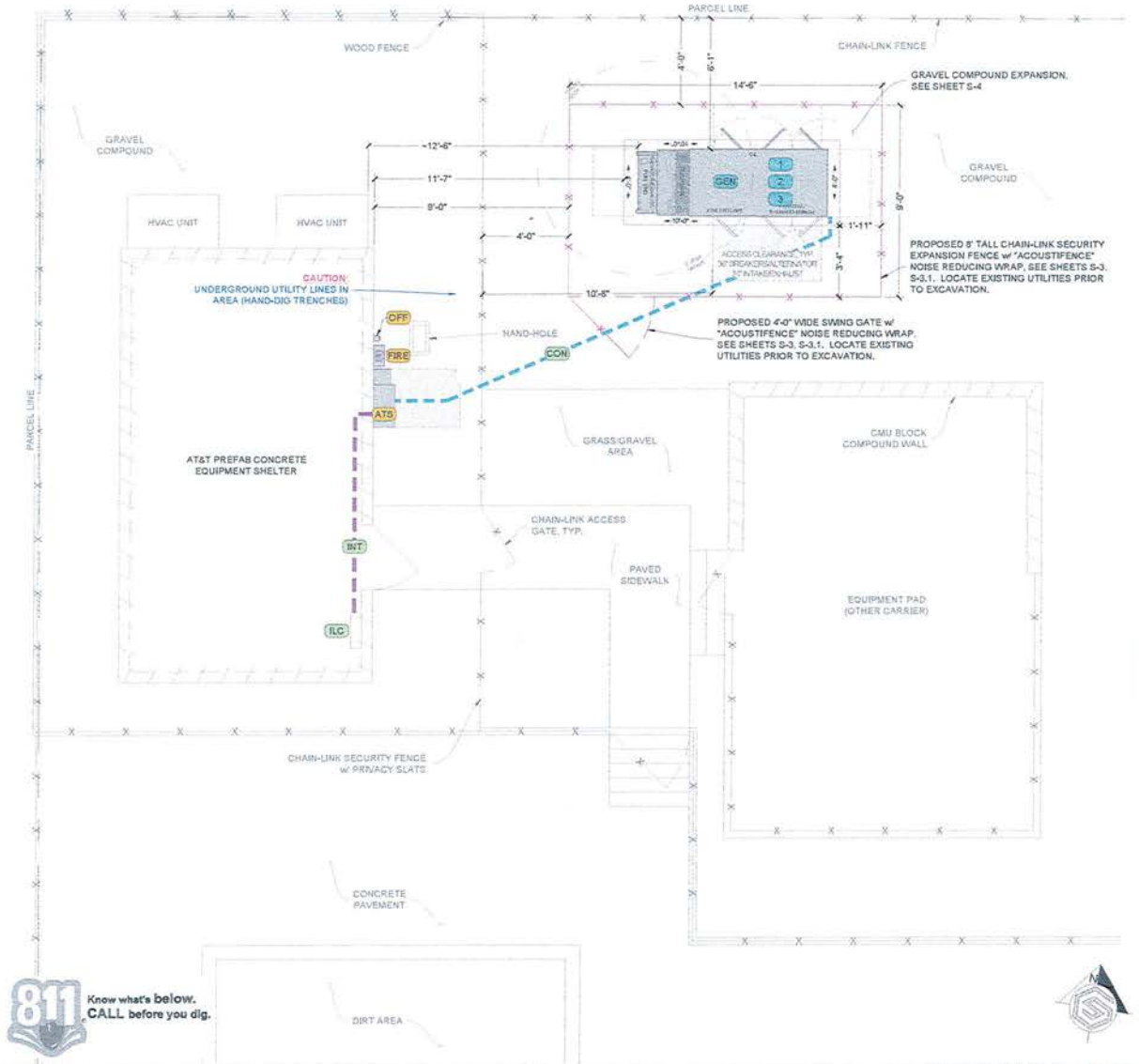
GEN	PROPOSED AT&T 50KW DIESEL GENERATOR w/ SOUND ATTENUATED ENCLOSURE, NORMAL/EMERGENCY TANK VENTING AND BASE FUEL TANK. SEE SHEETS S-1, S-2, E-3.
1	FUEL FILL SHALL BE PROVIDED WITH SPILL CONTROL, WITH A SOLID FILL CONNECTION, AND WITH OVERFILL PREVENTION
2	FUEL TANK NORMAL AND EMERGENCY VENTS SHALL TERMINATE AT LEAST 12'-0" ABOVE THE ADJACENT GRADE. SEE SHEET S-2.
3	NFPA 704 PLACARD AND OTHER SIGNAGE. SEE SHEET S-2.

ATS / EQUIPMENT KEYED NOTES:

FIRE	-FIRE EXTINGUISHER, (2A-20BC OR APPROVED EQUAL) PER CFC 906.3 -FIRE EXTINGUISHER CABINET (BFC-7009 OR APPROVED EQUAL), MOUNT TO SHELTER WALL PER CFC 906.9 (5'-0" MAX. ABOVE GRADE)
OFF	LOCKABLE EMERGENCY SHUTOFF SWITCH. MOUNT TO SHELTER WALL PER CFC 906.9 (5'-0" MAX. ABOVE GRADE)
ATS	PROPOSED ATS w/ CAMLOCK MOUNTED TO SHELTER WALL WITH 36" FRONT CLEARANCE. SEE SHEET S-2.

NOTE:

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ENLARGED SITE PLAN

SCALE: 1" = 5'-0" (11x17) | 1

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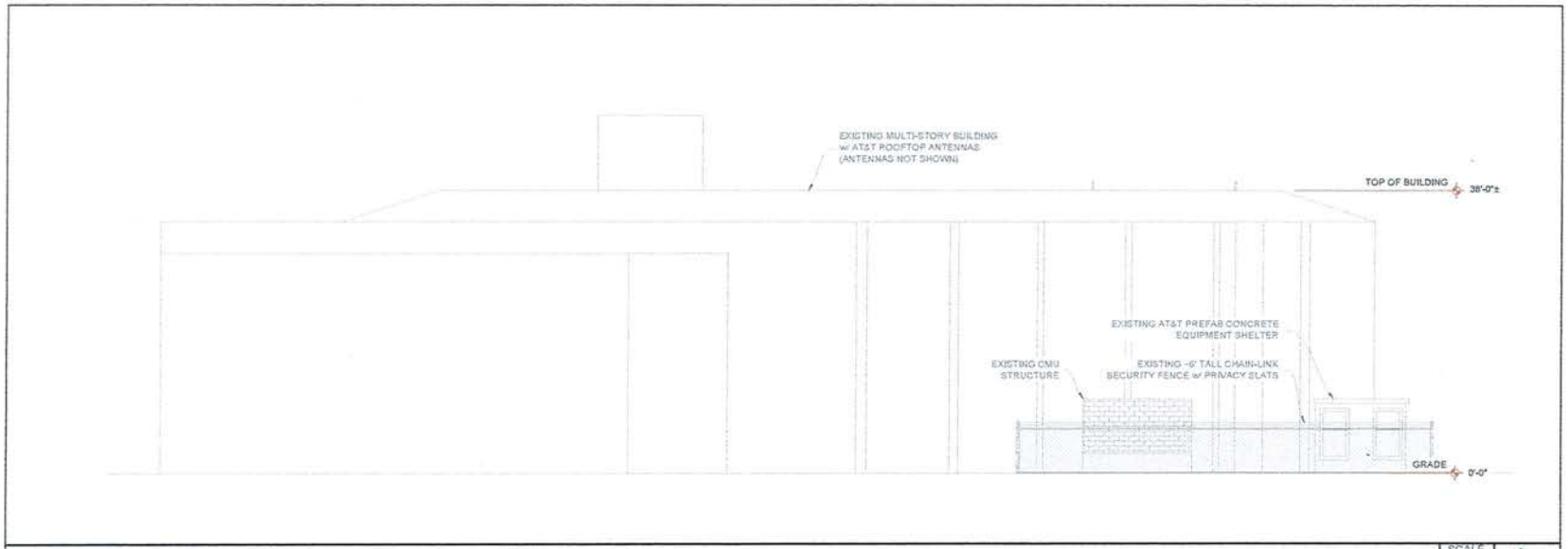
REV	DATE	DESCRIPTION	INT
1	11/08/23	REVISED FOR ACOUSTIFENCE	JAD
0	03/09/23	ISSUED FOR CONSTRUCTION	JCN

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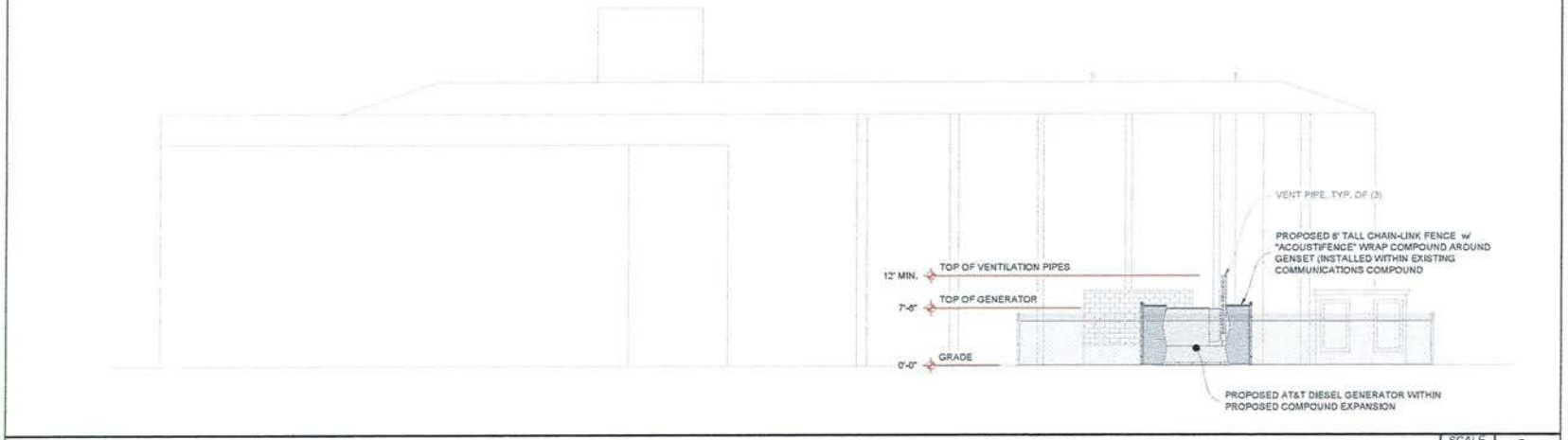
SHEET TITLE:
ENLARGED SITE PLAN

SHEET NUMBER:
A-2



EXISTING ELEVATION VIEW

SCALE N.T.S. 1



PROPOSED ELEVATION VIEW

SCALE N.T.S. 2

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DATE (SIGNED): 11/20/23

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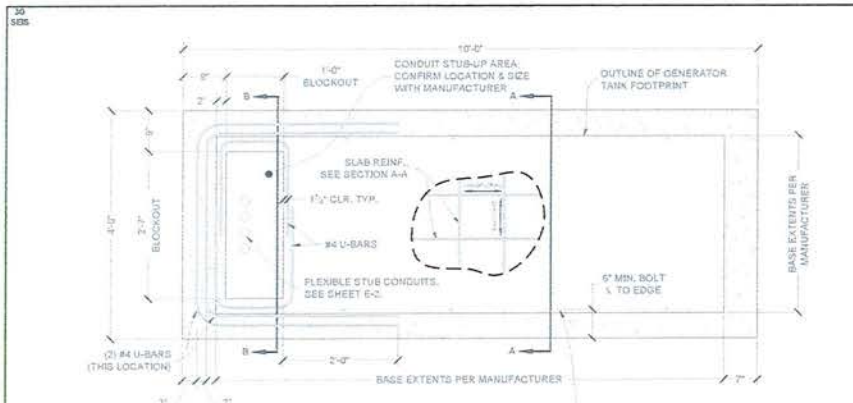
REV	DATE	DESCRIPTION	INT
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0	03/2023	ISSUED FOR CONSTRUCTION	JDM

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SHEET TITLE:
ELEVATION VIEWS

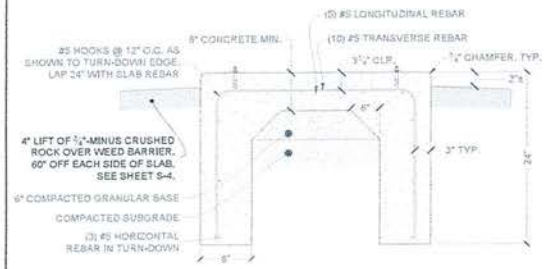
SHEET NUMBER:
A-3



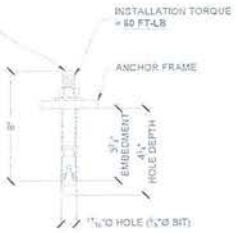
GENERATOR PAD DETAIL
SCALE: 1/2"=1'-0"(11x17) 1"=1'-0" (24x36)



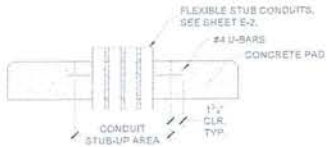
TURN-DOWN EDGE



GENERATOR PAD - SECTION A-A
SCALE: 1/2"=1'-0"(11x17) 1"=1'-0" (24x36)



TYPICAL ANCHOR



GENERATOR PAD - SECTION B-B

STRUCTURAL DESIGN NOTES:

ALL LOADS DERIVED FROM REQUIREMENTS OF THE IBC 2021, CBC 2022, ASCE 7 & ANSI TIA-222.

BUILDING & COMMUNICATION STRUCTURES: (37.8479167° / -122.2723861°)

1. WIND LOADS: IBC 2021, CBC 2022 & ASCE 7-16 w/ SUPPLEMENT 1
   V = 92 MPH ULTIMATE WIND SPEED
   STRUCTURE CLASS = II; EXPOSURE CATEGORY = C; TOPOGRAPHIC CATEGORY = 1.
   IMPORTANCE FACTOR = 1.0.
2. SEISMIC LOADS: IBC 2021, CBC 2022 & ASCE 7-16 w/ SUPPLEMENT 1
   STRUCTURE CLASS = II; SITE CLASS = D - DEFAULT.
   S_S = 2.008 : S_1 = 0.77 ; S_{DS} = 1.607 ; a_p = 1.0 ; R_p = 2.5

CONCRETE NOTES:

1. PRIOR TO EXCAVATION, CHECK THE AREA FOR UNDERGROUND FACILITIES.
2. ALL CONCRETE SHALL BE IN ACCORDANCE WITH CHAPTER 19 OF THE CBC & ACI 318, "BUILDING CODE REQUIREMENTS FOR REINFORCED CONCRETE", LATEST EDITION & HAVE THE FOLLOWING PROPERTIES:
   A MINIMUM 28-DAY COMPRESSIVE STRENGTH (f'c) OF 2,500 PSI.
   B CEMENT SHALL BE "LOW-ALKALI" TYPE IIA (MODERATE SULFATE RESISTANCE, AIR ENTRAINING) CONFORMING TO ASTM C150.
   C MAXIMUM WATER/CEMENT RATIO OF 0.45 AND AIR-ENTRAINED 4% TO 7%.
   D CONCRETE PROPORTIONING SHALL BE DESIGNED BY AN APPROVED LABORATORY. TOLERANCES IN ACCORDANCE WITH ACI 117. COPIES OF CONCRETE MIX SHALL BE SUBMITTED TO THE ENGINEER FOR REVIEW PRIOR TO PLACEMENT.
   E ALL AGGREGATE USED IN CONCRETE SHALL CONFORM TO ASTM C33. USE ONLY AGGREGATES KNOWN NOT TO CAUSE EXCESSIVE SHRINKAGE. MAXIMUM AGGREGATE SIZE TO BE ¾".
   F MAXIMUM SLUMP: REFER TO GEOTECHNICAL REPORT WHEN APPLICABLE.
3. FORMWORK FOR CONCRETE SHALL CONFORM TO ACI 347. TOLERANCES FOR FINISHED CONCRETE SURFACES SHALL MEET CLASS-C REQUIREMENTS. IN NO CASE SHALL FINISHED CONCRETE SURFACES EXCEED THE FOLLOWING VALUES AS MEASURED FROM NEAT PLAN LINES AND FINISHED GRADES: ± ¼" VERTICAL, ± 1" HORIZONTAL.
4. CHAMFER ALL EXPOSED CORNERS AND FILLET ENTRANT ANGLES ¾" U.N.O.
5. CONCRETE FINISHING: CONCRETE SURFACES SHALL BE FINISHED IN ACCORDANCE WITH ACI. PROVIDE ROUGH FINISH FOR ALL SURFACES NOT EXPOSED TO VIEW AND SMOOTH FINISH FOR ALL OTHERS, U.N.O.
6. STEEL REINFORCEMENT AND CONCRETE SHOULD BE PLACED IMMEDIATELY UPON COMPLETION OF THE FOUNDATION EXCAVATION. CONTRACTOR SHALL NOT ALLOW A COLD JOINT TO FORM IN THE CONCRETE. PORTION AT GRADE SHOULD BE FORMED. TEMPORARY CASING MAY BE REQUIRED TO PREVENT CAVING PRIOR TO CONCRETE PLACEMENT.

REINFORCING STEEL NOTES:

1. ALL REINFORCING STEEL SHALL CONFORM TO ASTM A615. VERTICAL/HORIZONTAL BARS SHALL BE GRADE 60; TIES OR STIRRUPS SHALL BE A MINIMUM OF GRADE 40. ALL REINFORCING STEEL SHALL HAVE 3" (± ⅜") OF CONCRETE COVER, U.N.O.
2. ALL BAR BENDS, HOOKS, SPLICES AND OTHER REINFORCING STEEL SHALL CONFORM TO THE REQUIREMENTS OF ACI 315.
3. ALL BARS SHALL BE SPLICED WITH A MINIMUM LAP OF 48 BAR DIAMETERS. LAP SPLICES OF DEFORMED BARS IN TENSION ZONES SHALL BE CLASS-B SPLICES. WELDING OF BARS IS NOT PERMITTED.
4. AT ALL CORNERS AND WALL INTERSECTIONS, PROVIDE BENT HORIZONTAL BARS TO MATCH THE HORIZONTAL REINFORCING STEEL.
5. PROVIDE VERTICAL DOWELS IN FOOTINGS AND AT CONSTRUCTION JOINTS TO MATCH VERTICAL REINFORCING BAR SIZE AND SPACING.
6. ACI-APPROVED PLASTIC-COATED BAR CHAIRS OR PRECAST CONCRETE BLOCKS SHALL BE PROVIDED FOR SUPPORT OF ALL GRADE-CAST REINFORCING STEEL & SHALL BE SUFFICIENT IN NUMBER TO PREVENT SAGGING. METAL CLIPS OR SUPPORTS SHALL NOT BE PLACED IN CONTACT WITH THE FORMS OR THE SUB-GRADE.
7. DOWELS AND ANCHOR BOLTS SHALL BE WIRED OR OTHERWISE HELD IN CORRECT POSITION PRIOR TO PLACING CONCRETE. IN NO CASE SHALL DOWELS OR ANCHOR BOLTS BE "STABBED" INTO FRESHLY-POURED CONCRETE.

FOUNDATION & SOIL NOTES:

1. FOUNDATION DESIGN BASED ON PRESUMPTIVE MINIMUM SOIL PARAMETERS (ALLOWABLE BEARING = 1,000 PSF; ALLOWABLE PASSIVE SLIDING = 100 PSF/FT) IN ACCORDANCE WITH THE IBC AND CBC.
2. THE EXCAVATION SHALL BE INSPECTED PRIOR TO THE PLACEMENT OF CONCRETE AND THE CONTRACTOR SHALL PROVIDE A NOTICE OF INSPECTION FOR THE BUILDING INSPECTOR FOR REVIEW AND RECORDS PURPOSES.
3. THE CONTRACTOR SHALL DETERMINE THE MEANS AND METHODS NECESSARY TO SUPPORT THE EXCAVATION DURING CONSTRUCTION.
4. ALL FOUNDATIONS TO BE PLACED ON FIRM, UNDISTURBED, INORGANIC MATERIAL. PROOF ROLL SUB-GRADE PRIOR TO PLACING CONCRETE WHERE THE MATERIAL HAS BEEN DISTURBED BY EQUIPMENT. UNACCEPTABLE/DISTURBED MATERIAL SHALL BE OVER-EXCAVATED AND REPLACED WITH "LEAN CONCRETE FILL" OR REPLACED WITH STRUCTURAL BACKFILL.
5. STRUCTURAL BACKFILL SHALL BE GRANULAR FREE-DRAINING MATERIAL FREE OF DEBRIS, ORGANICS, REFUSE AND OTHERWISE DELETERIOUS MATERIALS. MATERIAL SHALL BE PLACED IN LIFTS NO GREATER THAN 6" IN DEPTH AND COMPACTED TO 95% OF MAXIMUM DENSITY AS DETERMINED PER ASTM D1557 (MODIFIED PROCTOR).

MECHANICAL ANCHOR NOTES:

1. HILTI PRODUCTS MUST BE INSTALLED IN ACCORDANCE WITH MANUFACTURER'S PRINTED INSTALLATION INSTRUCTIONS. AS INCLUDED IN THE PACKAGING.
2. CONTRACTOR SHALL AVOID DRILLING HOLES IN VERTICAL/HORIZONTAL REINFORCING BARS.
3. HOLES MUST BE WIRE BRUSHED AND BLASTED WITH COMPRESSED AIR PRIOR TO INSTALLATION. TEMPERATURES/METHODS/WORKING TIME/ETC. ARE TO BE IN ACCORDANCE WITH MANUFACTURER SPECIFICATIONS.

CITY USE

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DATE (SIGNED): 11/20/23

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REVISIONS

REV.	DATE	DESCRIPTION	INT.
1	11/03/23	REVISED FOR AGENCY/FENCE	JAD
0	03/09/23	ISSUED FOR CONSTRUCTION	JCB

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SHEET TITLE:
GENERATOR PAD DETAILS

SHEET NUMBER:
S-1

DIESEL FUEL
COMBUSTIBLE
NO SMOKING
NO OPEN FLAMES
FUEL TANK CAPACITY 190 GALS

PLACE ON (2) VISIBLE SIDES OF PROPOSED GENERATOR TANK

15" x 12" SIGN



PLACE ON (2) VISIBLE SIDES OF PROPOSED GENERATOR TANK

15" x 15" SIGN

FOR FUEL & OTHER ENVIRONMENTAL EMERGENCIES CALL EH&S
1-800-566-9347
(1-800-KNOW-EHS)

PLACE ON (2) VISIBLE SIDES OF PROPOSED GENERATOR TANK

11" x 11" SIGN

CONTRACTOR TO PROVIDE REQUIRED SIGNAGE FOR ELECTRICAL PANELS, DISCONNECTS, TRANSFER SWITCHES, ETC. PER CALIFORNIA ELECTRICAL CODE ARTICLE 702.7

AT&T MOBILITY

PLACE ON (2) VISIBLE SIDES OF PROPOSED GENERATOR TANK

6.5" x 3" SIGN

REQUIRED LABELING & SIGNAGE

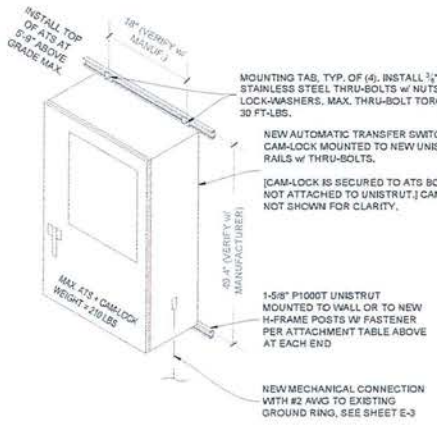
ATS LOCATION NOTE:
ATS LOCATION SHOWN IN PLANS IS THE BEST AVAILABLE BASED ON THE INFORMATION PROVIDED. ALTERNATIVE LOCATION MAY BE REQUIRED AND SHALL BE APPROVED BY CONSTRUCTION MANAGER AND/OR LANDLORD. THIS DETAIL PROVIDES ALTERNATIVE METHODS OF INSTALLATION (NOT ALL DETAILS MAY BE USED).

UNISTRUT WALL ATTACHMENT:

WALL CONSTRUCTION TYPE	FASTENER
HOLLOW, AT STUD	3/8" DIA. x 2-1/2" EMBED SAE J429 GR.1 LAG SCREW
CONCRETE BLOCK (HOLLOW)	3/8" DIA. HILTI HY-270 (ESR-4143) W/ SCREEN, MINIMUM EMBEDMENT 2-3/8"
CONCRETE (SOLID)	3/8" DIA. HILTI HY-200 (ESR-3187), MINIMUM EMBEDMENT 2-3/8"

NOTES:
1. USE GALVANIZED OR STAINLESS STEEL HARDWARE FOR WALL MOUNT AND CONNECTION OF CHANNELS

2. GC SHALL USE NON-SHRINKING CAULK TO WEATHER SEAL ALL PENETRATIONS INTO OR THROUGH WALL



ATS MOUNTING DETAIL

DIESEL TANK CHECKLIST:

READILY ACCESSIBLE MANUAL SHUTOFF VALVES SHALL BE INSTALLED ON SUPPLY PIPING AT THE POINT OF USE AND THE TANK (CFC 5003.2.2.1)
SECONDARY CONTAINMENT-TYPE TANKS SHALL BE UL LISTED, UL-142, AND COMPLY WITH ALL OF THE FOLLOWING REQUIREMENTS; OTHERWISE TRADITIONAL SPILL CONTROL OR SECONDARY CONTAINMENT MEASURES, SUCH AS DIKING, SHALL BE UTILIZED (NFPA 30 22.11.4)

- CAPACITY OF DIESEL TANK SHALL NOT EXCEED 50,000 GAL.
- PIPING CONNECTIONS SHALL BE ABOVE THE LIQUID LEVEL
- MEANS SHALL BE PROVIDED TO PROTECT RELEASE OF LIQUID BY SIPHON FLOW.
- MEANS TO DETERMINE LIQUID LEVEL IN TANK SHALL BE PROVIDED TO DRIVER.
- MEANS TO PREVENT OVERFILLING BY AN ALARM AT 90% CAPACITY AND AUTOMATICALLY STOPPING DELIVERY OF LIQUID TO THE TANK AT 95% CAPACITY.
- SPACING BETWEEN ADJACENT TANKS SHALL NOT BE LESS THAN 3'.
- TANK SHALL BE PROTECTED AGAINST DAMAGE FROM VEHICLES.
- INTERSTITIAL SPACE SHALL HAVE EMERGENCY VENTING.
- INTEGRITY OF SECONDARY CONTAINMENT SHALL BE ESTABLISHED.
- THE SECONDARY CONTAINMENT SHALL WITHSTAND THE HYDROSTATIC HEAD OF THE MAXIMUM AMOUNT OF LIQUID STORED IN THE PRIMARY TANK.

TANK LABELING AND PROTECTIONS:

THE FOLLOWING SIGNS AND LABELS SHALL BE AFFIXED TO THE TANK.

- "DIESEL FUEL - NO SMOKING" (CFC 5703.5 & CFC 5003.7.1)
- NFPA 704 PLACARD (CFC 5003.5)
- EH&S
- AT&T MOBILITY SIGN #3

CRASH PROTECTION COMPLYING WITH IFC 312 SHALL BE PROVIDED (CFC 5003.9.3) (IF APPLICABLE)

GENERATOR FEATURES:

GENERATORS SHALL BE UL 2200 LISTED AND COMPLY WITH NFPA 37 AND NFPA 110. (CFC 1203.1.1)

INSTALLATIONS SHALL HAVE A LABELED REMOTE MANUAL STOP (NFPA 110 5.6.5.6 & 5.6.5.6.1 AND NFPA 37 9.2.1.1)

DOUBLE WALL FUEL TANK BASE SPECIFICATION:

REF: AT&T 50KW GENERATOR PACKAGE
UL REGISTRATION NUMBER: MH 18458
UL 142 DOUBLE WALL FUEL TANK BASE SPECIFICATION
FUEL TANK BASE CONSTRUCTION:

- BE CONSTRUCTED IN ACCORDANCE WITH UNDERWRITERS LABORATORIES STANDARD UL-142, BE CONSTRUCTED IN ACCORDANCE WITH FLAMMABLE COMBUSTIBLE LIQUIDS CODE, NFPA 30; THE STANDARD FOR INSTALLATION USE OF STATIONARY COMBUSTIBLE ENGINE GAS TURBINES, NFPA 37; AND THE STANDARD FOR EMERGENCY STANDBY POWER SYSTEMS, NFPA 110.
- MINIMUM ANCHOR QUANTITY PER MANUFACTURER OR THIS PLAN SET; WHICHEVER IS LARGER.

SUB BASE TANK TESTING:

- PRIMARY TANK & SECONDARY CONTAINMENT BASIN SECTIONS SHALL BE PRESSURIZED AT 3-5 PSI AND LEAK-CHECKED TO ENSURE INTEGRITY OF SUB BASE WELD SEAMS PER UL-142 STANDARDS

FUEL FILL: 2.5 - 5 GALLON SPILL CONTAINMENT WITH ALARM

- 40% REMAINING FOR ALARM
- 20% REMAINING FOR SHUT-DOWN

FACTORY PRE-SET AT 90% FULL FOR ALARM

FUEL CONTAINMENT BASIN:

- SUB BASE TANK SHALL INCLUDE A WELDED STEEL CONTAINMENT BASIN, SIZED AT A MINIMUM OF 110% OF THE TANK, CAPACITY TO PREVENT ESCAPE OF FUEL INTO THE ENVIRONMENT IN THE EVENT OF A TANK RUPTURE. A FUEL CONTAINMENT BASIN LEAK DETECTOR SWITCH SHALL BE PROVIDED.

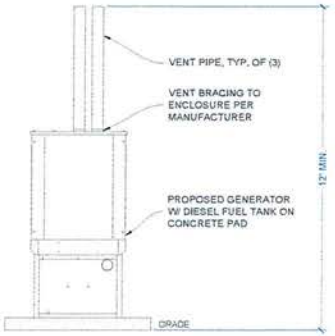
NEPA NOTES:

1. CONSTRUCTION, INSTALLATION, MAINTENANCE, & OPERATIONAL TESTING OF EPSS SHALL COMPLY WITH THE LATEST ADOPTED EDITION OF NFPA 110.
2. ALL ELECTRICAL WORK SHALL COMPLY WITH LATEST ADOPTED EDITION OF NFPA 70 - NATIONAL ELECTRICAL CODE.

FUEL TANK NOTES:

THE TANK SHALL BE MANUFACTURED WITH THE FOLLOWING:
-INTERSTITIAL ELECTRONICALLY MONITORED RUPTURE BASIN
-ALARM TO MONITOR THE SPACE BETWEEN THE PRIMARY AND SECONDARY TANK.
-OVERFILL ALERT TO VISUALLY WARN WHEN THE TANK IS FILLED UPON CAPACITY.
-OVERSPILL CONTAINMENT AT FILL PORT TO PREVENT SPILL OF FUEL DURING FILLING OPERATIONS.
-2.5/5 GALLON OVERSPILL CONTAINMENT W/ LOCKABLE CAP.

**SEE SHEETS E-4.3, E-4.4 FOR VENT PIPES, FUEL FILL, SPILL & ALARM COMPONENTS



GENERATOR VENTING DETAIL

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C 60000
EXP. 09/30/22

DATE SIGNED: 11/30/20

SITE INFORMATION:
MARTIN LUTHER KING W
10087892
GENERATOR INSTALLATION PROJECT
3332 ADELINE STREET
BERKELEY, CA 94703

REVISIONS

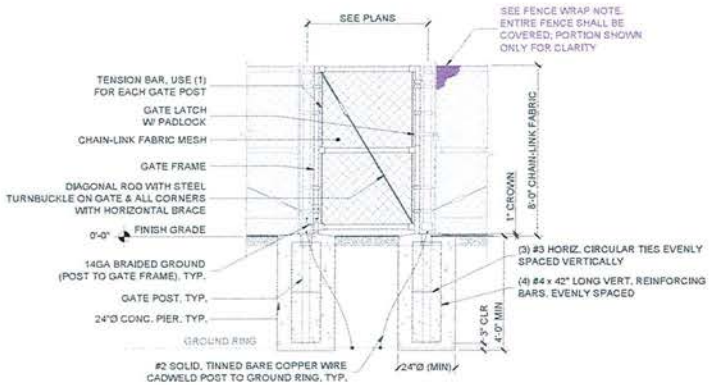
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1	11/05/21	REVISED FOR ACQUISITIENCE	JAD
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SHEET TITLE:
GENERAL STRUCTURAL DETAILS

SHEET NUMBER:
S-2

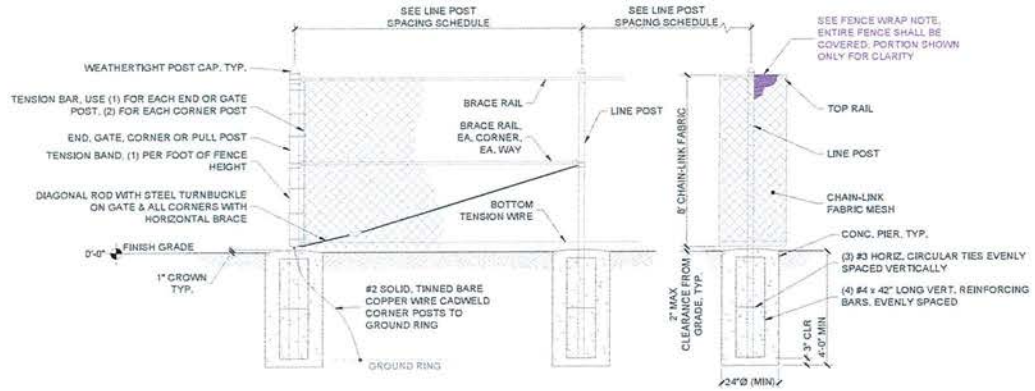


CHAIN-LINK MAN GATE DETAIL

FENCE WRAP:	
1	CONTRACTOR TO INSTALL "ACOUSTIFENCE" NOISE REDUCING FENCE WRAP PER MANUFACTURER'S RECOMMENDATIONS AROUND ENTIRETY OF FENCE PERIMETER. SEE SHEET S-3.1.

CHAIN-LINK GATE/FENCE SPECIFICATIONS:		
(INSTALL FENCING PER ASTM F567 / SWING GATES PER ASTM F900)		NOTES:
GATE POST	4.500" O.D. SCHEDULE 40 PIPE FOR GATE WIDTHS UP TO 6 FEET, PER ASTM F1083.	POST & FENCE PIPE SIZES ARE FENCE INDUSTRY STANDARD. ALL PIPE TO BE HOT-DIP GALV. CROSS BRACE ALL POSTS EXCEPT INTERMEDIATES.
LINE POST	8' TALL = 2.875" O.D. SCHEDULE 40 PIPE PER ASTM F1083.	
CORNER POST	3.500" O.D. SCHEDULE 40 PIPE PER ASTM F1083.	
TOP RAIL/BRACE RAIL	1.875" O.D. SCHEDULE 40 PIPE, PER ASTM F1083.	
GATE FRAME	1.875" O.D. SCHEDULED 40 PIPE, PER ASTM F1083.	
GATE LATCH	1.375" O.D. PLUNGER ROD W/ MUSHROOM TYPE CATCH AND LOCK.	CONTRACTOR TO INSTALL (2) GATE HOLDBACKS TO HOLD GATE OPEN DURING USE.
FABRIC	9 GA. CORE WIRE SIZE 2" MESH, CONFORMING TO ASTM A392.	-
TIE WIRE	MINIMUM 11 GA. GALVANIZED STEEL AT POSTS AND RAILS A SINGLE WRAP OF FABRIC TIE AND AT TENSION WIRE BY HOG RINGS SPACED MAX. 24" INTERVALS.	-
TENSION WIRE	7 GA. GALVANIZED STEEL.	-
BARBED WIRE	DOUBLE STRAND 12-1/2" O.D. TWISTED WIRE TO MATCH WITH FABRIC 14 GA. 4 PT. BARBS SPACED ON APPROXIMATELY 5" CENTERS.	LOCAL ORDINANCE OF BARBED WIRE PERMIT REQUIREMENTS SHALL BE COMPLIED WITH IF REQUIRED.

LINE POST SPACING SCHEDULE:	
DESCRIPTION	MAXIMUM SPACING
8' TALL MESH W/ ACOUSTIFENCE WRAP	4'-0"



CHAIN-LINK FENCE DETAIL

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SHEET TITLE:
FENCE DETAIL

SHEET NUMBER:
S-3

Acoustiblok® quieting the world

Product Data Sheet

Product Name

AcoustiFence® Noise Reducing Fences

For Manufacturer Info:

Contact:
Acoustiblok, Inc.
6900 Interbay Boulevard
Tampa, FL 33616
Call - (813) 980-1400
Fax - (813) 549-2653
Email - sales@acoustiblok.com
www.acoustiblok.com

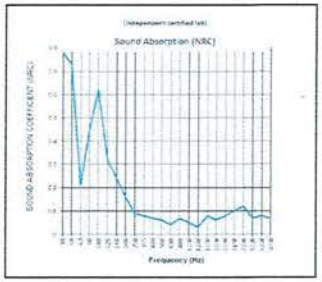
Product Description

Basic Use

AcoustiFence was originally developed by Acoustiblok, Inc. for noise isolation on offshore oil rigs, but has since proven successful in many other demanding outdoor settings, such as construction sites, commercial/industrial facilities, and residential communities.

AcoustiFence Noise Reducing Fences

AcoustiFence is a unique, heavy-mineral filled, barium free, viscoelastic acoustical material that is made in the U.S.A. Unlike fences or shrubs, this material does extraordinarily well in blocking direct sound, and a unique characteristic of the material sets it apart from other sound barriers when dealing with very low frequencies.



Sound Absorption Test Results

Benefits:

- Effectively reduces exterior noise
- Easy to install
- Resistant to UV, dirt and water
- Resistant to corrosion, mold and mildew

Acoustiblok® quieting the world

Product Data Sheet

Product Name

AcoustiFence® Noise Reducing Fences

Physical Properties

- Barium free
- Minimum STC 28 per ASTM E90-02 & ASTM E413-87
- Minimum sound attenuation 24 dBA @ 100Hz & 16dBA @ 40Hz
- Size - 6 ft.(1.83m) x 30 ft.(9.14m) x 0.125 in. (.3mm) – 180 ft² (16.83m²)
- Color - black or green
- High UV resistance
- Heat tolerance: 200°F (93°C) for 7 days, less than 1% shrinkage with no deformation.
- Do not unroll or flex frozen material. Properties not affected by freeze/thawcycles.
- No fungal or algal growth and no visible disfigurement, per ASTM D3273 and ASTM D3274 (rating=10)
- Tensile Strength - min. 510 PSI
- Weight per section: 185 lbs. (84Kg)

Material Specifications – Part # "Acoustifence 6x30 Industrial"

Acoustical Rating	STC 28 / OITC 22
Size	6 ft. (1.83m) x 30 ft. (9. 14m) x 0.125 in .(3mm) 180 ft² (16.72m²)
Weight	185 lbs. (84Kg)
Fastening	Black brass grommets every 6 in. (152mm) along top edge with four grommets spaced along the bottom edge. Commonly installed horizontally.
Color	Black
(This is an industrial product and minor surface blemishes are a possibility.)	

Acoustiblok® quieting the world
6900 Interbay Blvd.
Tampa, Florida USA 33616
Telephone: (813)980-1400
www.Acoustiblok.com
sales@acoustiblok.com

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REVISIONS

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1	11/2/23	REVISED FOR ACOUSTIFENCE	JAD
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SHEET TITLE:
ACOUSTIFENCE CUTSHEETS

SHEET NUMBER:
S-3.1

A2

AGGREGATE NOTES:

1	THE AGGREGATE MATERIAL TO BE USED WILL BE PRODUCED FROM SOUND, TOUGH, DURABLE ROCK AND SHALL BE UNIFORM IN QUALITY AND GRADATION. THE CRUSHED MATERIAL WILL BE REASONABLY FREE FROM SOFT OR DISINTEGRATED PIECES, ORGANIC MATERIALS, AND OTHER OBJECTIONABLE MATTER.
2	THE AGGREGATE MATERIAL WILL SHOW A LOSS LESS THAN 35% IN THE LOS ANGELES ABRASION TEST.
3	THE PERCENTAGE OF SOFT PARTICLES, AS DETERMINED BY THE CLAY LUMPS AND FRIABLE PARTICLES [AASHTO T 112], SHALL NOT BE MORE THAN 5%.
4	THE AGGREGATE MATERIAL USED WILL NOT HAVE A SAND EQUIVALENT LESS THAN 30 IF 5% OR MORE OF THE MATERIAL PASSES THE NUMBER 200 SIEVE.
5	80% OF THE GRAVEL (BY WEIGHT) OF THE COMBINED COURSE AGGREGATE SHALL HAVE THREE OR MORE ROUGH ANGULAR SURFACES AND PRODUCED BY CRUSHING OF THE ROCK.
6	THE PLASTICITY INDEX OF THE FINISHED AGGREGATE PRODUCT SHALL NOT EXCEED 6.

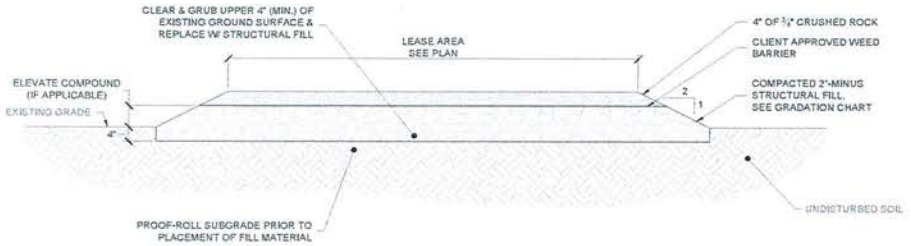
AGGREGATE GRADATION CHART:

(% BY WEIGHT PASSING SIEVES)

SIEVE SIZE	2"-MINUS	¾"-MINUS
2½"	100	-
2"	90-100	-
1"	55-83	100
¾"	-	90-100
No. 4	30-60	40-65
No. 8	-	30-50
No. 30	10-25	-
No. 200	0-6	3-9

COMPACTION NOTE:

STRUCTURAL FILL SHALL BE GRANULAR FREE-DRAINING MATERIAL FREE OF DEBRIS, ORGANICS, REFUSE AND OTHERWISE DELETERIOUS MATERIALS. MATERIAL SHALL BE PLACED IN LIFTS NO GREATER THAN 12" IN DEPTH AND COMPACTED TO 95% OF MAXIMUM DENSITY AS DETERMINED PER ASTM D1557.



COMPOUND DETAIL

CITY USE

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SHEET TITLE:
COMPOUND DETAIL

SHEET NUMBER:
S-4

TYP 1

CONDUIT / WIRE SCHEDULE:

NO.	FROM	TO	WIRES	GROUND	CONDUIT SIZE	FUNCTION
1	NORMAL POWER SOURCE	AUTOMATIC TRANSFER SWITCH	(3) W/C	(1) W/C	(1) W/C	NORMAL POWER FEEDER TO ATS (CUT BACK EXISTING)
2	AUTOMATIC TRANSFER SWITCH	LOAD CENTER	(3) W/C	(1) W/C	(1) W/C	POWER FEEDER FROM ATS TO PANELS
3	GENERATOR	AUTOMATIC TRANSFER SWITCH	(3) W/C	(1) W/C	(1) W/C	STANDBY POWER FEEDER TO ATS
4	AUTOMATIC TRANSFER SWITCH	GENERATOR	(2) W/C	(1) W/C	(1) W/C	START CIRCUIT
5	LOAD CENTER (DISTRIBUTION CENTER)	GENERATOR, ATS	(2) W/C (2) W/C (2) W/C	(1) W/C (1) W/C (1) W/C	(1) W/C (1) W/C (1) W/C	CKT FOR GEN BLOCK HEATER & BATTERY HEATER, CKT FOR BATTERY CHARGER, CKT FOR ATS CONTROLS (SEE BREAKER NOTE)
6	GENERATOR	THROUGH ATS TO ALARM BLOCK	12-PAIR 24 AWG OR 2EA 6-PAIR CATS	N/A	1"	ALARM CABLES (1) 12 PAIR 24 AWG, PROVIDE 24" OF SLACK CABLE. FINAL PUNCH DOWN IS BY AT&T TECH. LABEL ALL WIRES
7	AUTOMATIC TRANSFER SWITCH	ALARM BLOCK	(2) 12-PAIR 24 AWG OR (2) 6-PAIR CAT5 (1) 1-PAIR 24AWG	N/A	1"	ALARM CABLES (1) 12 PAIR 24 AWG (RUN THRU INTERIOR OF SHELTER OR GROUND EQUIPMENT & INTO ALARM BOX). PROVIDE SINGLE PAIR FOR COMMERCIAL POWER FAIL ALARM. PROVIDE 24" OF SLACK CABLE. FINAL PUNCH DOWN IS BY AT&T TECH. LABEL ALL WIRES
8	CAM-LOCK BOX	AUTOMATIC TRANSFER SWITCH	(3) W/C	(1) W/C	(1) W/C	STANDBY POWER FEEDER TO ATS

(W/C) = SEE WIRE/CONDUIT SIZING TABLE FOR VALUES

ALARM WIRE IDENTIFICATION CHART:

WIRE	ALARM
BROWN BROWN / WHITE	GENERATOR RUNNING
GREEN GREEN / WHITE	CRITICAL FAULT
BLUE BLUE / WHITE	MINOR FAULT
ORANGE ORANGE / WHITE	LOW FUEL
BROWN * BROWN / WHITE *	FUEL LEAK

*CAT5 CABLE ONLY, FROM 2ND CAT5 CABLE

EXISTING DISTRIBUTION PANEL



(2) OR (3) PROPOSED 20 AMP BREAKERS FOR BLOCK HEATER, BATTERY HEATER, AND BATTERY CHARGER ON NEW AT&T GENERATOR (INSTALL FILLER PLATES ON ANY OPEN SLOTS)

ALL ELECTRICAL WORK CONDUCTED ON PANELS TO BE VERIFIED WITH CONSTRUCTION MANAGER AND CONDUCTED BY AN APPROVED ELECTRICAL CONTRACTOR LICENSED IN THE STATE.

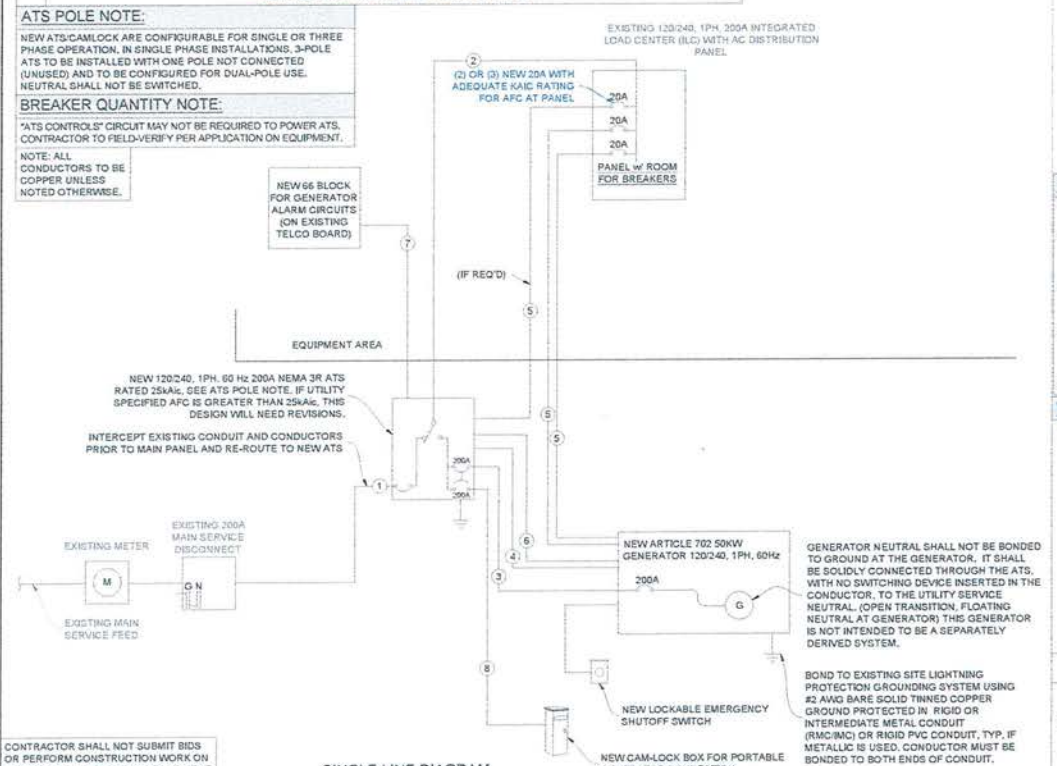
ATS POLE NOTE:

NEW ATS/CAMLOCK ARE CONFIGURABLE FOR SINGLE OR THREE PHASE OPERATION. IN SINGLE PHASE INSTALLATIONS, 3-POLE ATS TO BE INSTALLED WITH ONE POLE NOT CONNECTED (UNUSED) AND TO BE CONFIGURED FOR DUAL-POLE USE. NEUTRAL SHALL NOT BE SWITCHED.

BREAKER QUANTITY NOTE:

"ATS CONTROLS" CIRCUIT MAY NOT BE REQUIRED TO POWER ATS. CONTRACTOR TO FIELD-VERIFY PER APPLICATION ON EQUIPMENT.

NOTE: ALL CONDUCTORS TO BE COPPER UNLESS NOTED OTHERWISE.



SINGLE LINE DIAGRAM

CONTRACTOR SHALL NOT SUBMIT BIDS OR PERFORM CONSTRUCTION WORK ON THIS PROJECT WITHOUT ACCESS TO THE CURRENT COMPLETE SET OF DRAWINGS LISTED IN THE TITLE-SHEET INDEX.

PANEL NOTES:

1. CONTRACTOR TO LABEL WIRES WITH P-TOUCH OR SIMILAR LABELS ONLY. ABSOLUTELY NO HANDWRITTEN LABELS.
2. CONTRACTOR SHALL PERFORM A POWER STUDY ON EXISTING AC PANEL PRIOR TO INSTALLING, CHANGING, ALTERING, OR REMOVING ANY BREAKER. NO WORK SHALL BE COMPLETED ON AC PANEL WITHOUT PROPER INSPECTOR OR ENGINEER APPROVED DOCUMENTATION CONFIRMING CAPACITY ON SITE. ALL WORK SHALL CONFORM TO CEC VERSION ENFORCED BY A.H.J. AT TIME OF INSTALLATION.
3. CONTRACTOR SHALL VERIFY THAT THE MAXIMUM DEMAND FOR ALL CONNECTED EQUIPMENT AT THIS SITE AS CALCULATED PER CEC DOES NOT EXCEED THE GENERATOR OUTPUT CIRCUIT BREAKER RATING. (SEE NOTE #4 ALSO.)
4. IF MAXIMUM DEMAND OF GENERATOR OUTPUT CIRCUIT BREAKER RATING AS CALCULATED PER CEC IS CONTINGENT ON THE TWO HVAC UNITS NOT OPERATING CONCURRENTLY, THEN CONTRACTOR SHALL VERIFY THAT THE HVAC LEAD/LAG CONTROLLER IS CONFIGURED TO PREVENT CONCURRENT OPERATION. IF NOT, THEN CONTRACTOR SHALL RECONFIGURE IT AS NEEDED TO PREVENT TRIPPING THE CIRCUIT BREAKER.
5. SEE REQUIRED LABELING & SIGNAGE; SHEET S-2.

WIRE/CONDUIT SIZING: FEEDER MAX 1-WAY LENGTH IN FEET

WIRE SIZE	200A OCP 120/240V 1P	200A OCP 120/208V 1P	200A OCP 208Y/120V 3P	GROUND WIRE SIZE	CONDUIT SIZE
1/0	-	-	-	#4	1-1/2"
2/0	-	-	-	#4	2"
3/0	212	185	213	#4	2"
4/0	253	220	254	#4	2"
250 KCMIL	284	246	284	#4	2-1/2"
300 KCMIL	318	276	318	#3	2-1/2"
350 KCMIL	354	307	354	#2	2-1/2"
400 KCMIL	383	332	382	#2	3"
500 KCMIL	436	378	436	#1	3"
600 KCMIL	469	406	468	1/0	3-1/2"
750 KCMIL	521	451	521	2/0	3-1/2"
1000 KCMIL	586	508	586	3/0	4"

FEEDER MAXIMUM LENGTH VALUES SHOWN ARE FOR MAX. FEEDER VOLTAGE DROP OF 2.5%.

MAX. ONE-WAY LENGTH VS. WIRE SIZE FOR 20A CKT, AND CEC REQ'D INCREASED GROUND WIRE SIZE - BELOW GROUND

WIRE SIZE	DISTANCE	GROUND WIRE SIZE	CONDUIT SIZE
#12	0 - 51 FT	#12	1"
#10	52 - 85 FT	#10	1"
#8	86 - 130 FT	#8	1"
#6	131 - 203 FT	#6	1"

FOR LONG RUNS, PER CEC 300.3(B)(1), FOR CONDUCTORS 1/0 AND LARGER, CONTRACTOR MAY ELECT TO INSTALL EQUIVALENT SETS OF PARALLEL CONDUCTORS (UPSIZE GROUND WIRE AND CONDUIT ACCORDINGLY). SMALLER CONDUCTORS REQUIRING UPSIZING MUST BE REPLACED w/ ADEQUATELY SIZED LARGER CONDUCTORS.

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DATE SIGNED: 11/20/20

SITE INFORMATION:
MARTIN LUTHER KING W
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GENERATOR INSTALLATION PROJECT
3332 ADELINE STREET
BERKELEY, CA 94703

REVISIONS

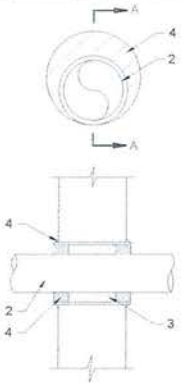
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0	03/09/20	ISSUED FOR CONSTRUCTION	JCM

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CHECKED BY: GGD

SHEET TITLE:
ELECTRICAL DETAILS

SHEET NUMBER:
E-1



U.L. SYSTEM NO. C-AJ-1150
CONDUIT THROUGH BEARING WALL SIMILAR TO U.L. DESIGN NO. U902
F RATING = 3 HR
T RATING = 0 HR

1. FLOOR OR WALL ASSEMBLY : MINIMUM 4-1/2" THICK REINFORCED LIGHTWEIGHT OR NORMAL WEIGHT (100-150 PCF) CONCRETE. WALL MAY ALSO BE CONSTRUCTED OF ANY UL CLASSIFIED CONCRETE BLOCKS*. MAX DIAMETER OF OPENING IS 4". (SEE CONCRETE BLOCKS 9CATZ) CATEGORY IN THE FIRE RESISTANCE DIRECTORY FOR NAMES OF MANUFACTURERS.
2. THROUGH PENETRATIONS : ONE METALLIC PIPE OR CONDUIT TO BE RIGIDLY SUPPORTED ON BOTH SIDES OF FLOOR OR WALL ASSEMBLY. THE ANNULAR SPACE SHALL BE MINIMUM 0". (POINT CONTACT) TO MAXIMUM 1-3/8". THE FOLLOWING TYPES AND SIZES OF METALLIC PIPES OR CONDUITS MAY BE USED:
   A. STEEL PIPE-NOMINAL 6" DIAMETER (OR SMALLER) SCHEDULE 40 (OR HEAVIER) STEEL PIPE
   B. IRON PIPE-NOMINAL 6" DIAMETER (OR SMALLER) CAST OR DUCTILE IRON PIPE.
   C. CONDUIT - NOMINAL 4" DIAMETER (OR SMALLER) STEEL ELECTRICAL METALLIC TUBING OR NOMINAL 3-1/2" DIAMETER (OR SMALLER) STEEL CONDUIT.
3. PACKING MATERIAL: MINIMUM 6" THICKNESS OF MIN 4.0 PCF MINERAL WOOL BATTING INSULATION FIRMLY PACKED INTO OPENING AS A PERMANENT FORM. PACKING MATERIAL TO BE RECESSED FROM TOP SURFACE OF FLOOR OR FROM BOTH SURFACES OF WALL AS REQUIRED TO ACCOMMODATE THE REQUIRED THICKNESS OF FILL MATERIAL.
4. FILL, VOID, OR CAVITY MATERIAL*: SEALANT: MINIMUM 1/4" THICKNESS OF FILL MATERIAL APPLIED WITHIN THE ANNULUS, FLUSH WITH TOP SURFACE OF FLOOR AND WITH BOTH SURFACES OF WALL. AT THE POINT CONTACT LOCATION BETWEEN PIPE AND CONCRETE, A MINIMUM 1/2" DIAMETER BEAD OF FILL MATERIAL SHALL BE APPLIED AT THE CONCRETE/PIPE INTERFACE ON THE TOP SURFACE OF FLOOR AND ON BOTH SURFACES OF WALL. W-RATING APPLIES ONLY WHEN CP601S OR CP604 SEALANT IS USED.

HILTI CONSTRUCTION CHEMICALS, DIV OF HILTI INC. : CP601S, CP604, CP606, OR FS-ONE SEALANT.

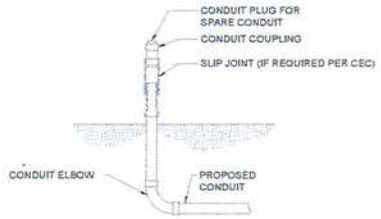
* BEARING THE UL CLASSIFICATION MARK

NOTE:
1. IF EXISTING CONSTRUCTION VARIES FROM THIS DETAIL, AN EQUAL 3-HR U.L. PENETRATION APPROPRIATE FOR THE EXISTING WALL TYPE SHALL BE CONSTRUCTED
2. GC SHALL USE NON-SHRINKING CAULK TO WEATHERSEAL ALL PENETRATIONS INTO OR THRU SHELTER WALL.

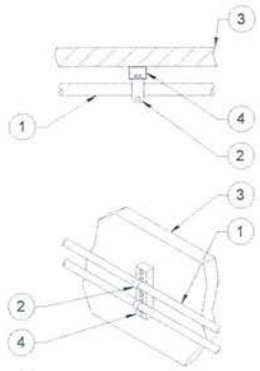
OUTER WALL PENETRATION DETAIL (IF APPLICABLE)

CONDUIT NOTES:

1. VERIFY WIRE AND CONDUIT QUANTITY & SIZES WITH GENERATOR MAKE & MODEL # PRIOR TO INSTALLATION. VERIFY ELECTRICAL REQUIREMENTS WITH LOCAL UTILITY PROVIDER.
2. ALL CONDUIT ABOVE GRADE OR IN AREAS OF HIGH TRAFFIC SHALL BE SCH 80 PVC.
3. PROVIDE SCH 40 PVC CONDUIT BELOW GRADE EXCEPT AS NOTED BELOW.
4. PROVIDE SCH 80 PVC CONDUIT AND ELBOWS AT STUB UP LOCATIONS (I.E. SERVICE POLE, BTS EQUIPMENT, ETC.)
5. INSTALL UTILITY PULLBOXES PER CEC.



SLIP JOINT DETAIL (IF APPLICABLE)



1. CONDUIT (TYP)
2. P1119 OR P2558 CLAMP
3. EXISTING WALL/CEILING
4. "UNISTRUT" P1000T, REQUIRED LENGTH BASED ON QUANTITY OF CONDUIT TO BE MOUNTED. INSTALL AT 5'-0" O.C. MAX. W/ FASTENER PER ATTACHMENT TABLE AT EACH END.

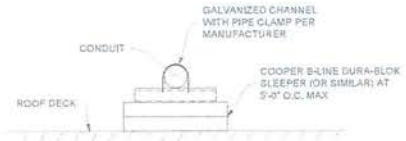
CONDUIT WALL MOUNT DETAIL (IF APPLICABLE)

UNISTRUT WALL ATTACHMENT:

WALL CONSTRUCTION TYPE	FASTENER
HOLLOW, AT STUD	3/8" DIA. x 2-1/2" EMBED LAG SCREW
CONCRETE BLOCK (HOLLOW)	3/8" DIA. HILTI HY-270 (ESR-4143) WITH SCREEN, MINIMUM EMBEDMENT 2-3/8"
CONCRETE (SOLID)	3/8" DIA. HILTI HY-200 (ESR-3963), MINIMUM EMBEDMENT 2-3/8"

NOTES:
1. USE GALVANIZED OR STAINLESS STEEL HARDWARE FOR WALL MOUNT AND CONNECTION OF CHANNELS

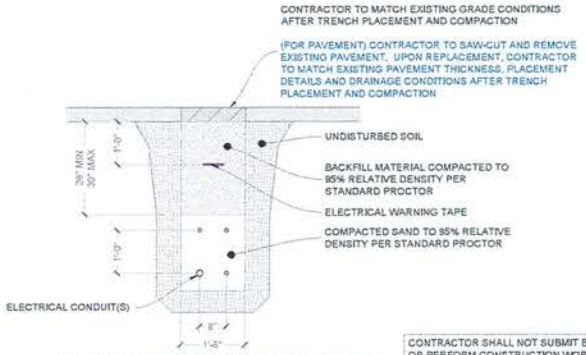
2. GC SHALL USE NON-SHRINKING CAULK TO WEATHER SEAL ALL PENETRATIONS INTO OR THROUGH WALL



ROOF CONDUIT MOUNTING DETAIL (IF APPLICABLE)

CONDUIT NOTES:

1. VERIFY WIRE AND CONDUIT QUANTITY & SIZES WITH GENERATOR MAKE & MODEL # PRIOR TO INSTALLATION. VERIFY ELECTRICAL REQUIREMENTS WITH LOCAL UTILITY PROVIDER.
2. ALL CONDUIT ABOVE GRADE OR IN AREAS OF HIGH TRAFFIC SHALL BE SCH 80 PVC.
3. PROVIDE SCH 40 PVC CONDUIT BELOW GRADE EXCEPT AS NOTED BELOW.
4. PROVIDE SCH 80 PVC CONDUIT AND ELBOWS AT STUB UP LOCATIONS (I.E. SERVICE POLE, BTS EQUIPMENT, ETC.)
5. INSTALL UTILITY PULLBOXES PER CEC.



UTILITY TRENCH SECTION (IF APPLICABLE)

CONTRACTOR SHALL NOT SUBMIT BIDS OR PERFORM CONSTRUCTION WORK ON THIS PROJECT WITHOUT ACCESS TO THE CURRENT COMPLETE SET OF DRAWINGS LISTED IN THE TITLE-SHEET INDEX.

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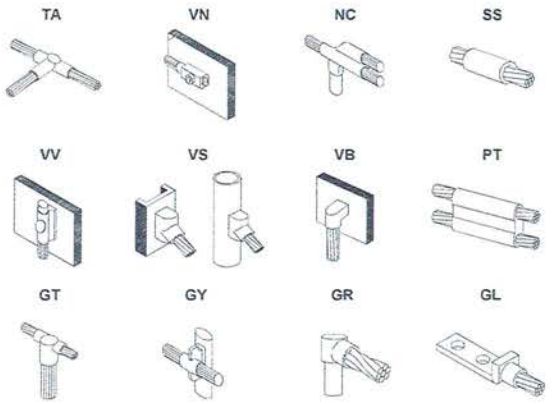
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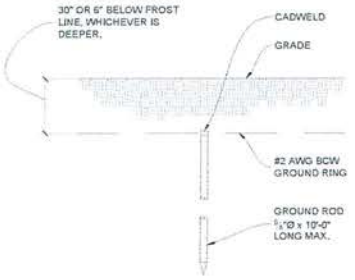
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SHEET TITLE:
ELECTRICAL DETAILS

SHEET NUMBER:
E-2



CADWELD DETAILS



GROUND ROD DETAILS

GROUND ROD NOTES:

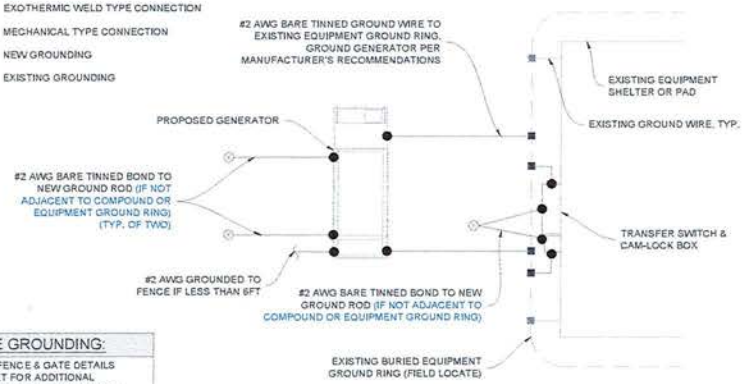
1. GROUND RODS MAY BE:
   - COPPER CLAD STEEL
   - SOLID COPPER
2. GROUND RODS SHALL HAVE A MAXIMUM SPACING TWICE THE LENGTH OF ROD
3. SEE RESISTIVITY REPORT FOR VERIFICATION AS AVAILABLE
4. A LARGER CONDUCTOR SHALL BE REQUIRED IN AREAS HIGHLY PRONE TO LIGHTNING AND/OR AREAS WITH HIGHLY ACIDIC SOIL
5. GROUND RODS INSTALLED WITHIN CLOSE PROXIMITY TO TOWER OR WHEN SOIL IS AT OR BELOW 2,000 OHM-CM, SHALL BE GALVANIZED TO PREVENT GALVANIC CORROSION OF TOWER. (SEE ANSI/TIA-EIA-222)
6. PROVIDE (1) GROUND LEAD TO EACH SIDE OF THE GENERATOR

GROUNDING NOTES:

1. IF MORE THAN 20' FROM EXISTING GROUND RING, INSTALL GROUND ROD (5/8" x 10' SS), ROD SPACING: 10' MIN, TOP OF ROD AND GROUND WIRE TO BE BELOW FROST LINE.
2. CONTRACTOR SHALL COORDINATE INCOMING SERVICES WITH LOCAL UTILITIES PRIOR TO TRENCHING.
3. ALL CONDUCTORS SHALL BE COPPER, 75 DEGREES C RATED, AND CONDUCTOR INSULATION BE THWN OR THHN.
4. ALL TERMINATION SHALL BE LISTED AND IDENTIFIED FOR USE WITH 75°C RATED CONDUCTORS OPERATING AT 75°C.
5. GROUND FAULT PROTECTION REQUIRED FOR UTILITY RECEPTACLES.
6. GENERATOR NEUTRAL SHALL NOT BE GROUNDED AT THE GENERATOR, REFER TO SINGLE LINE DETAIL, SHEET E-1.
7. EQUIPMENT LOCATED OUTSIDE OR EXPOSED TO MOISTURE SHALL BE NEMA 3R RATED.
8. CONTRACTOR SHALL USE SCHEDULE 80 PVC CONDUIT THROUGH CONCRETE AND ABOVE GROUND, UNLESS OTHERWISE NOTED.
9. ALL NEWLY INSTALLED EQUIPMENT SHALL BE RATED "AT 10K AIC" MINIMUM. HIGHER RATINGS SHALL BE REQUIRED WHERE AVAILABLE FAULT CURRENT EXCEEDS THIS VALUE. EXACT FAULT CURRENT AVAILABLE SHALL BE COORDINATED WITH LOCAL UTILITY BASED ON EXACT CONDITIONS (XFMR SIZE, PERCENT IMPEDANCE, LENGTH OF CONDUCTORS, ETC).

ELECTRICAL SYMBOLS LEGEND

- EXOTHERMIC WELD TYPE CONNECTION
- MECHANICAL TYPE CONNECTION
- NEW GROUNDING
- EXISTING GROUNDING



TYPICAL GROUNDING DIAGRAM

FENCE GROUNDING:

1. SEE FENCE & GATE DETAILS SHEET FOR ADDITIONAL GROUNDING (IF APPLICABLE)

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SHEET TITLE:
ELECTRICAL DETAILS

SHEET NUMBER:
E-3

SD050 | 3.4L | 50 kW
INDUSTRIAL DIESEL GENERATOR SET
EPA Certified Stationary Emergency

GENERAC | INDUSTRIAL POWER

Standby Power Rating
50 kW, 63 kVA, 60 Hz

Prime Power Rating*
45 kW, 56 kVA, 60 Hz

*EPA Certified Prime ratings are not available in the US or its Territories



Image used for illustration purposes only

Codes and Standards

Not all codes and standards apply to all configurations. Contact factory for details.

- UL2200, UL6200, UL1236, UL142
- CSA C22.2
- BS5514 and DIN 6271
- SAE J1349
- NFPA 37, 70, 99, 110
- NEC700, 701, 702, 708
- ISO 3046, 7637, 8528, 9001
- NEMA ICS10, MG1, 250, ICS6, AB1
- ANSI C62.41
- IBC 2009, CBC 2010, IBC 2012, ASCE 7-05, ASCE 7-10, ICC-ES AC-156 (2012)

Powering Ahead

For over 50 years, Generac has provided innovative design and superior manufacturing.

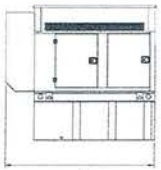
Generac ensures superior quality by designing and manufacturing most of its generator components, including alternators, enclosures and base tanks, control systems and communications software.

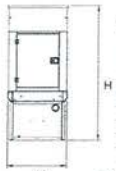
Generac gensets utilize a wide variety of options, configurations and arrangements, allowing us to meet the standby power needs of practically every application.

Generac searched globally to ensure the most reliable engines power our generators. We choose only engines that have already been proven in heavy-duty industrial applications under adverse conditions.

Generac is committed to ensuring our customers' service support continues after their generator purchase.

SPEC SHEET
1 of 5





LEVEL 2 SOUND ATTENUATED ENCLOSURE

Unit Type (Watts)	Alternator Output (kW)	L x W x H (in (mm))	Dry Weight Maximum (lbs (kg))	Skid Weight Maximum (lbs (kg))	Aluminum Weight Maximum (lbs (kg))	Aluminum Price/Exposure
NG Tank	–	93.8 (2,383) x 38 (966) x 78.1 (1,984)	2,229 (1,011)	2,717 (1,232)	2,231 (912)	$7,162 ($971)
LP	54 (54kW)	84.8 (2,405) x 35 (890) x 82.3 (2,091)	3,033 (1,375)	2,786 (1,264)	2,415 (1,095)	$7,435 ($1,043)
LPG	132 (48kW)	84.8 (2,405) x 28 (706) x 74.5 (1,893)	2,563 (1,162)	2,696 (1,223)	2,045 (1,228)	$6,675 ($1,657)
NG	155 (71kW)	84.8 (2,405) x 28 (706) x 74.5 (1,893)	3,017 (1,368)	3,150 (1,429)	2,514 (1,140)	$8,184 ($1,283)
LP	231 (105kW)	106.8 (2,620) x 34 (842) x 105 (2,616)	4,388 (1,990)	4,523 (2,051)	3,622 (1,643)	$9,206 ($2,020)
NG	300 (136kW)	84.8 (2,405) x 36 (965) x 118.0 (2,823)	3,571 (1,620)	3,499 (1,587)	3,047 (1,382)	$9,145 ($2,427)

* All measurements are approximate and for estimation purposes only. Specification characteristics may change without notice. Please contact a Generac Power Systems Industrial Dealer for detailed installation drawings.

SD050 | 3.4L | 50 kW
INDUSTRIAL DIESEL GENERATOR SET
EPA Certified Stationary Emergency

GENERAC | INDUSTRIAL POWER

STANDARD FEATURES

ENGINE SYSTEM
- Oil Drain Extension
- Air Cleaner
- Fan Guard
- Stainless Steel Flexible Exhaust Connection
- Factory Filled Oil and Coolant
- Radiator Duct Adapter (Open Set Only)
- Critical Silencer (Enclosed Units Only)

Fuel System
- Fuel Lockoff Solenoid
- Primary Fuel Filter

Cooling System
- Closed Coolant Recovery System
- UV/Ozone Resistant Hoses
- Factory-Installed Radiator
- Radiator Drain Extension
- 50/50 Ethylene Glycol Antifreeze
- 120 VAC Coolant Heater

Electrical System
- Battery Charging Alternator
- Battery Cables
- Battery Tray
- Rubber-Booted Engine Electrical Connections
- Solenoid Activated Starter Motor

ALTERNATOR SYSTEM
- UL2200 GENprotect™
- 12 Leads (3-Phase, Non 600V)
- Class H Insulation Material
- Vented Rotor
- 2/3 Pitch
- Skewed Stator
- Auxiliary Voltage Regulator Power Winding
- Brushless Excitation
- Sealed Bearing
- Automated Manufacturing (Winding, Insertion, Lacing, Varnishing)
- Rotor Dynamically Spin Balanced
- Full Load Capacity Alternator
- Protective Thermal Switch

GENERATOR SET
- Internal Genset Vibration Isolation
- Separation of Circuits - High/Low Voltage
- Separation of Circuits - Multiple Breakers
- Wrapped Exhaust Piping
- Standard Factory Testing
- 2 Year Limited Warranty (Standby Rated Units)
- 1 Year Limited Warranty (Prime Rated Units)
- Silencer Mounted in the Discharge Hood (Enclosed Only)
- Silencer of Heat Shield

ENCLOSURE (If Selected)
- Rust-Proof Fasteners with Nylon Washers to Protect Finish
- High Performance Sound-Absorbing Material (Sound Attenuated Enclosures)
- Gasketed Doors
- Stamped Air-Intake Louvers
- Upward Facing Discharge Hoods (Radiator and Exhaust)
- Stainless Steel Lift Off Door Hinges
- Stainless Steel Lockable Handles
- RhinoCoat™ - Textured Polyester Powder Coat Paint

FUEL TANKS (If Selected)
- UL 142/ULC S-601
- Double Wall Construction
- Vents
- Sloped Top
- Sloped Bottom
- Factory Pressure Tested - 2 psi
- Rupture Basin Alarm
- Fuel Level
- Check Valve In Supply and Return Lines
- RhinoCoat™ - Textured Polyester Powder Coat Paint
- Stainless Steel Hardware

CONTROL SYSTEM



Digital H Control Panel- Dual 4x20 Display

Program Functions
- Programmable Crank Limiter
- 7-Day Programmable Exerciser
- Special Applications Programmable Logic Controller
- RS-232/485 Communications
- All Phase Sensing Digital Voltage Regulator
- 2-Wire Start Capability
- Date/Time Fault History (Event Log)
- Isochronous Governor Control
- Waterproof/Sealed Connectors
- Audible Alarms and Shutdowns
- Not in Auto (Flashing Light)
- Auto/Off/Manual Switch
- E-Stop (Red Mushroom-Type)
- NFPA110 Level I and II (Programmable)
- Customizable Alarms, Warnings, and Events
- Modbus® Protocol
- Predictive Maintenance Algorithm
- Sealed Boards
- Password Parameter Adjustment Protection
- Single Point Ground
- 16 Channel Remote Trending
- 0.2 msec High Speed Remote Trending
- Alarm Information Automatically Annunciated on the Display

Full System Status Display
- Power Output (kW)
- Power Factor
- kW Hours, Total, and Last Run
- Real/Reactive/Apparent Power
- All Phase AC Voltage
- All Phase Currents
- Oil Pressure
- Coolant Temperature
- Coolant Level
- Engine Speed
- Battery Voltage
- Frequency

Alarms and Warnings
- Oil Pressure
- Coolant Temperature
- Coolant Level
- Engine Overspeed
- Battery Voltage
- Alarms and Warnings Time and Date Stamped
- Snap Shots of Key Operation Parameters During Alarms and Warnings
- Alarms and Warnings Spelled Out (No Alarm Codes)

SPEC SHEET
2 of 5

GENERAC 50KW GENERATOR SPECIFICATIONS

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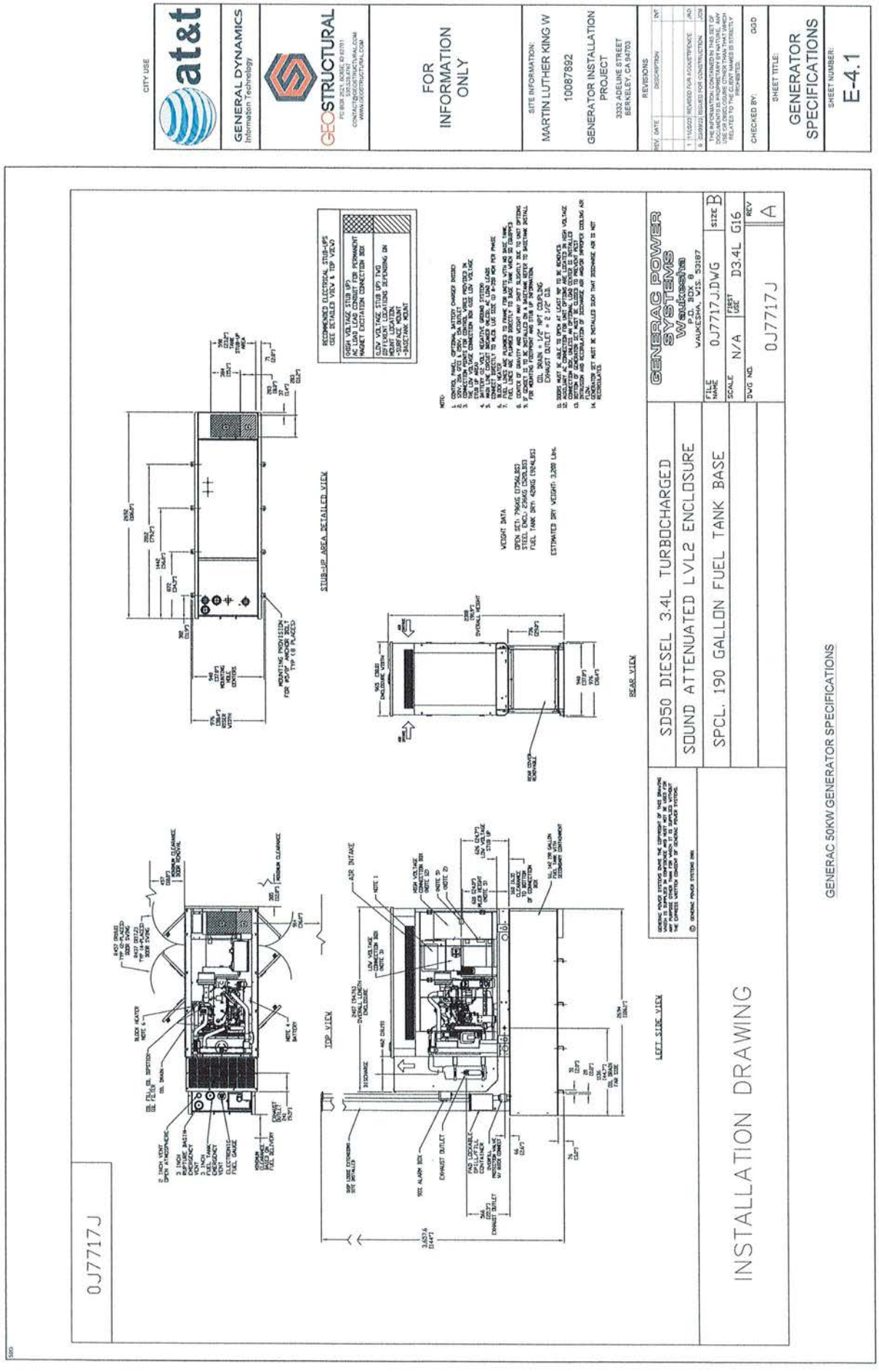
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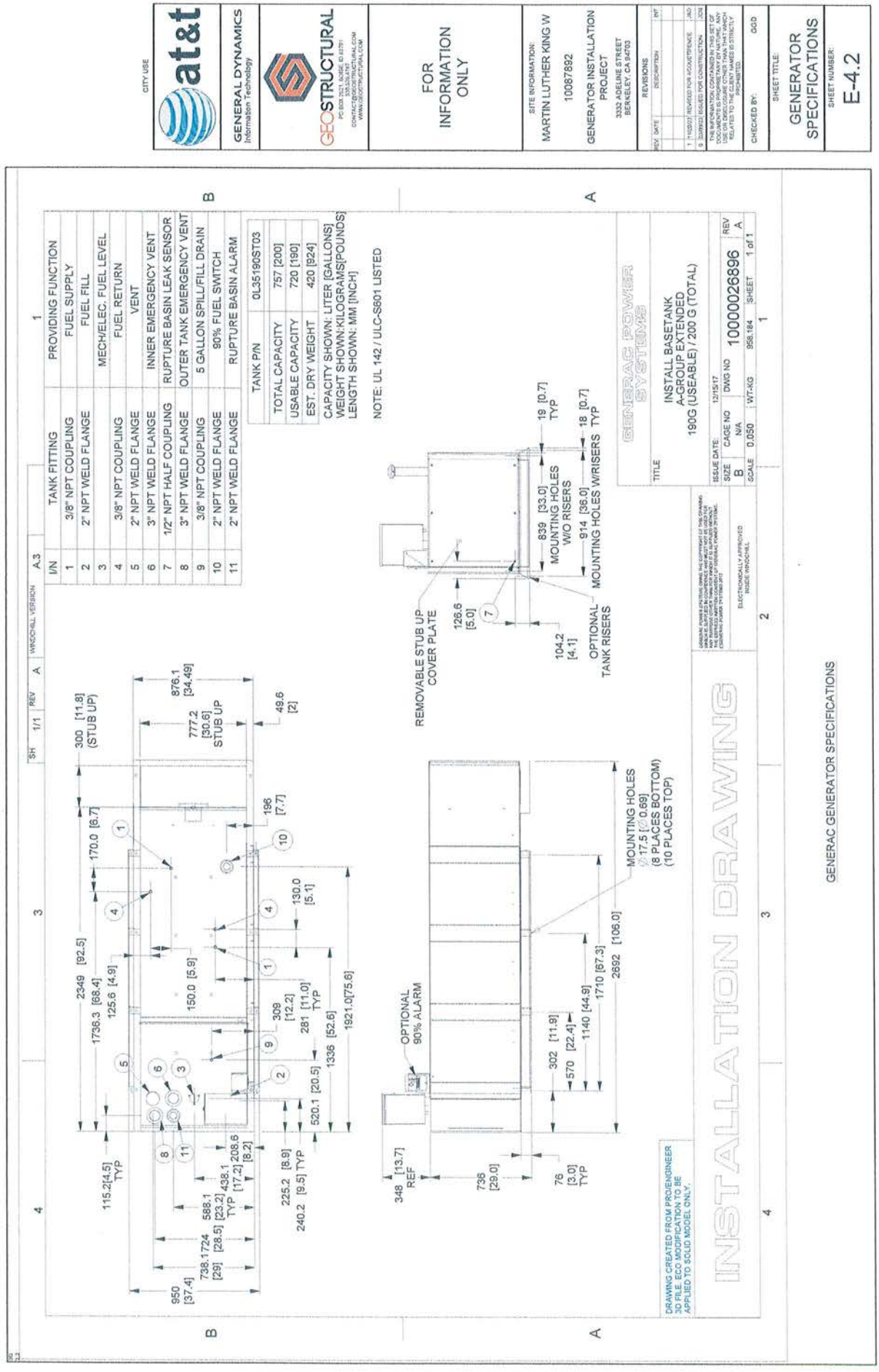
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SHEET TITLE:
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E-4.0


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E-4.1
0J7717J
INSTALLATION DRAWING
GENERAC POWER SYSTEMS
Waukesha
SD50 DIESEL 3.4L TURBOCHARGED
SOUND ATTENUATED LVL2 ENCLOSURE
SPCL. 190 GALLON FUEL TANK BASE
0J7717J.DWG
D3.4L G16
0J7717J
GENERAC 50KW GENERATOR SPECIFICATIONS


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GENERATOR SPECIFICATIONS
SHEET NUMBER:
E-4.2
INSTALLATION DRAWING
GENERAC GENERATOR SPECIFICATIONS
TANK FITTING
PROVIDING FUNCTION
TANK P/N 0L35190ST03
TOTAL CAPACITY 757 [200]
USABLE CAPACITY 720 [190]
EST. DRY WEIGHT 420 [924]
CAPACITY SHOWN: LITER [GALLONS]
WEIGHT SHOWN:KILOGRAMS[POUNDS]
LENGTH SHOWN: MM [INCH]
NOTE: UL 142 / ULC-S601 LISTED
REMOVABLE STUB UP COVER PLATE
OPTIONAL TANK RISERS
MOUNTING HOLES W/O RISERS
MOUNTING HOLES W/RISERS
OPTIONAL 90% ALARM
INSTALL BASETANK
A-GROUP EXTENDED
190G (USEABLE) / 200 G (TOTAL)
10000026896
DRAWING CREATED FROM PRO/ENGINEER 3D FILE. ECO MODIFICATION TO BE APPLIED TO SOLID MODEL ONLY.

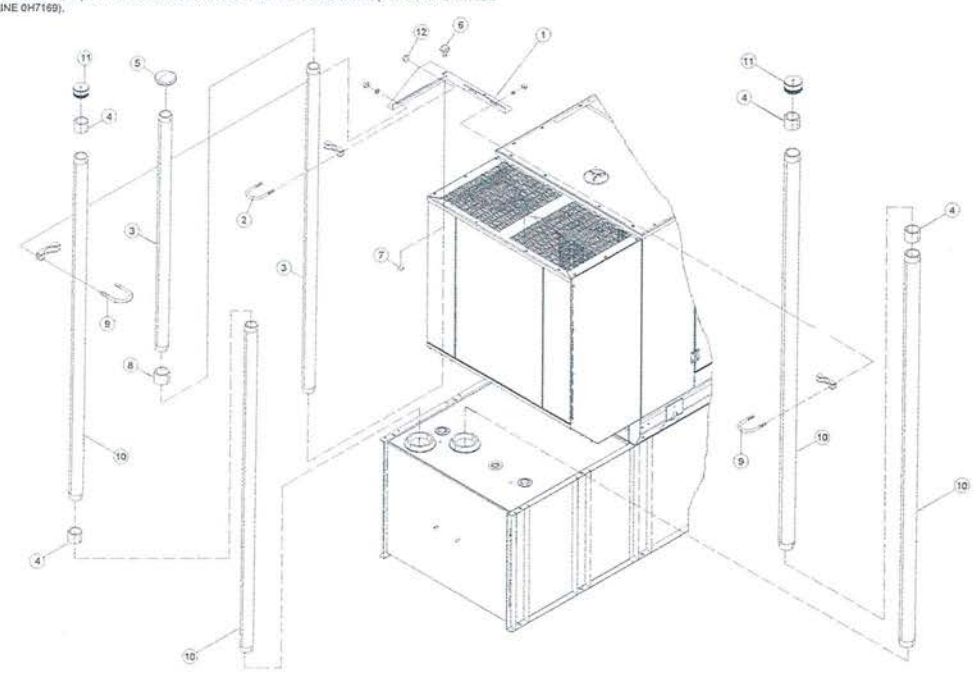
EXPLODED VIEW: EV VENT EXT AGRP 2"3 ATT

DRAWING #:0K9817A

GROUP H

ITEM	PART#	QTY.	DESCRIPTION
(1)1	0G3036YSTDR	1	BRACKET VENT EXT AGRP 2"3 ATT
2	0C7947	1	KIT, SADDLE AND BOLT 2 1/2"
3	0G3045	2	PIPE 2"VENT EXTENSION 72"LG
4	10000016676	4	COUPLING PIPE 3 ZINC
5	G021178	1	VENT OEM 2"
6	0C24548	2	SCREW HWHT M6-1 X 30 WMKS
7	G049813	2	NUT HEX M6-1.0 G8 CLEAR ZINC
8	0686408	1	COUPLING FULL 2-11.5 BLACK
9	0E4264	2	BOLT U 3/8-16 X 3.50" W/SADDLE
10	0H1454	4	PIPE NIPPLE 3"X72" SCH40 PNTBK
11	072989J	2	VENT CAP EMERG 3"NPT
12	G064101	2	NUT HEX FL WHIZ 3/8-16

NOTES (UNLESS OTHERWISE SPECIFIED)
(1) SHEET METAL PARTS LISTED IN THE BOM TABLE ARE REPRESENTING GENERIC PARTS (NO COLOR).
* MANUFACTURING: FOR CORRECT MATERIAL AND COLOR REFER TO AS400 BOM.
* CUSTOMER: WHEN ORDERING REPLACEMENT PARTS, ENTER BASE NUMBER (FIRST 6 DIGITS ONLY) IN THE SYSTEM FOR CORRECT MATERIAL AND COLOR. (FOR REFERENCE SEE GUIDELINE 0H7169).

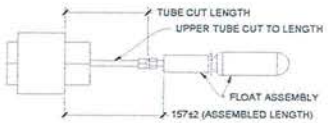


REVISION : CN-0019648-W
DATE : 9/4/18

EMERGENCY VENT PIPE ASSEMBLY

EXPLODED VIEW : EV VENT EXT AGRP 2"3 ATT
DRAWING NO. : 0K9817A

OVERFILL PREVENTION VALVE INSIDE TANK (FACTORY-INSTALLED)



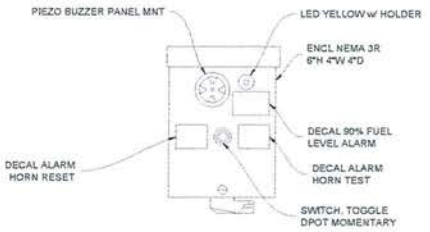
GENERAC 0J7671

FUEL SPILL/FILL DRAIN OUTSIDE TANK (FACTORY-INSTALLED)



GENERAC 0J7606A

REMOTE 90% FUEL ALARM (FACTORY-INSTALLED)



GENERAC OF2908$

GENERAC GENERATOR SPECIFICATIONS

CITY USE

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BERKELEY, CA 94703

REVISIONS

REV.	DATE	DESCRIPTION	INT
1	11/2/23	REVISED FOR ACOUSTIFENCE	JAD
0	03/09/23	ISSUED FOR CONSTRUCTION	JCM

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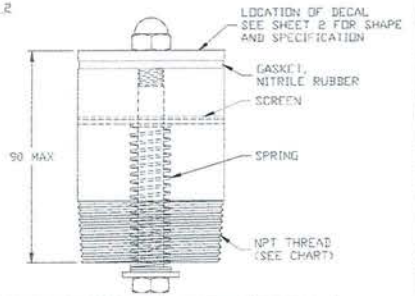
CHECKED BY: GGD

SHEET TITLE:
GENERATOR SPECIFICATIONS

SHEET NUMBER:
E-4.3

DO NOT SCALE — S-327

SHEET 1 OF 2



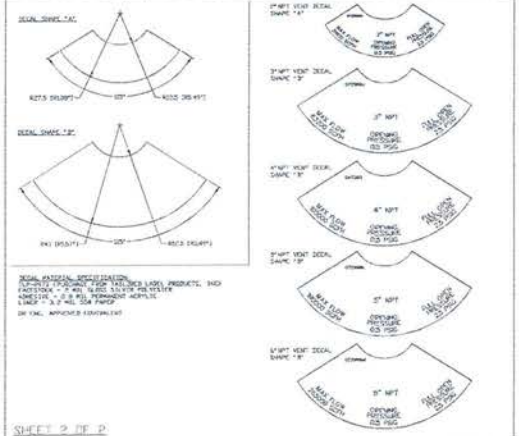
PART #	THREAD (NPT)	OPENING PRESSURE (PSIG)	FULL OPEN PRESSURE (PSIG)	MAX FLOW (SCFH)
072989H	2"	1.5	2.5	31500
072989J	3"	1.5	2.5	63200
0A1380	4"	1.5	2.5	105000
072989L	5"	1.5	2.5	190000
072989M	6"	1.5	2.5	265000

FINISH: EMERGENCY VENT CAPS TO BE POWDER COATED SEMI-GLOSS BLACK
VENDOR: CR INDUSTRIES OR ENG. APPROVED EQUIVALENT

DRAWING TITLE: VENT CAPS, EMERGENCY
MATERIAL: STEEL
GENERAC POWER SYSTEMS, Inc. P.O. BOX 8 WAUKESHA, WIS. 53187
FILE NAME: S-327.DWG SIZE: A
DWN: JRS 1/2/03 | APD: NA | DATE: NA | EST. WT.
CHKD: TMM 3/3/03 | APPD: AG 3/7/03 | FINAL WT.
SCALE: N.T.S. | FIRST USE
DWG NO: S-327 | REV
REVISED BY: A GILLETTE | DATE: 3/7/03

DO NOT SCALE — S-327

SHEET 2 OF 2



DECAL MATERIAL SPECIFICATION:
LAMINATE: 3 MIL CLEAR POLYESTER
ADHESIVE: 0.8 MIL PERMANENT ACRYLIC
LINER: 2.0 MIL GLASSINE PAPER
OR EQUAL APPROVED EQUIVALENT

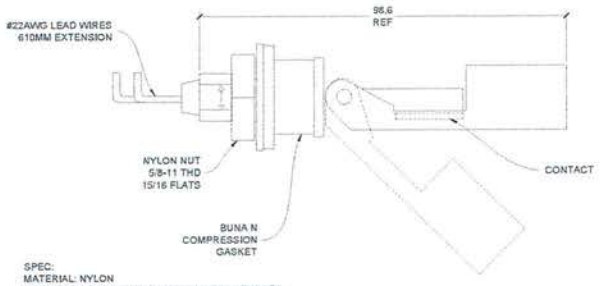
SHEET 2 OF 2

DRAWING TITLE: VENT CAPS, EMERGENCY
MATERIAL: STEEL
GENERAC POWER SYSTEMS, Inc. P.O. BOX 8 WAUKESHA, WIS. 53187
FILE NAME: S-327.DWG SIZE: A
DWN: JRS 1/2/03 | APD: NA | DATE: NA | EST. WT.
CHKD: TMM 3/3/03 | APPD: AG 3/7/03 | FINAL WT.
SCALE: N.T.S. | FIRST USE
DWG NO: S-327 | REV
RELEASED FOR PRODUCTION BY: A GILLETTE | DATE: 3/7/03

GENERAC EMERGENCY VENT CAPS

FUEL LEAK DETECTOR ALARM (FACTORY-INSTALLED)

INSTALLATION NOTE:
HAND TIGHTEN + ONE QUARTER TURN.
LEAK DETECTION MUST BE INSTALLED IN THE NORMALLY OPEN (N.O.) POSITION AS SHOWN FOR IT TO FUNCTION CORRECTLY IN GENERAC'S UL TANK SECONDARY CONTAINMENT LEAK DETECTION APPLICATION. OVER TIGHTENING WILL RESULT IN DAMAGE TO THE LEAK DETECTOR AND IMPROPER OPERATION.



SPEC:
MATERIAL: NYLON
VENDOR P/N AND VENDOR: 165900, GEMS SENSORS
MOUNTING ATTITUDE: HORIZONTAL
RECOMMENDED HOLE SIZE: Ø 0.875", 1/32"-5/32" THICK PANEL.
OPERATING TEMPERATURE: -40°F TO 250°F
MAX. OPERATION PRESSURE: 100 PSIG AT 70°F
THIS SWITCH IS U.L. RECOGNIZED - FILE #E45168, CSA LISTED - 30200
CONTACT RATING: 0.17 AMP, 120 V, 60 Hz, RESISTIVE
0.08 AMP, 240 V, 60 Hz, RESISTIVE
20 VA PILOT DUTY
DC ELEC. RATING: 0.3 AMP MAX @30 VDC

GENERAC 096500B

GENERAC GENERATOR SPECIFICATIONS

CITY USE

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SHEET TITLE:
GENERATOR SPECIFICATIONS

SHEET NUMBER:
E-4.4

TTS Series
Switches

200 Amps
600 VAC

GENERAC | INDUSTRIAL POWER

TAS200

200A Automatic Transfer Switch

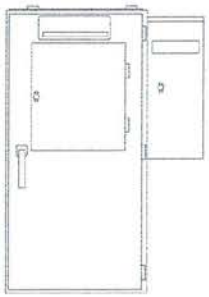
The Generac TAS200 Automatic Transfer Switch

Flexibility for multiple application installations

Multiple generator support with 3 source panel

Designed with a 6 inch touch screen controller for improved user interface

Camlock functionality for mobile generator sources



Features

- STEEL CONSTRUCTION
- NEMA 3R ENCLOSURE WITH HINGED "PADLOCKING" DOORS
- STAINLESS STEEL HARDWARE
- CAMLOCK "QUICK CONNECT" CAPABILITY
- OPERATIONAL STATUS VIEW VIA 6 INCH TOUCH SCREEN
- TEST FUNCTION - FAST TEST & NORMAL TEST
- UL1008 LISTED - FOR EMERGENCY SYSTEMS

Optional Features

- EXTENDED WARRANTY
- THREE-PHASE VOLTAGE CONFIGURATIONS

Codes and Standards

Generac products are designed to the following standards:

c UL us LISTED — UL1008, UL508, UL50, CSA C22.2 No. 178

nec® — NEC 700, 701 and 702

NEMA — NEMA 250

Application and Engineering Data

Cabinet Specifications	
Dimensions	24"W x 12"D x 48"H
Weight	210 lbs.
Construction	Single Chamber with Main Door
	Steel
	UL Type / NEMA 3R Rated
	Powder Coat Finish for Corrosion Resistance
	C-UL-US Listed - Automatic Transfer Switch
	Stainless Steel Hardware
	3-Point Latching System with Pad-Lockable Handles
Mounting Options	Wall
	H-frame
Installed	Pre-wired alarm terminal strip

Electrical Specifications	
Voltage/Phase/Amps	120/240 Single-Phase, 200A 120/208 3-Phase, 200A 120/240 3-Phase, 200A
Breaker	Eaton 200 amp Utility Breaker
	Eaton 200 amp Generator Breaker
Maximum RMS Symmetrical Fault Current - Amps	25k AIC Rated
Protective Device Continuous Rating (Max) Amp	200
Input to Generator	350MCM - #6 AWG
Output to Site	350MCM - #6 AWG
Generator Annunciator Connector	Deutsch DTM04-12PA-L012
Alarm Terminal Board	Generator Run Alarm
	Generator Fail - Shutdown Alarm
	Generator Fail - Non Shutdown Alarm
	Low Fuel Alarm
	Generator Theft Alarm
	AC Utility Fail Alarm

GENERAC ATS SPECIFICATIONS

CITY USE

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SHEET TITLE:
ATS SPECIFICATIONS

SHEET NUMBER:
E-5.0

GENERAC | INDUSTRIAL POWER

TTS Control Systems

INDICATORS AND BUTTONS

. System Ready indicator . Standby Operating indicator . Utility Available indicator . GEN/UTIL Switch Position indicator . TVSS status	. Normal Test button . Fast Test button . Return to Normal button . Reset button . Exercising indicator

DETAILS SCREEN

System Settings:
. System Voltage/Phases:
- 120/240V single phase (standard)
- 120/208V three phase (optional)
- 120/240V three phase (optional)

. Utility Fail Monitor:
- Under Voltage: 75-95% of nominal voltage
- Over Voltage: 105%-125% of nominal voltage
- Pickup (hysteresis): fixed at 5 volts
- Delay time: 0-60s

. Utility Interrupt Delay: 0-60s
. Return to Utility Timer: 1-30 minutes
. Transfer:
- In-phase, or
- Time-Delay-Neutral at 0.0-10.0s in 1 second increments

Engine Settings:
. Engine Warm-up timer: 0-20 minutes
. Generator Load Accept:
- Time-Delay-Neutral at 0.0-10.0s in 1 sec increments
- Voltage: 85-95% of nominal
- Frequency: 85-95% of nominal

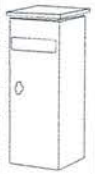
. Engine Minimum Run Timer: 5-30 minutes
. Engine Cooldown Timer: 0-20 minutes

Exercise Settings:
. Time of day
. Day of week
. Exercise:
- Exercise with/without load
- Exercise once every 1, 2, or 4 weeks.
- Exercise time-of-day
- Exercise day of week
- Exercise duration: 15-30 minutes

Screen Settings:
. Brightness & Contrast button
. Screen Calibration button
. Startup/Clean screen

Diagnostics:
. Digital I/O bits status
. Voltage A/D readings

Mimic Diagram:
. System Ready
. Transfer switch position
. Utility available
. Standby available
. Maintenance/Auto switch position
. Generator source TS position
. TVSS status

Camlock Component		
Camlock Component	Shipped loose for multiple installation options	
Dimensions	9" W x 9.4" D x 24.25" H	
200A Camlock Generator Connection	Single-Phase: Black L1, Red L2, White-Neutral, Green-Ground	
	3-Phase: Black L1, Red L2, Blue L3, White-Neutral, Green-Ground	
	Uses 4 CH E1016 Male Connectors	
	Mating Connector - CH E1016 Female	

CAM-LOCK BOX SPECIFICATIONS

CITY USE

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PO BOX 2021, BOISE, ID 83701
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SHEET TITLE:
CAM-LOCK BOX SPECIFICATIONS

SHEET NUMBER:
E-5.1



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:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF